

## Agenda item 4

AGS /19/ 23

<b>Report title:</b> The draft Statement of Accounts and draft Annual Governance Statement for the 2022/23 financial year	
<b>Report to Audit, Governance and Standards Committee</b>	
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<b>Date of meeting:</b> 5 June 2023	<b>For:</b> Approval
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<b>Divisions affected</b> All Essex	

### 1. Executive Summary

- 1.1 The purpose of this report is to present the draft Statement of Accounts and the draft Annual Governance Statement for the 2022/23 financial year to the Committee for information (as appended).
- 1.2 The Council has been required by Regulation to produce the Statement of Accounts and Annual Governance Statements for the 2022/23 financial year by **31 May 2023**. This deadline is two months earlier than the equivalent statutory deadlines for the 2020/21 and 2021/22 financial years.
- 1.3 Whilst the draft Statement of Accounts has been produced in compliance with the statutory timescales for 2022/23, the accounts have been produced against a backdrop of having the prior two financial years' external audits still open. The reasons for these audit delays have been well reported to the Committee.
- 1.4 In view of the delays to completion of the 2020/21 and 2021/22 external audits, the Council's Section 151 Officer has concluded that it is not currently appropriate to certify that the draft Statement of Accounts for the 2022/23 financial year provide a true and fair view of the financial position and performance of the Council for the year then ended.
- 1.5 A direct consequence of the Section 151 Officer being unable to certify the draft Statement of Accounts for 2022/23 is that it is not possible to commence the public inspection period for the 2022/23 Accounts on the first working day of June 2023 (which is the statutory deadline for commencement of the public inspection period this year). In compliance with statutory regulations, a notice will be published on the Council's website to explain why commencement of the public inspection period has been delayed.

## **2. Recommendations**

### **2.1 The Committee notes that:**

- In line with statutory requirements, the draft Statement of Accounts will be published on the Council's website on or before **31 May 2023**.
- As a direct consequence of delays to completion of the external audits for the 2020/21 and 2021/22 financial years:
  - The Section 151 Officer has decided that she is currently unable to sign a statement to confirm that she is satisfied that the draft statement of accounts presents a true and fair view of the financial position of the authority at the end of the 2022/23 financial year.
  - It is not therefore lawfully possible to commence the public inspection period for the 2022/23 Statement of Accounts in line with statutory timescales.
  - A notice must be published on the Council's website to explain the reasons for the delay to commencement of the public inspection period. This notice does not excuse the non-compliance.
  - This may lead to a duty for the monitoring officer to issue a statutory report for the Council to consider.
- The Section 151 Officer will certify the draft Statement of Accounts for the 2022/23 financial year, and commence the public inspection period for 2022/23, upon conclusion of the external audits for the 2020/21 and 2021/22 financial years. The statements now presented to you may need to change based on any matter which comes to light during the audit. Whilst the Council is not aware of any reason why anything will come to light, the whole purpose of the audit is to provide assurance that the accounts are correct.

## **3. Statement of Accounts**

### **3.1 The Council is required by the Local Audit and Accountability Act 2014 and regulations made thereunder to prepare its annual accounts in compliance with generally accepted accounting practice. This means preparing the accounts in accordance with the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom 2022/23 (the Accounting Code), supported by International Financial Reporting Standards and modified by statutory regulations.**

### **3.2 The Council is also required to:**

- Produce draft accounts and present them for external audit by a specified date each year.
- Make the draft Statement of Accounts available for a period of 30 working days, during which time the public have the right to raise objections, inspect the accounts and question the local auditor.

- Publish its final, audited accounts by a specified date each year.

3.3 Statutory regulations require these activities to be undertaken in accordance with the following timetable for the 2022/23 financial year:

- Produce the draft Statement of Accounts and present them for external audit by **31 May 2023**.
- Make the draft accounts, signed by the section 151 officer, available for public inspection for a period of 30 working days, commencing no later than **1 June 2023**.
- Publish final, audited, accounts by **30 September 2023**.

3.4 The Government invited views, in March 2023, on the deadline for production of the draft Statement of Accounts for the 2022/23 financial year, which was two months earlier than the equivalent deadlines for 2020/21 and 2021/22. Despite inviting views on moving the deadline and receiving many views in support of extending the deadline, the Government subsequently decided not to offer any relaxation to the timetable set out above.

3.5 In addition to working to an accelerated timetable for production of the draft Statement of Accounts for the 2022/23 financial year, the Council was also in the unprecedented position of having to produce the draft accounts with the two prior years' audits still open and ongoing, and with no prospect of either audit being concluded before the statutory deadline for producing the draft accounts for 2022/23.

3.6 Despite these challenges, best endeavours have been made to achieve the **31 May** deadline for production of the draft accounts. Whilst the 2022/23 Statement of Accounts has been drafted by this deadline, the Section 151 Officer has reluctantly concluded, with the prior two years audits still open and ongoing, that it was not appropriate to sign a statement confirming that she is satisfied that the draft statement of accounts presents a true and fair view of the financial position of the authority at the end of the 2022/23 financial year.

3.7 A consequence of the Section 151 Officer being unable to sign this statement is that it is not possible to release the draft accounts for public inspection on **1 June 2023**. In the interests of transparency, and to demonstrate the Council's best endeavours to adhere to statutory requirements, the draft Statement of Accounts will nevertheless be published on the Council's website alongside a statement of reasons as to why the statutory deadline has not been met.

3.8 As already noted, the statutory deadline for publication of final, audited, accounts for 2022/23 is **30 September 2023**. Given that the 2020/21 and 2021/22 audits still remain open, the external auditor is unlikely to be in a position to commence the 2022/23 audit before **30 September 2023**. If this deadline is not achieved, the Council will need to publish another notice on its website to explain why.

- 3.9 The Committee will be well aware of the reasons for the delays to completion of the Council's 2020/21 and 2021/22 audits. The Committee may also recall that it was reported in March 2023 (**AGS/09/23**) that, with these audits still open, the Section 151 Officer may be unable to certify the draft Accounts for 2022/23 by the **31 May 2023** deadline.
- 3.10 The Council's external auditor (BDO LLP) had reported (in March 2022) that the 2020/21 audit was largely complete and that the auditor expected to issue an unmodified opinion, subject to satisfactory resolution of a national and technical issue related to accounting for infrastructure (highways) assets. The government subsequently amended statutory regulations, and an update was made to the CIPFA Code of Practice on Local Government Accounting, in order to pave the way for resolution of this issue. BDO LLP have advised the Committee that they expect to be able to present a final audit completion report for 2020/21 to the Committee on **3 July 2023**.
- 3.11 In terms of the 2021/22 audit, this has been in progress since November 2022, but BDO have been unable to complete their work due to their own resourcing constraints. The timeline for completion of this audit therefore currently remains unclear.
- 3.12 These delays are extremely concerning but are not unique to Essex – similar delays are being experienced across the sector. The most recent statistics published by Public Sector Auditor Appointments indicates that, overall, around **545** audit opinions for 2021/22 and earlier years are delayed.
- 3.13 As a consequence of the significant backlog of local audits, there will be relatively few Section 151 Officers who will be in a position to certify their respective authorities' draft Statement of Accounts for the 2022/23 financial year. Recognising this, Rob Whiteman (CIPFA's Chief Executive) issued a statement on **24 May 2023**. Within this statement, he acknowledged that senior leaders in local government finance will be unable to achieve the 31 May 2023 deadline '*without considerable risk to their organisations and their professional standing*' and noted that '*many are concerned about the wellbeing of teams who have worked hard to deal with a difficult budget setting process and are now facing the challenge of producing accounts against the backdrop of significant and continuing audit delays. These delays present chief financial officers with gaps in the assurance processes which make exercising professional judgement about a true and fair position more difficult*'. A copy of this statement is appended to this report for information (see **Appendix A**).
- 3.14 Given the extent and significant impacts of the audit delays on local accountability, it is now hoped that system wide changes to the local audit framework will be forthcoming.

#### **4. Annual Governance Statement**

- 4.1 The regulations that apply to the Statement of Accounts also include a requirement to publish an Annual Governance Statement.
- 4.2 The regulations require authorities to carry out a review of the effectiveness of their systems of internal control to provide assurance that the Authority has a sound internal control framework in place to manage the risks that might prevent achievement of its statutory obligations and organisational objectives.
- 4.3 Part of the way we achieve this is by a Code of Corporate Governance which refers to a range of documents, policies and procedures that underpin our aim of achieving good governance. In this context 'governance' means the systems, processes, culture and values by which we direct and control our business.
- 4.4 ECC has committed to a set of seven core principles, developed by the Chartered Institute of Public Finance and Accountability (CIPFA) and the Society of Local Authority Chief Executives (SOLACE) in their paper Delivering Good Governance in Local Government: Framework 2016. The contents of our Code of Corporate Governance meet the requirements of those seven key principles and key documents can be found on our website.
- 4.5 The draft Annual Governance Statement, which is published with the Statement of Accounts, is appended and the Committee are asked to give any comments they may have.
- 4.6 The Statement will be updated to reflect any changes requested or required by the Committee and to reflect any significant developments.
- 4.7 The Audit, Governance and Standards Committee will be asked to approve the final statement at the same meeting as it considers the Council's Statement of Accounts
- 4.8 This year the Annual Governance Statement will also be reported to Cabinet as it includes matters which are required to be reported to Cabinet.

#### **5. Policy context and Outcomes Framework**

- 5.1 The Statement of Accounts for 2022/23 summarises the financial performance and financial position for the Council for the year ending 31 March 2023. As such, the Statement of Accounts provides a financial representation of activities during 2022/23 against the Organisation Plan.

## **6. Financial Implications**

- 6.1 At face value, there are no specific financial implications associated with this report, ostensibly on the draft Statement of Accounts for the 2022/23 financial year.
- 6.2 However, the Council continues to incur additional costs as a consequence of the delayed and ongoing audits for 2020/21 and 2021/22, and it is evident that these delays will continue into 2022/23 and possibly beyond. That is, unless system wide intervention is forthcoming to address the issues contributing to the current local audit backlogs.

## **7. Legal Implications**

- 7.1 The Accounts and Audit Regulations 2015 place the council under a statutory duty to hold a public of public rights which includes the first working days of June. The Council is in breach of its statutory duty, principally because the section 151 officer has formed the professional opinion that she is unable to sign the statutory statement that confirms that she is satisfied that the draft statement of accounts presents a true and fair view of the financial position of the authority at the end of the 2022/23 financial year.
- 7.2 This is an unprecedented situation. The delays in the external audit process which we are currently experiencing are unprecedented and were not envisaged when the Accounts and Audit Regulations 2015 were made. It can therefore be argued that the section 151 officer has no option but not to sign the Accounts and it is clear that unless she does sign the accounts the Council is failing to comply with its statutory obligations to start the period for the exercise of public rights.
- 7.3 In previous years the Council has not been in breach of its statutory duties. This situation is believed to be unprecedented in the history of Essex County Council.

## **8. Staffing and other resource implications**

- 8.1 The Finance Team was already under considerable pressure as a result of having to continue to support ongoing and prolonged audits for 2020/21 and 2021/22, and the 2022/23 audit has now being added to the mix, thereby adding to the pressure. The Finance Team will however continue to prioritise support to the external auditors, to do what they can to bring the Council's external audits to a satisfactory and timely conclusion and will bring in additional capacity to achieve this if considered necessary.

## **9. Equality and Diversity implications**

- 9.1 There are no equality and diversity implications associated with this report.

## **10. List of appendices**

- 10.1 **Appendix A** – CIPFA statement on the 31 May 2023 statutory financial reporting deadline for local government
- 10.2 **Appendix B** – Draft Statement of Accounts for 2022/23 (including the Annual Governance Statement).

## **11. List of Background papers**

- 11.1 Report to the Audit, Governance and Standards Committee on the arrangements for Closure of Accounts 2022/23 (**27 March 2023 - AGS/09/23**).
- 11.2 Public Sector Audit Appointments Audit Contract Monitoring Report Data Pack (Quarter 4 – March 2023) <https://www.psaa.co.uk/wp-content/uploads/2023/05/Q4-2022-23-quality-monitoring-report.pdf>

## **Appendix A – CIPFA Statement on the 31 May 2023 statutory financial reporting deadline for local government**



24 May 2023

### **CIPFA STATEMENT ON THE 31 MAY 2023 STATUTORY FINANCIAL REPORTING DEADLINE FOR LOCAL GOVERNMENT**

**Rob Whiteman, CIPFA CEO, said:**

“Statutory provisions for reporting require the effective publication of unaudited financial statements by 31 May 2023. As a professional accounting institute, CIPFA will always recognise the statutory nature of the deadline.

“However, some senior leaders in local government finance have told us the 31 May deadline will not be achievable without considerable risk to their organisations and their professional standing.

“Many are concerned about the wellbeing of teams who have worked hard to deal with a difficult budget setting process and are now facing the challenge of producing accounts against the backdrop of significant and continuing audit delays. These delays present chief financial officers with gaps in the assurance processes which make exercising professional judgement about a true and fair position more difficult.

“CIPFA recognises the significant challenges CFOs and their finance teams are facing and we would encourage senior leaders to take a considered and transparent approach. Sensible steps would be to ensure conversations have taken place with key stakeholders such as senior members, the chair of audit committee (or equivalent), the chief executive and monitoring officer and any other interested parties. Clarity about the reasons for any decisions about publication of the unaudited financial statements will allow members and others to monitor the situation, maintaining appropriate transparency and accountability over the process.

“It is important that all those involved understand the reality that a balance is struck between the timeliness and the quality of unaudited financial statements produced in the coming weeks.”

#### **NOTES TO EDITOR:**

Statutory provisions for reporting under the Accounts and Audit Regulations 2015 require local authorities to publish unaudited financial statements by 31 May 2023.