

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Finance & Audit Committee

Date: 5 March 2024

Reporting officer: Pat Knight , Assistant Director (Corporate Services) - Interim

Subject: Addressing the local audit backlog in England: Consultation

Purpose and summary of report:

The purpose of the report is to provide Members with an overview of the Department for Levelling Up, Housing and Communities (DLUHC) consultation on proposals to clear the backlog of local audits in England.

Recommendations:

The Finance and Audit Committee are requested :

- To consider the proposals to clear the backlog of local audits.
- To raise any comments, they wish to be incorporated into the council's response to the consultation.

| Key Implications: | |
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| Item | Implications |
| Legal | Local government finance in the UK is governed by primary legislation, regulation and professional standards as supported by statutory provision. This consultation seeks views on proposed legislative changes to the Accounts and Audit regulations 2015. |
| Finance and Value for Money | The external audit process provides an independent source of assurance and form a key element of the checks and balances within the local accountability framework. Part of the role of the external auditor is to provide an assessment of the arrangements that a local authority has put in place to secure economy, efficiency and effectiveness in its use of resources, known as the Value for Money conclusion. Final fees to delayed audits for 2020/21 to 2022/23 and the 2023/24 audit has not yet been set and may impact on existing budget, albeit provisions will have been made in previous financial years for the expected costs of the audit. |

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| Corporate Plan | <p>One Council: a well-run and innovative authority, defined by its skilled and valued workforce, committed to developing its local social impact.</p> <p>Financial responsibility: a financially sustainable authority, driven by a strong Medium Term Financial Strategy, enforced by a suite of effective financial monitoring controls.</p> |
| Climate Change | There are no climate change implications resulting from this report |

1. Introduction

- 1.1 Local audit is both a vital and independent source of assurance and a key element of the checks and balances within the local accountability framework.
- 1.2 The issues facing local audit are widely recognised as multi-faceted and complex. They also impact different sectors, not just local government. It is widely recognised that audits have become more challenging in a changing regulatory environment. In addition, pressures on the system were compounded during the COVID-19 pandemic.
- 1.3 The backlog of audited accounts of local bodies in England peaked on 30 September 2023 at 918. As of 31 December 2023, the backlog of outstanding audit opinions stood at 771.
- 1.4 In July 2023, the Minister for Local Government published a Cross System Statement to Parliament setting out proposals to set a series of backstops to clear the backlog in local audit opinions and embed timely audit. The statement included commitments by the Department for Levelling Up, Housing and Communities (DLUHC), the Financial Reporting Council (FRC), the National Audit Office (NAO), the Chartered Institute of Public Finance and Accountancy (CIPFA), the Institute of Chartered Accountants in England and Wales (ICAEW) and Public Sector Audit Appointments (PSAA). The organisations have worked together to agree a proposed solution to clear the outstanding historical audit opinions and ensure that delays do not return.
- 1.5 On 8 February 2024, DLUHC issued a consultation on proposals to clear the backlog of local audits in England.
- 1.6 The council intends to respond to the consultation.

2. The Joint Statement

- 2.1 The joint statement from DLUHC, FRS, NAO, CIPFA, ICAEW and PSAA sets out the three stages of the wider package of measures to address the issues:
 - 2.1.1 Phase 1: **Reset** involving clearing the backlog of historical audit opinions up to and including financial year 2022/23 by 30 September 2024 by changing the Accounts and Audit Regulations 2015 and the Code of Audit Practice. The NAO is proposing changes to the Code of Audit Practice to require auditors to publish their opinions in time for audited accounts to be published by the backstop dates and “allow them to provide a single commentary on VFM arrangements for local bodies for all outstanding years, up to and including 2022/23.”.
 - 2.1.2 Phase 2: **Recovery** from Phase 1 in a way that does not cause a recurrence of the backlog by using backstop dates to allow assurance to

be rebuilt over multiple audit cycles. Auditors need to be able to conclude that the financial statement as a whole are free from material misstatement before they can provide an unmodified opinion, so modifications and disclaimers may be issued for a number of years before this achieved. VFM arrangements will be 'back to normal' for 2023/24 and the Code of Audit Practice will require that the Auditors' Annual Report to be issued in draft by 30 November each year, regardless of the position on the audit.

- 2.1.3 Phase 3: **Reform** involving addressing systemic challenges in the local audit system and embedding timely financial reporting and audit. The joint statement says that work will build on the recommendations of the Redmond Review and that the government remains committed to establishing the Audit, Reporting and Governance Authority. Other initiatives include CIPFA's long-term reforms to financial reporting; HM Treasury response to the thematic review of the valuation of non-investment assets and the implications for the Accounting Code; FRS Local Audit Workforce Strategy and the development of a Local Audit Qualification by CIPFA.
- 2.2 The joint statement contains that PSAA, with support from the FRC and NAO, will work out the final fees authorities will pay in relating to delayed audits and the 2023/24 audits.
- 2.3 Auditors will, according to the joint statement, only be able to provide an opinion – whether unmodified, modified or disclaimed – on a set of accounts which have been certified by the Section 151 Officer as true and fair, subject to the 30-day inspection period and approved as final by those charged with governance. If an authority thinks it will not be able to provide draft accounts which comply with these requirements, then they are expected to engage with their auditors, and flag to DLUHC/sponsor department as soon as possible.

3. Consultation

- 3.1 The consultation is running from 8 February 2024 to 7 March 2024.
- 3.2 There are a total of 15 questions within the consultation (Appendix 1). These consist of five questions in respect of Phase 1 Reset; seven questions in respect of Phase 2 Recovery; one question in respect of publication of an audit letter; one question in respect of publication of equality impacts; one question in respect of publication of an audit letter and one question on further feedback.
- 3.3 Under phase 1, Category 1 authorities such as Gravesham Borough Council, in accordance with the proposed amended 2015 regulations would be required to ensure that they have published audited accounts for financial years 2015/2016 to 2022/2023 by 30 September 2024 (the 'backstop date'). This would be contingent on an audit opinion being issued on time.
- 3.4 The 2015 regulations will also be amended to remove the duty to publish a delay notice for outstanding audits for financial years 2015/16 to 2022/23. The audited accounts must be approved (in accordance with existing regulation 9(2)) by the 'backstop date'.
- 3.5 The consultation sets out exceptional circumstances under which the authority (and auditor under the NAO consultation proposals) may be exempt from the backstop date, namely if there is an outstanding objection to the accounts that could be material to the opinion. The consultation also asks for views on what

other circumstances may be appropriate to exempt authorities from the backstop date.

- 3.6 DLUHC intends to publish a list of Category 1 authorities and audit firms that do and do not meet statutory deadlines for the publication of audited accounts, and any instances where unaudited accounts are not published by the required date, the requirements for which, along with the public inspection period, is not proposed for change. The consultation asks if there should be additional consequences for authorities or audit firms that don't meet the backstop date.
- 3.7 Phase 2 proposes dates for which published audited accounts must be available for financial years as follows:

| Financial Year | Publication Date |
|----------------|---|
| 2023/24 | 31 May 2025 (also date for publication of 2024/25 unaudited accounts) |
| 2024/25 | 31 March 2026 |
| 2025/26 | 31 January 2027 |
| 2026/27 | 30 November 2027 |
| 2027/28 | 30 November 2028 |

- 3.8 As in Phase 1, the audit opinion will be required in time to meet the publication deadline.
- 3.9 The requirement to publish delay notices if the audit hasn't been completed before the date specified, would be suspended.
- 3.10 The NAO consultation proposes exemptions to the current statutory deadlines.
- 3.11 A list of authorities and audit firms meeting and not meeting the published audited accounts deadline, and the unaudited publication deadline for authorities will be published.
- 3.12 Public inspection periods continue to apply as now.
- 3.13 The audited accounts must be approved by the backstop dates.
- 3.14 The consultation asks whether 31 May is an appropriate deadline for publishing unaudited accounts for 2024/25 to 2027/28 and whether it would be an issue for the audited 2023/24 accounts and unaudited 2024/25 accounts to be published on the same day i.e. 31 May 2025.
- 3.15 The consultation asks whether it would be beneficial for the 2015 Regulations be amended so that Category 1 bodies would be under a duty to consider and publish audit letters received from the local auditor whenever they are issued, rather than, as is currently the case, only following the completion of the audit.

4. Appendices

Appendix 1 – Consultation Document

5. Background Papers

Background papers pertaining to this report are held by the Assistant Director (Corporate Services). Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

| Secondary Implications | |
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| Risk Assessment | There is no risk in the consultation itself. However, there may be significant risk in terms of resourcing and financial costs incurred in any of the outcomes being implemented as a result of this consultation. |
| Data Protection Impact Assessment | <p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? No</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p> |
| Equality Impact Assessment | <p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p> |
| Crime and Disorder | There are no crime and disorder implications resulting from this report. |
| Digital and website implications | There are no digital and website implications resulting from this report. |
| Safeguarding children and vulnerable adults | There are no safeguarding children and vulnerable adults implications resulting from this report. |