

London Borough of Merton Completion Report for Those Charged with Governance

Year ended 31 March 2023

Report issued - 25 November 2024

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Building a Better
working world

Agenda Item 5

Standards & General Purposes Committee
London Borough of Merton
Civic Centre
London Road
Morden
SM4 5DX

25 November 2024

Dear Standards & General Purposes Committee

Completion Report for Those Charged With Governance

Attached is our Completion Report for Those Charged With Governance. The purpose of this report is to provide the Standards & General Purposes Committee of London Borough of Merton ("the Authority") with a detailed complete report covering our approach and outcomes of the 2022/23 audit.

Given that Statutory Instrument (2024) No. 907 - "The Accounts and Audit (Amendment) Regulations 2024" (the SI) imposes a backstop date of 13 December 2024 by which date we are required to issue our opinion on the financial statements, we have considered whether the time constraints imposed by the backstop date mean that we cannot complete all necessary procedures to obtain sufficient, appropriate audit evidence to support the opinion and fulfil all the objectives of all relevant ISAs (UK).

This decision is in line with ISA 200: Failure to Achieve an Objective 24.

If an objective in a relevant ISA (UK) cannot be achieved, the auditor shall evaluate whether this prevents the auditor from achieving the overall objectives of the auditor and thereby requires the auditor, in accordance with the ISAs (UK), to modify the auditor's opinion or withdraw from the engagement (where withdrawal is possible under applicable law or regulation). Failure to achieve an objective represents a significant matter requiring documentation in accordance with ISA (UK) 230 (Revised June 2016).4 (Ref: Para. A77&A78)

Taking the above into account, for the year ended 31 March 2023 we have determined that we cannot meet the objectives of the ISAs (UK) and we anticipate issuing a disclaimed audit report.

In completing our work for this audit year, we have taken into account Statutory Instrument (2024) No. 907 - "The Accounts and Audit (Amendment) Regulations 2024", Local Authority Reset and Recovery Implementation Guidance. We have also taken into account the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2020 Code of Audit Practice (including recent 2024 updates), the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements. Against this backdrop, we have also considered the Committee's service expectations.

The Standards & General Purposes Committee, as the Authority's body charged with governance, has an essential role in ensuring that it has assurance over both the quality of the draft financial statements prepared by management and the Authority's wider arrangements to support the delivery of a timely and efficient audit.

We consider and report on the adequacy of the Authority's external financial reporting arrangements and the effectiveness of the Standards & General Purposes Committee in fulfilling its role in those arrangements as part of our assessment of Value for Money arrangements and consider the use of other statutory reporting powers to draw attention to weaknesses in those arrangements where we consider it necessary to do so.

We draw the Standards & General Purposes Committee members and officers' attention to the Public Sector Audit Appointment Limited's Statement of Responsibilities (paragraphs 26-28) which clearly set out what is expected of audited bodies in preparing their financial statements (see Appendix A).

This report is intended solely for the information and use of the Standards & General Purposes Committee, and management, and is not intended to be and should not be used by anyone other than these specified parties.

Yours faithfully

Elizabeth Jackson

Partner

For and on behalf of Ernst & Young LLP

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Public Sector Audit Appointments Ltd (PSAA) issued the "Statement of responsibilities of auditors and audited bodies". It is available from the PSAA website. The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The "Terms of Appointment and further guidance (updated July 2021)" issued by the PSAA (<https://www.psa.co.uk/managing-audit-quality/terms-of-appointment/terms-of-appointment-and-further-guidance-1-july-2021/>) sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the Standards & General Purposes Committee of London Borough of Merton. Our work has been undertaken so that we might state to the Standards & General Purposes Committee and management of London Borough of Merton those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than the Standards & General Purposes Committee and management of London Borough of Merton for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



01 Executive Summary

Executive Summary – System wide and local context

Context for the audit – Ministry of Housing, Communities and Local Government (MHCLG) and Financial Reporting Council (FRC) measures to address local audit delays

Timely, high-quality financial reporting and audit of local bodies is a vital part of our democratic system. It supports good decision making by local bodies and ensures transparency and accountability to local taxpayers. There is general agreement that the backlog in the publication of audited financial statements by local bodies has grown to an unacceptable level and there is a clear recognition that all stakeholders in the sector need to work together to address this. Reasons for the backlog across the system have been widely reported and include:

- ▶ Lack of capacity within the local authority financial accounting professions (this is not a specific point for London Borough of Merton but overall market position)
- ▶ Increased complexity of reporting requirements within the sector
- ▶ Lack of capacity within audit firms with public sector experience
- ▶ Increased regulatory pressure on auditors, which in turn has increased the scope and extent of audit procedures performed

The former Department of Levelling Up, Housing and Communities and more recently MHCLG, has worked collaboratively with the FRC, as incoming shadow system leader, and other system partners, to develop and implement measures to clear the backlog. Statutory Instrument (2024) No. 907 - “The Accounts and Audit (Amendment) Regulations 2024” (the SI), together with the updated NAO Code of Audit Practice 2024 and the Local Authority Reset and Recovery Implementation Guidance, which have all been developed to ensure auditor compliance with International Standards on Auditing (UK) (ISAs (UK)), consist of three phases:

- ▶ Phase 1: Reset involving clearing the backlog of historic audit opinions up to and including financial year 2022/23 by 13 December 2024.
- ▶ 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.
- ▶ Phase 3: Reform involving addressing systemic challenges in the local audit system and embedding timely financial reporting and audit.

As a result of the system wide implementation of backstop dates, we anticipate issuing a disclaimed audit opinion on the Council's 2022/23 accounts. The proposed disclaimer of the Council's 2022/23 accounts impacts the audit procedures that we have planned and undertaken to gain assurance on the 2022/23 financial statements and the form of the audit report.

Local Background and Context

London Borough of Merton has been in a position to present draft statements of account for audit within the regulatory timeframe in recent years and published the 2022/23 financial statements by 31 May 2023.

Due to audit resource constraints, we were unable to schedule the 2021/22 audit in order to meet the reporting timeline of 30 September 2022, and instead completed the audit in February 2023. We then did not have the audit resource necessary to perform the 2022/23 audit for the Council before the back stop date.

Executive Summary - Report structure and work completed

Report structure and work completed

This report covers the work we have completed to meet the requirements of the International Standards on Auditing (UK&I), (ISAs) and the Local Audit Reset and Recovery Implementation Guidance (LARRIGs) along with the National Audit Office Value for Money Code (NAO VFM Code). It has been split into the following sections.

Section 1 - Executive Summary - this section setting out the national and local context and the structure of our report.

Section 2 - Work Plan - We have completed the following planning tasks:

- ▶ Required independence procedures.
- ▶ Set a level of materiality.
- ▶ Issued letters of inquiry to Management, Those Charged with Governance, the Head of Internal Audit and the Monitoring Officer.

▶ Updated our understanding of the business, including through review of responses to inquiry letters, minute review and in discussion in our internal planning meeting,

▶ Identified significant, inherent and other areas of higher risk or focus.

▶ Considered any other matters that may require reporting to regulators or which may result in a modification to the audit report e.g. non-compliance with laws and regulations, objections, significant weaknesses in arrangements for value for money, any matters that may result in the use of the auditor's powers.

Section 3 - Results and findings - Work completed to issue the disclaimer, findings and results:

- ▶ Review of the financial statements.
- ▶ Consideration of any matters that came to light during our planning and review procedures in relation to laws and regulations, fraud, related parties, litigation and claims, significant changes to contracts and systems, service organisations, which we report as appropriate.
- ▶ Reporting on any other matters that may require the use of the auditor's powers, formal reporting or a modification to the auditor's report e.g. non-compliance with laws and regulations, objections, significant weaknesses in arrangements for value for money, any matters that may result in the use of the auditor's powers.

Section 4 - Value for money reporting

- ▶ The value for money report covering the year to 31 March 2023.

Section 5 - Appendices



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02 Work Plan

Work Plan – Audit Scope

Audit scope

This Completion report covers the work that we performed in relation to:

- ▶ Our audit opinion on whether the financial statements of the Council give a true and fair view of the financial position as at 31 March 2023 and of the income and expenditure for the year then ended; and
- ▶ Our commentary on your arrangements to secure value for money in your use of resources for the relevant period. We include further details on VFM in Section 4.

We will also review and report to the National Audit Office (NAO), to the extent and in the form required by them, on the Council's Whole of Government Accounts return.

Our audit will also include the mandatory procedures that we are required to perform in accordance with applicable laws and auditing standards.

When planning the audit we take into account several key inputs:

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- Strategic, operational and financial risks relevant to the financial statements;
- Developments in financial reporting and auditing standards;
- The quality of systems and processes;
- ▶ Changes in the business and regulatory environment; and,
- ▶ Management's views on all of the above.

Given that Accounts and Audit (amendment) Regulations 2024 the UK Statutory Instrument 2024 no. 907 set a backstop date of 13 December 2024, by which date we are required to issue our opinion on the financial statements, we have considered whether the time constraints imposed by the backstop date mean that we cannot complete all necessary procedures to obtain sufficient, appropriate audit evidence to support the opinion and fulfil all the objectives of all relevant ISAs (UK).

This decision is in line with ISA 200: Failure to Achieve an Objective 24.

If an objective in a relevant ISA (UK) cannot be achieved, the auditor shall evaluate whether this prevents the auditor from achieving the overall objectives of the auditor and thereby requires the auditor, in accordance with the ISAs (UK), to modify the auditor's opinion or withdraw from the engagement (where withdrawal is possible under applicable law or regulation). Failure to achieve an objective represents a significant matter requiring documentation in accordance with ISA (UK) 230 (Revised June 2016).4 (Ref: Para. A77&A78)

Taking the above into account, for the years ended 31 March 2023 we have determined that we cannot meet the objectives of the ISAs(UK) and we anticipate issuing a disclaimed audit report.

Work Plan - Materiality

Materiality

Planning materiality

£10.98m

Materiality for y/e 31 March 2023 has been set at £10,975,842, which represents 1.8% of 2023 gross expenditure on provision of services.

Performance materiality

£8.23m

Performance materiality for y/e 31 March 2023 has been set at £8,231,882 which represents 75% of planning materiality.

Audit differences

£548k

We will report all uncorrected misstatements relating to the primary statements greater than £548,792k for y/e 31 March 2023. Other misstatements identified will be communicated to the extent that they merit the attention of the Standards & General Purposes Committee.

In order to ascertain the significance of issues in the draft financial statements we have set materiality based on the published draft financial statements for 2022/23.

These materiality levels have been set based on the main Council financial statements - we have not considered group materiality. These levels are being used to assess our response to any issues identified in the Council's financial statements.

Work Plan – Significant, inherent and other risk areas

The following ‘dashboard’ summarises the significant accounting and auditing matters identified as part of our planning work. It seeks to provide Those Charged with Governance with an overview of our initial risk identification for the year.

Audit risks and areas of focus

Risk/area of focus	Applicable year	Risk identified	Change from PY	Details
Risk of fraud in revenue and expenditure recognition - Inappropriate capitalisation of revenue expenditure	2022/23	Fraud risk	No change in risk or focus	Under ISA 240, there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10 issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition. We have identified the inappropriate capitalisation of revenue expenditure on property, plant and equipment as an area of risk.
Misstatements due to fraud or error	2022/23	Fraud risk	No change in risk or focus	As identified in ISA 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that would otherwise appear to be operating effectively. In addition to our overall response, we consider where these risks may manifest themselves and identify separate fraud risks as necessary below.
Valuation of Land and Buildings - PPE valued under Depreciated Replacement Cost (DRC) and Existing Use Value (EUV)/Fair Value (FV)	2022/23	Significant risk	No change in risk or focus	The fair value of Property, Plant and Equipment (PPE) represents a significant balance in the Authority’s accounts and is subject to valuation changes, impairment reviews and depreciation charges. The valuation of these assets is reliant upon expert valuations based on information provided by the Authority. Management is required to make material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet. Errors within the judgements, assumptions or information provided to the valuer can have a material impact on the financial statements. As a result of our work last year we identified a number of errors which resulted in material amendments to the valuation of property, plant and equipment within the financial statements of the Authority. As such, the valuation of land and buildings remains a significant audit risk. The recognition of this risk is subject to the current CIPFA/LASAAC proposals currently under consultation.

Work Plan – Significant, inherent and other risk areas

The following ‘dashboard’ summarises the significant accounting and auditing matters identified as part of our planning work. It seeks to provide Those Charged with Governance with an overview of our initial risk identification for the years.

Audit risks and areas of focus

Risk/area of focus	Applicable year	Risk identified	Change from PY	Details
National Non-Domestic Rates (NNDR) Appeals Provision	2022/23	Inherent risk	No change in risk or focus	Statistics compiled by the Ministry for Housing, Communities and Local Government, reveal that councils are forecasting net additions to appeal in the coming years. The reason behind the forecast increase is that due to the impact of Covid-19, businesses are likely to seek reductions based on a decrease in rental prices on which rateable values are based. In light of this we consider there to be a higher inherent risk of misstatement of the Council’s NNDR appeals provision.
Pension Liability Valuation	2022/23	Inherent risk	No change in risk or focus	The Local Authority Accounting Code of Practice and IAS19 require the Authority to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme. Accounting for this scheme involves significant estimation and judgement and therefore management engages an actuary to undertake the calculations on their behalf. ISAs (UK) 500 and 540 require us to undertake procedures on the use of management experts and the assumptions underlying fair value estimates.
Sale of CHAS Ltd	2022/23	Inherent risk	New risk for 2022/23	The Council sold their wholly owned subsidiary in January 2023 and determined that group accounts were not required for 2022/23. As a result of the sale, we have identified an inherent risk in relation to the accounting treatment for the income received from the transaction. Also, we are going to review their group boundary assessment.

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Work Plan - Independence

The FRC Ethical Standard 2019 and ISA (UK) 260 'Communication of audit matters with those charged with governance', requires us to communicate with you on a timely basis on all significant facts and matters that bear upon our integrity, objectivity and independence. The Ethical Standard, as revised in December 2019, requires that we communicate formally both at the planning stage and at the conclusion of the audit, as well as during the course of the audit if appropriate. The aim of these communications is to ensure full and fair disclosure by us to those charged with your governance on matters in which you have an interest.

Required communications

Planning stage

- ▶ The principal threats, if any, to objectivity and independence identified by Ernst & Young (EY) including consideration of all relationships between you, your affiliates and directors and us;
- ▶ The safeguards adopted and the reasons why they are considered to be effective, including any Engagement Quality review;
- ▶ The overall assessment of threats and safeguards;
- ▶ Information about the general policies and process within EY to maintain objectivity and independence

Final stage

- ▶ In order for you to assess the integrity, objectivity and independence of the firm and each covered person, we are required to provide a written disclosure of relationships (including the provision of non-audit services) that may bear on our integrity, objectivity and independence. This is required to have regard to relationships with the entity, its directors and senior management, its affiliates, and its connected parties and the threats to integrity or objectivity, including those that could compromise independence that these create. We are also required to disclose any safeguards that we have put in place and why they address such threats, together with any other information necessary to enable our objectivity and independence to be assessed;
- ▶ Details of non-audit/additional services provided and the fees charged in relation thereto;
- ▶ Written confirmation that the firm and each covered person is independent and, if applicable, that any non-EY firms used in the group audit or external experts used have confirmed their independence to us;
- ▶ Details of any non-audit/additional services to a UK PIE audit client where there are differences of professional opinion concerning the engagement between the Ethics Partner and Engagement Partner and where the final conclusion differs from the professional opinion of the Ethics Partner
- ▶ Details of any inconsistencies between FRC Ethical Standard and your policy for the supply of non-audit services by EY and any apparent breach of that policy;
- ▶ Details of all breaches of the IESBA Code of Ethics, the FRC Ethical Standard and professional standards, and of any safeguards applied and actions taken by EY to address any threats to independence; and
- ▶ An opportunity to discuss auditor independence issues.

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In addition, during the course of the audit, we are required to communicate with you whenever any significant judgements are made about threats to objectivity and independence and the appropriateness of safeguards put in place, for example, when accepting an engagement to provide non-audit services.

We ensure that the total amount of fees that EY and our network firms have charged to you and your affiliates for the provision of services during the reporting period, analysed in appropriate categories, are disclosed.

Work Plan - Independence

We highlight the following significant facts and matters that may be reasonably considered to bear upon our objectivity and independence, including the principal threats, if any. We have adopted the safeguards noted below to mitigate these threats along with the reasons why they are considered to be effective. However, we will only perform non-audit services if the service has been pre-approved in accordance with your policy.

Overall Assessment

Overall, we consider that the safeguards that have been adopted appropriately mitigate the principal threats identified and we therefore confirm that EY is independent and the objectivity and independence of Elizabeth Jackson, your audit engagement partner and the audit engagement team have not been compromised.

Self interest threats

A self interest threat arises when EY has financial or other interests in your company. Examples include where we have an investment in your company; where we receive significant fees in respect of non-audit services; where we need to recover long outstanding fees; or where we enter into a business relationship with you. At the time of writing, there are no long outstanding fees.

We believe that it is appropriate for us to undertake those permitted non-audit/additional services set out in Section 5.40 of the FRC Ethical Standard 2019 (FRC ES), and we will comply with the policies that you have approved.

None of the services are prohibited under the FRC's ES and the services have been approved in accordance with your policy on pre-approval. In addition, when the ratio of non-audit fees to audit fees exceeds 1:1, we are required to discuss this with our Ethics Partner, as set out by the FRC ES, and if necessary, agree additional safeguards or not accept the non-audit engagement. We will also discuss this with you.

At the time of writing, there were no non-audit fees in relation to 2022/23. The current ratio of non-audit fees to audit fees is approximately 0.21:1. This relates to the 2019/20 HB claim audit which was certified in March 2024 so is outside of the No additional safeguards are required as this is permitted work by PSAA Limited and does not exceed the approved ratio.

A self interest threat may also arise if members of our audit engagement team have objectives or are rewarded in relation to sales of non-audit services to you. We confirm that no member of our audit engagement team, including those from other service lines, has objectives or is rewarded in relation to sales to you, in compliance with Ethical Standard part 4. There are no other self interest threats at the date of this report.

Self review threats

Self review threats arise when the results of a non-audit service performed by EY or others within the EY network are reflected in the amounts included or disclosed in the financial statements.

There are no self review threats at the date of this report.

Management threats

Partners and employees of EY are prohibited from taking decisions on behalf of management of your company. Management threats may also arise during the provision of a non-audit service in relation to which management is required to make judgements or decision based on that work.

There are no management threats at the date of this report.

Other threats

Other threats, such as advocacy, familiarity or intimidation, may arise.

There are no other threats at the date of this report.



03 Results and findings

Results and findings

Status of the audit

Our audit work in respect of the Council opinion is substantially complete. The following items relating to the completion of our audit procedures were outstanding at the date of this report in respect of 2022/23.

Final Closing procedures:

- ▶ Completion of subsequent events procedures;
- ▶ Receipt of a signed management representation letter.

Given that the audit process is still ongoing, we will continue to consider existing and new information which could influence our final audit opinion, a current draft of which is included later in this section.

Value for Money

Our value for money (VFM) work is complete and reported in Section 04 of this report. We had identified one risk of significant weaknesses and include our findings, having updated and completed the planned procedures in these areas, we did not identify a significant weakness in arrangements. See Section 04 of the report for further details.

Audit differences

We have not identified any audit differences from our work, either adjusted or unadjusted by Management.

The Council should ensure that in approving the Statement of Accounts, that all sets cast correctly, all prior year comparatives agree to the final set of prior year Statement of Accounts, or explanations for prior year adjustments have been set out by the Section 151 Officer. The Council should also seek explanations for any material variances between years to fully understand the Statement of Accounts.

Other Reporting Issues

We have reviewed the information presented in the Annual Governance Statement for consistency with our knowledge of the Council. We have no matters to report as a result of this work.

We have completed the procedures required by the National Audit Office (NAO) on the Whole of Government Accounts. We have no matters to report as a result of this work.

We did not receive any questions or objections to the Council's financial statements from any member of the public following the inspection period.

Other powers and duties

We have a duty under the Local Audit and Accountability Act 2014 to consider whether to report on any matter that comes to our attention in the course of the audit, either for the Council to consider it or to bring it to the attention of the public (i.e. "a report in the public interest").

We did not identify any issues which required us to issue a report in the public interest.



Results and findings

Areas of audit focus

In our Audit Plan we identified a number of key areas of focus for our audit of the financial report of London Borough of Merton. We concluded we would disclaim the audit and therefore have not completed detailed audit testing on these areas but instead have reported any matters that came to light from the work we did complete.

We request that you review these and other matters set out in this report to ensure:

- ▶ There are no further considerations or matters that could impact these issues
- ▶ You concur with the resolution of the issue
- ▶ There are no further significant issues you are aware of to be considered before the financial report is finalised

There are no matters, other than those reported by management or disclosed in this report, which we believe should be brought to the attention of the Standards & General Purposes Committee.

Control observations

During the audit, we did not identify any significant deficiencies in internal control in relation to the financial statements.

However, we have identified the following recommendations in relation to the Value for Money risk of significant weakness (see pages 28 to 33 of this report for detail):

- ▶ The Council needs to ensure that all services provided by a third party or sub-service line have up to date agreements with clear roles and responsibilities for all parties defined;
- ▶ The Council needs to ensure that the service agreements relating to the Pension Fund have clear key performance indicators included and that these are monitored and reported by management and Pension Committee;
- ▶ The Council should implement a communication SLA between all service providers so silo working does not recur;
- ▶ The Council should ensure that the focus of the quarterly partner meetings with PSS covers the relevant issues arising as well as standard agenda items;
- ▶ The Council should set up a regular meeting with all service providers attending that has clear agendas and minutes to set out what has been discussed and agreed so there is a documented trail for any future service delivery issues; and
- ▶ The Council must communicate the Internal Audit review findings to the Pensions Committee and Standards and General Purposes Committee and implement all recommendations made by Internal Audit following their review of the overpayment with update reporting to the Committees about progress made.

Independence

Further to our review of independence in section 2 of this report we have not identified any issues to bring to your attention.



Results and findings

Other matters

As required by ISA (UK&I) 260 and other ISAs specifying communication requirements, we must tell you significant findings from the audit and other matters if they are significant to your oversight of the Authority's financial reporting process. They include the following:

- ▶ Significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures;
- ▶ Any significant difficulties encountered during the audit;
- ▶ Any significant matters arising from the audit that were discussed with management;
- ▶ Written representations we have requested;
- ▶ Expected modifications to the audit report;

▶ Any other matters significant to overseeing the financial reporting process;

▶ Related parties;

▶ External confirmations;

▶ Going concern;

▶ Consideration of laws and regulations; and

▶ Group audits

We have no other matters to report.

Draft audit report

Our opinion on the financial statements

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF LONDON BOROUGH OF MERTON

Disclaimer of opinion

We were engaged to audit the financial statements of London Borough of Merton ('the Council') for the year ended 31 March 2023. The financial statements comprise the:

- Council Comprehensive Income and Expenditure Statement,
- Council Movement in Reserves Statement,
- Council Balance Sheet,
- Council Cash Flow Statement,
- the related notes 1 to 43 including a summary of significant accounting policies, and Collection Fund and the related notes 1 to 5.

The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2022/23 as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022).

We do not express an opinion on the accompanying financial statements of the Council. Because of the significance of the matter described in the basis for disclaimer of opinion section of our report, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for disclaimer of opinion

The Accounts and Audit (Amendment) Regulations 2024 (Statutory Instrument 2024/907) which came into force on 30 September 2024 requires the accountability statements for this financial year to be approved not later than 13 December 2024.

We completed the audit of the 2021/22 financial statements and issued our audit opinion on 7 February 2023.

The backstop date and the wider requirements of the local audit system reset meant we did not have the required resources available to complete the detailed audit procedures that would be needed to obtain sufficient appropriate audit evidence to issue an unmodified audit report on the 2022/23 financial statements.

Matters on which we report by exception

Notwithstanding our disclaimer of opinion on the financial statements, performed subject to the pervasive limitation described above, we have nothing to report in respect of whether the annual governance statement is misleading or inconsistent with other information forthcoming from the audit or our knowledge of the Council.

We report to you if:

- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014 (as amended)
- we make written recommendations to the audited body under Section 24 of the Local Audit and Accountability Act 2014 (as amended)
- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014 (as amended)

Our opinion on the financial statements

- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014 (as amended)
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014 (as amended)
- we are not satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2023.

We have nothing to report in these respects.

Responsibility of the Executive Director of Finance and Digital

As explained more fully in the Statement of the Executive Director of Finance and Digital's Responsibilities set out on page 181, the Executive Director of Finance and Digital is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2022/23 as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022), and for being satisfied that they give a true and fair view and for such internal control as the Executive Director of Finance and Digital determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Executive Director of Finance and Digital is responsible for assessing the Council's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Council either intends to cease operations, or has no realistic alternative but to do so.

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

Auditor's responsibilities for the audit of the financial statements

Our responsibility is to conduct an audit of the Council's financial statements in accordance with International Standards on Auditing (UK) and to issue an auditor's report.

However, because of the matter described in the basis for disclaimer of opinion section of our report, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

We are independent of the Council in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard and the Code of Audit Practice 2024 and we have fulfilled our other ethical responsibilities in accordance with these requirements.

Scope of the review of arrangements for securing economy, efficiency and effectiveness in the use of resources

We have undertaken our review in accordance with the Code of Audit Practice 2024, having regard to the guidance on the specified reporting criteria issued by the Comptroller and Auditor General in November 2024, as to whether London Borough of Merton had proper arrangements for financial sustainability, governance and improving economy, efficiency and effectiveness. The Comptroller and Auditor General determined these criteria as those necessary for us to consider under the Code of Audit Practice in satisfying ourselves whether London Borough of Merton put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2023.

We planned our work in accordance with the Code of Audit Practice. Based on our risk assessment, we undertook such work as we considered necessary to form a view on whether, in all significant respects, London Borough of Merton had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Our opinion on the financial statements

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 (as amended) to satisfy ourselves that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

We are not required to consider, nor have we considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Certificate

We certify that we have completed the audit of the accounts of London Borough of Merton in accordance with the requirements of the Local Audit and Accountability Act 2014 (as amended) and the Code of Audit Practice issued by the National Audit Office.

Use of our report

This report is made solely to the members of London Borough of Merton, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 (as amended) and for no other purpose, as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Council and the Council's members as a body, for our audit work, for this report, or for the opinions we have formed.

*Elizabeth Jackson (Key Audit Partner)
Ernst & Young LLP (Local Auditor)
Luton
XX December 2024*

The following footnote does not form part of our Auditor's Report.

Additional information related to the disclaimer of opinion is set out in Completion Report for Those Charged with Governance dated 25 November 2024, available on the Authority's website, which includes further explanations about the implementation of the statutory instrument which led to the disclaimer of our opinion on the financial statements.



04 Value for Money

VFM - Executive Summary

Purpose

Auditors are required to be satisfied that London Borough of Merton has made proper arrangements for securing economy, efficiency and effectiveness in their use of resources. We do not issue a 'conclusion' or 'opinion', but where significant weaknesses are identified we will report by exception in the auditor's opinion on the financial statements. In addition, auditors provide an annual commentary on arrangements published as part of the Auditor's Annual Report to comply with the requirements of the 2020 Code of Audit Practice (updated for 2024) and Auditor Guidance Note 3 (AGN 03). For 2022/23, the annual commentary is included in this report.

The 2024 Code has reduced the scope of the VFM reporting up to and including the 2022/23 financial year. However, in the February 2024 consultation on the new Code, the NAO stated that where auditors have begun or already undertaken work that no longer falls under the reduced scope, they may still report on it in accordance with paragraph 13 of Schedule 3 of the 2024 Code. EY are continuing to report VFM in line with our existing responsibilities as set out in the 2020 Code to ensure a smooth transition to the 2023/24 audit year when auditors are required to meet the full Code reporting responsibilities.

Risks of Significant Weakness

In undertaking our procedures to understand the body's arrangements against the specified reporting criteria, we identify whether there are risks of significant weakness which require us to complete additional risk-based procedures. AGN 03 sets out considerations for auditors in completing and documenting their work and includes consideration of:

- our cumulative audit knowledge and experience as your auditor;
- reports from internal audit which may provide an indication of arrangements that are not operating effectively;
- our review of Council committee reports;
- meetings with key finance officers;
- information from external sources; and
- evaluation of associated documentation through our regular engagement with Council management and the finance team.

VFM - Executive Summary (continued)

Reporting

We completed our risk assessment and any detailed audit procedures and did not identify any significant weaknesses in the Council's VFM arrangements.

We have reported our findings from our work carried out on the risk of significant weakness in relation to Improving economy, efficiency and effectiveness on page 28 of this report.

The detailed arrangements and processes underpinning the reporting criteria as reported in our 2021/22 Auditor's Annual Report were updated for 2022/23 and reported in our Interim VFM Report that was issued to the Standards and General Purposes Committee on 17 July 2024.

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Reporting Criteria	Risks of significant weaknesses in arrangements identified?	Actual significant weaknesses in arrangements identified?
Financial sustainability: How the Council's plans and manages its resources to ensure it can continue to deliver its services	No significant risks identified	No significant weakness identified
Governance: How the Council ensures that it makes informed decisions and properly manages its risks	No significant risks identified	No significant weakness identified
Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services	Arrangements for the oversight of services provided to Merton Pension Fund	No significant weakness identified

Value for Money Commentary

Financial Sustainability: How the Council plans and manages its resources to ensure it can continue to deliver its services

No significant weakness identified

The Council is required to have arrangements in place to ensure proper resource management and the primary responsibility for these arrangements, and reporting on the design and operation of these arrangements via the annual governance statement, rests with management. In accordance with the NAO's Code the focus of our work should be on the arrangements that the audited body is expected to have in place during the year ended 31 March 2023. Our risk assessment did not identify any risk of significant weakness in arrangements for financial sustainability.

The Council works to refine budgets and the Medium-Term Financial Strategy (MTFS) to respond to cost pressures as they emerge. We recognise that effective financial planning remains difficult due to continuing uncertainties in the funding that will be made available to councils.

The Council monitors the financial performance on a monthly basis, through the Leadership Team and reports from the Leadership Team are reported to the Cabinet on a quarterly basis. The Council also publish an annual outturn report for the revenue and capital budgets. In this report, the Council have considered: the overall financial position; position for services departments; position for corporate teams; information on reserves; and capital outturn.

For 2022/23, the revenue outturn shows a favourable position resulting in an underspend of £2.392 million. This amount has been transferred to reserves. The capital programme shows a slippage of £7.1 million. The general fund reserves as of 31 March 2023 was £130.1 million and usable reserves was £350.6 million which shows that the Council has sufficient reserves to meet its operational costs over the medium-term planning period.

We have also reviewed the 2022-26 business plan and have noted that the 2022/23 budget was balanced. We have also reviewed the MTFS 2023-27 which shows 2023/24 budget has been balanced, however, there are budget gaps for future years over the business plan period. We noted that there are savings plans in place that are scrutinised by the overview and scrutiny panels to ensure that the agreed savings proposals are achievable. The budget gap after applying the saving proposals is £2.296 million for 25/26 and £3.86 million for 26/27. The Council has the overview and scrutiny panels which oversee and scrutinise the saving proposals. We have noted that the council has sufficient reserves to cover a shortfall in the budget.

The Council has a robust monitoring and financial planning has ensured that financial resilience has been maintained throughout the last few years that have become increasingly challenging for Local Government. The sale of CHAS has contributed to strengthening of the Council's financial resilience as the interest received on the investment is being used to support the revenue budget. The Council needs to ensure this money is utilised in an appropriate way for the longer-term benefit of the community and stability of the financial position.

Conclusion: Based on the work performed, the Council had proper arrangements in place in 2022/23 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.

Value for Money Commentary (continued)

Governance: How the Council ensures that it makes informed decisions and properly manages its risks

No significant weakness identified

The Council is required to have arrangements in place to ensure proper risk management and the primary responsibility for these arrangements and reporting on the design and operation of these arrangements via the annual governance statement rests with management. In accordance with the NAO's Code the focus of our work should be on the arrangements that the audited body is expected to have in place during the years ended 31st March 2023. Our risk assessment did not identify any risk of significant weakness in arrangements for governance.

The 2022/23 Annual Governance Statement includes all the areas required by the CIPFA Code, including information relating to review of effectiveness and reports on the key governance areas where Internal Audit work has identified limited assurance and further improvements are required. Where the weaknesses have been identified, the follow up action has been undertaken to ensure prompt improvement in controls. There were 18 priority 1 actions in 2022/23, with 14 implemented and 4 in progress. There are also 2 outstanding from 2021/22.

The Council has effective processes and systems in place to ensure budgetary control, to communicate relevant, accurate and timely management information, to support its statutory financial reporting requirements and to ensure the body is taking corrective action where needed. The Full Council and Cabinet receive quarterly updates on financial performance. These update reports summarise the overall position during the year to date and projections against the budget. It also includes financial health indicators and Treasury Management reports.

From our review of the minutes, we note the following arrangements are in place. The Executive Director of Finance and Digital reports to the Cabinet on a regular basis as part of an overall performance management reporting process. This includes both financial and performance reporting with areas identified that need corrective action based on the overspending incurred during the year supplemented with details of how the Council plans to implement corrective action/savings to reduce the overspending.

During 2022/23, the Council sold their wholly owned subsidiary, CHAS Ltd, for a capital receipt of £187 million. As part of our work, we have reviewed the governance arrangements of the Council in completing the sale. Our review looked at the due diligence undertaken by the Council, including the strategic review which set out detailed options appraisal. The Council completed consultations with the Overview and Scrutiny Commission and reviewed the financial impact of the sale on the Council's annual revenue budget and the impact of the one-off capital receipt. From our work on the sale of the subsidiary, we do not deem there to be a significant weakness in relation to the governance around the sale of CHAS. The Council obtained external advice throughout the process for the financial modelling, due diligence and legal elements.

The Council published their draft 2022/23 financial statements for audit on the 31 May 2023, advertised and held an inspection period for members of the public in line with the Accounts and Audit regulations. We confirm that the 2022/23 draft financial statements were arithmetically correct, agreed to the data in the general ledger, prepared in line with the requirements of the CIPFA Code, and had carried out key reconciliations during the year to underpin the control environment for preparing the financial statements.

Conclusion: Based on the work performed, the Council had proper arrangements in place in 2022/23 to make informed decisions and properly manage its risks.

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

The Council is required to have arrangements in place to ensure economy, efficiency and effectiveness, and the responsibility for these arrangements and reporting on the design and operation of these arrangements via the annual governance statement, rests with management. In accordance with the NAO's Code the focus of our work should be on the arrangements that the audited body is expected to have in place during the years ended 31st March 2023. Our risk assessment did not identify any risk of significant weakness in arrangements in place to ensure economy, efficiency and effectiveness.

The Council evaluates the service and identifies areas of improvement. These include the review of financial performance, budgets, the Corporate Risk Register and non-financial performance. The quarterly performance reports have been updated to focus on exception reporting and providing detailed trend-based analysis to enable better decision-making at the corporate level. The new format report also now recognises good performance and identifies the interventions which have led to improvement in performance. The quarterly performance dashboard is published on both the intranet and internet which gives staff, members, residents, and the public access to up-to-date performance data detailing how the council is performing against its targets.

A key aspect of performance assessment is the findings of external assessors which review the organisation. This includes Local Government Association peer reviews, OFSTED inspections, CQC inspections and other external reviews. All findings and recommendations made in internal inspections are reviewed and acted on by the Council.

The Council's last Ofsted report for Joint area special educational needs and/or disabilities (SEND) was issued in October 2022. This was a revisit by Ofsted and the Care Quality Commission (CQC) to review the progress made in addressing each of the areas of significant weakness detailed in the inspection report in September 2019. The inspection found that significant progress had been made in all areas that had previously been identified and therefore formal quarterly support and challenge visits from the Department for Education and NHS England ceased.

The Council was subject to a full CQC inspection in July 2023 in relation to their Homecare Services and assessed the Council as 'Good'.

The Council also works with a wide range of partners, including The Merton Partnership and its thematic Boards and working groups, to provide a mechanism for the Council to engage with key stakeholders. Most of the Partnership Boards meet quarterly and have clear governance arrangements.

We identified one risk of significant weakness in relation to Improving economy, efficiency and effectiveness. We engaged our EY Forensics team to carry out a review of the arrangements at place at the Council for oversee the services provided to Merton Pension Fund, as well as investigating the reasons for the overpayment made in 2023/24 to an individual receiving a pension from the Fund. We have made a number of recommendations for improvement in this report. See detailed reporting on the next page. We have concluded that this issue is not pervasive across the Council and therefore this has not led to a significant weakness for 2022/23.

Conclusion: Based on the work performed, the Council had proper arrangements in place in 2022/23 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

Risk of significant weakness: Arrangements for the oversight of services provided to Merton Pension Fund

Background

The management of the Council, London Borough of Merton (LBM), are the administering authority for the Merton Pension Fund (PF) and therefore the issue arising could impact on the arrangements in place at the Council. During the year, an overpayment relating to one pensioner was brought to attention of the Council by the Pensions Shared Service ("PSS"). The Council proactively informed EY as part of the assurance letter process for the 2023/24 audit in early January 2024. Although the overpayment does not impact directly on the Council's financial statements, the PF accounts are part of the Council's Statement of Accounts and therefore, arrangements in place to manage the service level agreements (SLAs) to ensure the pension payments processed by the Payroll Shared Service ("Payroll") are accurate and free from fraud and error is the responsibility of Council management.

The Council engaged Internal Audit to carry out a review of the issue in early 2024, however, due to limitations in the information available from the pensions payroll system (iTrent), the conclusion that this was a one-off system error could not be verified as the reasons for the overpayment were not transparent nor were they able to explain how the overpayment had occurred. The overpayment was first identified by PSS in April 2022, but no action was taken by the service providers until June 2023 and the PF/Council management were not informed until November 2023.

The overpayment by the PF related to a period of 10 years between April 2014 and June 2023. The total gross overpayment is £167,092.76 with the amount directly recoverable being £134,989.76. As a result of the internal review and risk of weaknesses in arrangements as the source of the overpayment was unknown, we engaged our EY Forensics team to carry out an investigation to:

1. Document the key controls/processes used by LBM, the Payroll Shared Service ("Payroll") and the Pension Shared Service ("PSS") to reduce the risk of fraud, error or overpayment, including arrangements for governance of the associated Service Level Agreements ("SLAs");
2. Identify, if possible, the root-cause of the overpayment;
3. Identify whether there was a risk of further overpayments; and
4. Document what processes/due diligence had been used to confirm that the overpayments had been made to the intended pensioner.

Our findings are set out below for the Council including the Pension Fund ("Merton").

Findings

Document the key controls/processes used by LBM, the Payroll Shared Service ("Payroll") and the Pension Shared Service ("PSS") to reduce the risk of fraud, error or overpayment, including arrangements for governance of the associated Service Level Agreements ("SLAs")

We found no evidence of documented controls or processes aimed at reducing the risk of fraud, error or overpayment within the individual shared services in relation to services provided to Merton; nor did we find evidence of a documented, or shared understanding of how the shared services worked together to provide pensioners with correct payments.

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

Risk of significant weakness: Arrangements for the oversight of services provided to Merton Pension Fund (cont'd)

Findings (cont'd)

In relation to the Merton specific findings, our investigation identified the following:

- ▶ There was not a clear shared end to end process reflecting roles and responsibilities in the payment pathway and no documentation setting out the differing responsibilities/activities of Merton, nor any of the shared/delegated service providers
- ▶ There is no formal or documented process for managing overpayments and/or briefing LBM or the other shared services, and no evidence of guidance available to confirm when pension payments may be suspended and the process to be followed
- ▶ There is no risk register focussed on pensions or pension payments, nor any documented mitigations to manage the risks.

In addition, we reviewed the two SLAs between the Council and shared service providers. It should be noted that during the final stages of the investigation we were informed that one of the shared services, PSS, is a delegated service instead. For the purposes of reporting below we have reported the findings based on the documents provided to EY.

The PSS delegation agreement is dated 23 January 2014 and has not been updated since this date. The Payroll SLA is dated July 2023. Neither agreement recognises any other parties in the pensions process (i.e. after retirement); both are limited to the service provided by that organisation only i.e. between LBM and PSS / LBM and Payroll. There are no Key Performance Indicators (KPIs) relating to sharing information with other parties in the pension payment chain which would enable either shared service to hold the other accountable for delays or errors in the sharing of data.

Both agreements lack clarity over roles, responsibilities and performance standards, which undermines the Council's ability to manage these contracts effectively and work holistically. For example, the performance standards in the agreements do not include a requirement to report on errors or overpayments.

While both services mentioned performance management meetings, we were not provided with any evidence of these by either service provider, e.g. agenda, minutes, action plans, briefing papers. However, agendas and minutes have since been provided for the quarterly meetings between LBM and PSS although it is recognised that the issue was not discussed.

The Pension Committee receives quarterly reports with statistics from PSS outlining complaints, quality of service and service performance. It should be noted that the statistics only relate to surveys undertaken when a pensioner contacts PSS if they have question or issue regarding their pension. Furthermore, the statistics are not verified or corroborated with the source data to confirm the legitimacy of them nor are processes updated to facilitate improvement of the PSS performance.

The Council does not require evidence from the shared services of the effectiveness of controls or the quality of services (e.g. an ISAE 3402, previously SAS70). While Payroll has an annual internal audit review carried out by Mazars, this is not routinely shared with LBM, nor is the Council or the other shared services made aware of any control weaknesses.

We further noted that within the PSS contract, under Clause 12, Dispute Resolution and Schedule 3, Dispute Resolution Procedure, that if a dispute arises, written notice should be given and, if not resolved within seven working days, referred to an expert acting as an independent expert not an arbitrator. We are not aware that this has been followed for the overpayment issue.

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

Risk of significant weakness: Arrangements for the oversight of services provided to Merton Pension Fund (cont'd)

Findings (cont'd)

Identify, if possible, the root-cause of the overpayment

The root cause of the overpayment has been communicated to EY and Internal Audit as a one off system error which is refuted by the software provider.

During our investigation we were shown that the original source of the overpayment was a manual error made by a Payroll employee to correct an underpayment made in 2012 for which a temporary element was created in 2013. However, upon review of the iTrent system we have not found the two, i.e. the underpayment in 2012 and the overpayment over the 10-year period, to be correlated. The potential system error element is that iTrent allowed a duplicate payment to be made as an additional line was added to this one pensioner's record, which itself was then increased annually by CPI, resulting in disproportionately increasing payments.

However, EY Forensics could not ascertain if there was manual intervention that led the system to create an exception for this pensioner in running two concurrent pension increase elements as the audit history had been wiped from the iTrent system when they changed software providers in 2022. The investigation identified two separate system errors that have been reported as part of the Pension Fund audit to the Pension Committee. We have not included the detail here as they do not relate to the arrangements for ensuring value for money at Merton directly.

Identify whether there was a risk of further overpayments

We were informed throughout the review that there were no further overpayments, but evidence of the full system reconciliation was not provided until November 2024. There are no comprehensive checks undertaken by any party on payments made during the 10 year period so until recently we were not able to confirm this declaration. In November, we reviewed the full reconciliation of the payroll system and determined that the overpayment was a one off as there were no other duplicated entries in the system.

Payroll perform a variance test to identify any variances of over £50 from the previous month's payment but this is not performed in April. Since there is only one time each year a new file is uploaded on iTrent with the annual updated pension amount for each pensioner, this test has no purpose for highlighting errors in pension payments as the only change is likely to be in April of each year. For Merton to obtain assurance that the payroll data is accurate at the start of the year for each pensioner, this check needs to be performed in April.

In addition, the poor communication between Merton, Payroll and PSS (individually and as a group) adds to the risk of Merton being unaware of instances of overpayments and the lack of guidance regarding repayments may leave the Council vulnerable to reputational damage and claims of hardship from pensioners whose payments are stopped apparently arbitrarily.

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

Risk of significant weakness: Arrangements for the oversight of services provided to Merton Pension Fund (cont'd)

Findings (cont'd)

Document what processes/due diligence had been used to confirm that the overpayments had been made to the intended pensioner

Before Merton was aware of the overpayment, PSS sent two letters to the pensioner informing them that their pension had been overpaid since 2014 and that pension payments would stop effective 1 July 2023 (letter in July 2023) and how the pensioner was going to repay the overpayment (letter in October 2023). The pensioner responded with a letter giving authority to their accountant to deal with the matter on their behalf in the future.

PSS did not carry out any due diligence checks for this change as it is not practice to do so. The required assurance is obtained through the National Fraud Initiative programme.

EY Forensics carried out checks on the pensioner's accountant and were unable to verify the accountant's or the firm's legitimacy as they did not appear as a registered accountant/accountancy firm.

Weaknesses identified during the EY Forensics investigation

While the individual authorities have processes to enable correct and timely payments to pensions, their dependency on each other undermines these, and this is aggravated by the lack of clarity over process, roles and responsibilities particularly at handover points. The investigation identified 9 areas of weakness across the Council / PF and service providers. For Merton, these are the significant weaknesses identified that need to be rectified (the full reporting of weaknesses has been made to the Pension Fund Committee as TCWG for the PF):

1. Lack of understanding and documentation setting out the responsibilities and activities of each of the individual shared services, the handover points and the information flows between each party (e.g. changes related to a pensioner's address, bank account, Power of attorney, death of an existing pensioner, termination/suspension of payment, change in beneficiary details etc);
2. No regular formal communication processes between all parties in a joint meeting. Regular meetings should be held between LBM, PSS and Payroll. In addition, there are no individual formal meetings between LBM & Payroll and PSS & Payroll, for example weekly/monthly catch-up meetings to discuss overall performance or any major issues (such as overpayments) etc or ways to create efficiencies in their ways of working;
3. No strong framework that lays out standard due diligence checks which PSS must carry out in response to a request for change in address, bank statement or beneficiary;
4. No formal assurance reports shared with LBM or related parties on the controls in place within the PSS and/or Payroll Service (e.g. ISAE3402 formerly SAS 70) to provide comfort that controls are in place and working to the standard required;
5. The Payroll SLA appears focussed on ensuring payments made into the pension fund are correct and timely i.e. whilst the individual is an employee of LBM; there are limited references relating to accuracy of payments to pensioners; and

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

Risk of significant weakness: Arrangements for the oversight of services provided to Merton Pension Fund (cont'd)

Weaknesses identified during the EY Forensics investigation

6. The PSS delegation agreement is dated 2014 and has not been updated since it was initially put in place. The agreement outlines that PSS are responsible for calculating the pension amount to be paid however the performance statistics provided to the Treasury & Pension team do not reflect payments but only complaints and service performance. There is also no guidance around informing LBM of overpayments and/or when issues should be communicated.

We acknowledge that the Council has started to implement the findings from the Internal Audit review and that processes and controls have been strengthened for the 2024/25 financial year.

Conclusion

Although EY Forensics investigation identified a number of weaknesses in the Council's oversight of the services provided to Merton Pension Fund, appropriate action is being taken to implement findings to date and rectify the weaknesses. The key oversight of the Council in relation to value for money arrangements is the lack of review and updating service level and delegated agreements and ensuring robust management of these during the year as the service providers did not inform management of the issue until November 2023 after initially identifying the overpayment in April 2022 and then starting an internal review at the PSS/Payroll services in June 2023. The Council was proactive in discussing the issue with EY and raised the issue as part of the assurance letter responses from management for the Council and PF.

After informing EY of the issue, management engaged Internal Audit to carry out a review of the overpayment to identify what had happened. However, management has not reported the findings to TCWG of the PF or Council, with the exception of the PF Chair, as they wanted to wait for the EY Forensics investigation to conclude to determine if there were any other weaknesses identified.

Our work and knowledge of the Council's arrangements for monitoring contracts and agreements has not identified any other weaknesses that give an indication of a pervasive issue across the whole Council.

In addition, our investigation concluded that this is a one off overpayment during that period and up to the date of this report and therefore we can conclude that the weaknesses identified have not led to material overpayment of benefits paid in 2022/23 or any other year.

Overall, the weaknesses identified relate to the PF and are not pervasive to the whole Council. Therefore, we have concluded that this is not a weakness in arrangements across the whole Council. Improvements are required to manage the PF services through revised agreements and the Council has been reactive to the findings and is implementing changes identified by Internal Audit to mitigate the risk of this situation occurring again.

Value for Money Commentary (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

No significant weakness identified

Risk of significant weakness: Arrangements for the oversight of services provided to Merton Pension Fund (cont'd)

Recommendations

We have identified the following recommendations in relation to significant deficiencies in internal control for the overpayment issue. These relate to the Council's value for money arrangements and are not the full list of recommendations that have been communicated to the Pension Committee.

- ▶ The Council needs to ensure that all services provided by a third party or sub-service line have up to date agreements with clear roles and responsibilities for all parties defined;
- ▶ The Council needs to ensure that the service agreements relating to the Pension Fund have clear key performance indicators included and that these are monitored and reported by management and Pension Committee;
- ▶ The Council should implement a communication SLA between all service providers so silo working does not recur;
- ▶ The Council should ensure that the focus of the quarterly partner meetings with PSS covers the relevant issues arising as well as standard agenda items;
- ▶ The Council should set up a regular meeting with all service providers attending that has clear agendas and minutes to set out what has been discussed and agreed so there is a documented trail for any future service delivery issues; and
- ▶ The Council must communicate the Internal Audit review findings to the Pensions Committee and Standards and General Purposes Committee and implement all recommendations made by Internal Audit following their review of the overpayment with update reporting to the Committees about progress made.



05 Appendices

Appendix A - Management representation letter

Management representation letter

This is the draft management letter template which Management will tailor and send back signed and dated prior to the opinion being issued.

Management Rep Letter

[To be prepared on the entity's letterhead]

[Date]

Ernst & Young

This letter of representations is provided in connection with your audit of the [consolidated and parent] Authority financial statements of [name of entity] ("the [Group and] authority") for the year ended [balance sheet date]. We recognise that obtaining representations from us concerning the information contained in this letter is a significant procedure in enabling you to form an opinion as to whether the consolidated and parent Authority financial statements give a true and fair view of (or 'present fairly, in all material respects,') the [Group and] authority financial position of [name of entity] as of [balance sheet date] and of its financial performance (or operations) and its cash flows for the year then ended in accordance with, for the [Group and] the Authority, CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 20xx/xx (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)).

We understand that the purpose of your audit of our [consolidated and parent] Authority financial statements is to express an opinion thereon and that your audit was conducted in accordance with International Standards on Auditing (UK), which involves an examination of the accounting system, internal control and related data to the extent you considered necessary in the circumstances, and is not designed to identify - nor necessarily be expected to disclose - all fraud, shortages, errors and other irregularities, should any exist. Accordingly, we make the following representations, which are true to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

A. Financial Statements and Financial Records

1. We have fulfilled our responsibilities, under the relevant statutory authorities, for the preparation of the financial statements in accordance with, for the [Group and the parent] Authority, the Accounts and Audit Regulations 2015 and the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 20xx/xx (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)).
2. We acknowledge, as members of management of the [Group and] authority, our responsibility for the fair presentation of the consolidated and parent Authority financial statements. We believe the [consolidated and parent] Authority financial statements referred to above give a true and fair view of the financial position, financial performance (or results of operations) and cash flows of the [Group and parent] Authority in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 20xx/xx (as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022)), and are free of material misstatements, including omissions. We have approved the financial statements.
3. The significant accounting policies adopted in the preparation of the [Group and] authority financial statements are appropriately described in the [Group and] authority financial statements.
4. As members of management of the [Group and] authority, we believe that the [Group and] authority have a system of internal controls adequate to enable the preparation of accurate financial statements in accordance with [applicable financial reporting framework] for the Group and [applicable financial reporting framework] for the Authority that are free from material misstatement, whether due to fraud or error.

Appendix A - Management representation letter

Management representation letter

This is the draft management letter template which Management will tailor and send back signed and dated prior to the opinion being issued.

Management Rep Letter

5. *[When there are unadjusted audit differences in the current year]* We believe that the effects of any unadjusted audit differences, summarised in the accompanying schedule, accumulated by you during the current audit and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the consolidated and parent Authority financial statements taken as a whole. We have not corrected these differences because *[specify reasons for not correcting misstatement]*.
6. *[When the comparative figures have been restated]* The comparative amounts have been restated to reflect the below matter(s) and appropriate note disclosure of this (these) restatement(s) has (have) also been included in the current year's consolidated and parent Authority financial statements. *[Add a paragraph providing a brief description of each matter giving rise to a restatement and the amount(s) concerned.]* There have been no significant errors or misstatements, or changes in accounting policies, other than the matters described above, that would require a restatement of the comparative amounts in the current year's consolidated and parent Authority financial statements. Other differences in the amounts shown as comparative amounts from the amounts in the consolidated and parent Authority financial statements for the year ended *[date]* are solely the result of reclassifications for comparative purposes.
7. We confirm the *[Group and]* authority does not have securities (debt or equity) listed on a recognized exchange.
8. We have confirmed to you any changes in service organizations within the *[Group and]* authority since the last audited financial year.

B. Non-compliance with laws and regulations, including fraud

1. We acknowledge that we are responsible to determine that the *[Group and]* authority's business activities are conducted in accordance with laws and regulations and that we are responsible to identify and address any non-compliance with applicable laws or regulations, including fraud.
2. We acknowledge that we are responsible for the design, implementation and maintenance of a system of internal control to prevent and detect fraud and that we believe we have appropriately fulfilled those responsibilities.
3. We have disclosed to you the results of our assessment of the risk that the *[consolidated and parent]* Authority financial statements may be materially misstated as a result of fraud.
4. *[When management is aware of the occurrence of non-compliance with laws or regulations, or has received allegations of non-compliance with laws and regulations.]* We have disclosed to you, and provided you full access to information and any internal investigations relating to, all instances of identified or suspected non-compliance with laws and regulations, including fraud, known to us that may have affected the *[Group or]* Authority (regardless of the source or form and including, without limitation, allegations by "whistle-blowers"), including non-compliance matters:
 - Involving financial improprieties
 - Related to laws or regulations that have a direct effect on the determination of material amounts and disclosures in the *[consolidated and parent]* Authority financial statements
 - Related to laws or regulations that have an indirect effect on amounts and disclosures in the *[consolidated and parent]* Authority financial statements, but compliance with which may be fundamental to the operations of the *[Group and]* authority's business, its ability to continue in business, or to avoid material penalties

Appendix A - Management representation letter

Management representation letter

This is the draft management letter template which Management will tailor and send back signed and dated prior to the opinion being issued.

Management Rep Letter

- Involving management, or employees who have significant roles in internal control, or others
- In relation to any allegations of fraud, suspected fraud or other non-compliance with laws and regulations communicated by employees, former employees, analysts, regulators or others.

C. Information Provided and Completeness of Information and Transactions

1. We have provided you with:
 - Access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
 - Additional information that you have requested from us for the purpose of the audit; and
 - Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
2. All material transactions have been recorded in the accounting records and are reflected in the [consolidated and parent] Authority financial statements.
3. We have made available to you all minutes of the meetings of shareholders, directors and committees of directors (or summaries of actions of recent meetings for which minutes have not yet been prepared) held through the [period] to the most recent meeting on the following date: [list date].

4. We confirm the completeness of information provided regarding the identification of related parties. We have disclosed to you the identity of the [Group and] authority's related parties and all related party relationships and transactions of which we are aware, including sales, purchases, loans, transfers of assets, liabilities and services, leasing arrangements, guarantees, non-monetary transactions and transactions for no consideration for the period ended, as well as related balances due to or from such parties at the [period] end. These transactions have been appropriately accounted for and disclosed in the [consolidated and parent] Authority financial statements.
5. We believe that the methods, significant assumptions and the data we used in making accounting estimates and related disclosures are appropriate and consistently applied to achieve recognition, measurement and disclosure that is in accordance with [applicable financial reporting framework].
6. We have disclosed to you, and the [Group and] authority has complied with, all aspects of contractual agreements that could have a material effect on the [consolidated and parent] Authority financial statements in the event of non-compliance, including all covenants, conditions or other requirements of all outstanding debt.
7. From the date of our last management representation letter through the date of this letter we have disclosed to you, to the extent that we are aware, any (1) unauthorized access to our information technology systems that either occurred or is reasonably likely to have occurred, including of reports submitted to us by third parties (including regulatory agencies, law enforcement agencies and security consultants), to the extent that such unauthorized access to our information technology systems is reasonably likely to have a material effect on the [consolidated and parent] Authority financial statements, in each case or in the aggregate, and (2) ransomware attacks when we paid or are contemplating paying a ransom, regardless of the amount.

Appendix A – Management representation letter

Management representation letter

This is the draft management letter template which Management will tailor and send back signed and dated prior to the opinion being issued.

Management Rep Letter

8. We have disclosed to you, and provided you full access to information and any internal investigations relating to, unauthorized access to our information technology systems that has a material effect on the [consolidated and parent] Authority financial statements, including disclosures.

D. Liabilities and Contingencies

1. All liabilities and contingencies, including those associated with guarantees, whether written or oral, have been disclosed to you and are appropriately reflected in the [consolidated and parent] Authority financial statements.
2. We have informed you of all outstanding and possible litigation and claims, whether or not they have been discussed with legal counsel.
3. We have recorded and/or disclosed, as appropriate, all liabilities related to litigation and claims, both actual and contingent, and have disclosed in Note [X] to the consolidated and parent Authority financial statements all guarantees that we have given to third parties.

E. Going Concern

1. Note [X] to the consolidated and parent Authority financial statements discloses all the matters of which we are aware that are relevant to the Group and authority's ability to continue as a going concern, including significant conditions and events, our plans for future action, and the feasibility of those plans.

F. Subsequent Events

1. Other than the events described in Note [X] to the [consolidated and parent] Authority financial statements, there have been no events subsequent to period end which require adjustment of or disclosure in the consolidated and parent Authority financial statements or notes thereto.

G. Group audits

1. There are no significant restrictions on our ability to distribute the retained profits of the Group because of statutory, contractual, exchange control or other restrictions other than those indicated in the Group financial statements.
2. Necessary adjustments have been made to eliminate all material intra-group unrealised profits on transactions amongst parent Authority, subsidiary undertakings and associated undertakings.

H. Other information

1. We acknowledge our responsibility for the preparation of the other information. The other information comprises the information contained within the Narrative Statement and also the Annual Governance Statement.
2. We confirm that the content contained within the other information is consistent with the financial statements.

I. Climate-related matters

1. We confirm that to the best of our knowledge all information that is relevant to the recognition, measurement, presentation and disclosure of climate-related matters has been considered and the [Group and] authority have reflected these in the consolidated and parent financial statements.

Yours faithfully,

(Chief Financial Officer/Finance Director)

(Chairman of the Audit Committee)

Appendix B – Fees

The duty to prescribe fees is a statutory function delegated to Public Sector Audit Appointments Ltd (PSAA) by the Secretary of State for Housing, Communities and Local Government.

This is defined as the fee required by auditors to meet statutory responsibilities under the Local Audit and Accountability Act 2014 in accordance with the requirements of the Code of Audit Practice and supporting guidance published by the National Audit Office, the financial reporting requirements set out in the Code of Practice on Local Authority Accounting published by CIPFA/LASAAC, and the professional standards applicable to auditors' work.

The original fees for these years were based on the following assumptions:

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- Officers meeting the agreed timetable of deliverables;
- Our accounts opinion and value for money conclusion being unqualified;
- Appropriate quality of documentation is provided by the Council; and
 - ▶ The Council has an effective control environment
 - ▶ The Council complies with PSAA's Statement of Responsibilities of auditors and audited bodies. See <https://www.psa.co.uk/managing-audit-quality/statement-of-responsibilities-of-auditors-and-audited-bodies/statement-of-responsibilities-of-auditors-and-audited-bodies-from-2023-24-audits/>. In particular the Council should have regard to paragraphs 26 - 28 of the Statement of Responsibilities which clearly sets out what is expected of audited bodies in preparing their financial statements. These are set out in full on the previous page.

Due to the reset, the above clearly will not be achieved and we will be liaising with PSAA Ltd to discuss and agree fees.

	Current Year	Scale fee	Prior Year
	£	£	£
Total Fee - Code Work (Note 1)	TBC	145,673	188,339
Forensics review supporting Value for Money (Note 2)	60,000 - 75,000	-	-
Total audit	-	145,673	188,339
Other non-audit - Housing benefits		Note 3	
Total other non-audit services	-	-	-
Total fees	TBC	145,673	188,339

All fees exclude VAT

Note 1 - PSAA Ltd, in line with the joint statement issued DLUHC (as at that date) and the FRC is responsible for the determination of the final audit fee in respect of 2022/23.

In doing so, PSAA Ltd will apply the principles that where auditors have worked in good faith to meet the requirements of the Code of Audit Practice in place at the time the work was conducted (and have reported on work that is no longer required), then they are due the appropriate fee for the work done, including where their procedures were necessary to conclude the audit by the legislatively imposed backstop date by way of a modified or disclaimed opinion and the body is due to pay the applicable fee.

Note 2 - As set out in the Value for Money section, EY Forensics and the local audit team have carried out a review for the PF overpayment issue. The work relates to VFM and the PF audit so final fee will be shared with the Council and submitted to PSAA for determination.

Note 3 - The HB claim has a base fee of £60,000 for the 2020/21 audit which will be carried out in the 2024/25 financial year as the audit started in November 2024.

Due to issues arising in the Council's HB claim, we signed the 2019/20 claim in March 2024 and the fee was £80,000. This was invoiced in March 2024 and paid in April 2024 so falls into 2023/24 audit reporting period. The scale fee for 2023/24 is £392,745.

We have not shown the fees in the above table as due to the delays in the HB work, no fee was paid in the 2022/23 financial year.

Appendix C – Required communications with the Audit Committee

We have detailed the communications that we must provide to the audit committee.

Our Reporting to you

Required communications	What is reported?	When and where
Terms of engagement	Confirmation by the audit committee of acceptance of terms of engagement as written in the engagement letter signed by both parties.	The statement of responsibilities serves as the formal terms of engagement between the PSAA's appointed auditors and audited bodies.
Our responsibilities	Reminder of our responsibilities as set out in the engagement letter	The statement of responsibilities serves as the formal terms of engagement between the PSAA's appointed auditors and audited bodies.
Planning and audit approach	<p>Communication of:</p> <ul style="list-style-type: none"> ▶ The planned scope and timing of the audit ▶ Any limitations on the planned work to be undertaken ▶ The planned use of internal audit ▶ The significant risks identified <p>When communicating key audit matters this includes the most significant risks of material misstatement (whether or not due to fraud) including those that have the greatest effect on the overall audit strategy, the allocation of resources in the audit and directing the efforts of the engagement team</p>	This Completion report for Those Charged with Governance
Significant findings from the audit	<ul style="list-style-type: none"> ▶ Our view about the significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures ▶ Significant difficulties, if any, encountered during the audit ▶ Significant matters, if any, arising from the audit that were discussed with management ▶ Written representations that we are seeking ▶ Expected modifications to the audit report ▶ Other matters if any, significant to the oversight of the financial reporting process ▶ Findings and issues regarding the opening balance on initial audits (delete if not an initial audit) 	This Completion report for Those Charged with Governance

Appendix C – Required communications with the Audit Committee (cont'd)

Our Reporting to you

Required communications	What is reported?	When and where
Going concern	<p>Events or conditions identified that may cast significant doubt on the entity's ability to continue as a going concern, including:</p> <ul style="list-style-type: none"> ▶ Whether the events or conditions constitute a material uncertainty ▶ Whether the use of the going concern assumption is appropriate in the preparation and presentation of the financial statements ▶ The adequacy of related disclosures in the financial statements 	This Completion report for Those Charged with Governance
Misstatements	<ul style="list-style-type: none"> ▶ Uncorrected misstatements and their effect on our audit opinion, unless prohibited by law or regulation ▶ The effect of uncorrected misstatements related to prior periods ▶ A request that any uncorrected misstatement be corrected ▶ Material misstatements corrected by management 	This Completion report for Those Charged with Governance
Fraud	<ul style="list-style-type: none"> ▶ Enquiries of the audit committee to determine whether they have knowledge of any actual, suspected or alleged fraud affecting the entity ▶ Any fraud that we have identified or information we have obtained that indicates that a fraud may exist ▶ Unless all of those charged with governance are involved in managing the entity, any identified or suspected fraud involving: <ol style="list-style-type: none"> a. Management; b. Employees who have significant roles in internal control; or c. Others where the fraud results in a material misstatement in the financial statements ▶ The nature, timing and extent of audit procedures necessary to complete the audit when fraud involving management is suspected ▶ Matters, if any, to communicate regarding management's process for identifying and responding to the risks of fraud in the entity and our assessment of the risks of material misstatement due to fraud ▶ Any other matters related to fraud, relevant to Audit Committee responsibility 	This Completion report for Those Charged with Governance

Appendix C – Required communications with the Audit Committee (cont'd)

Our Reporting to you

Required communications	What is reported?	When and where
Related parties	<p>Significant matters arising during the audit in connection with the entity's related parties including, when applicable:</p> <ul style="list-style-type: none"> ▶ Non-disclosure by management ▶ Inappropriate authorisation and approval of transactions ▶ Disagreement over disclosures ▶ Non-compliance with laws and regulations ▶ Difficulty in identifying the party that ultimately controls the entity 	This Completion report for Those Charged with Governance
Independence	<p>Communication of all significant facts and matters that bear on EY's, and all individuals involved in the audit, integrity, objectivity and independence</p> <ul style="list-style-type: none"> ▶ Communication of key elements of the audit engagement partner's consideration of independence and objectivity such as: <ul style="list-style-type: none"> ▶ The principal threats ▶ Safeguards adopted and their effectiveness ▶ An overall assessment of threats and safeguards ▶ Information about the general policies and process within the firm to maintain objectivity and independence <p>Communication whenever significant judgements are made about threats to integrity, objectivity and independence and the appropriateness of safeguards put in place.</p> <ul style="list-style-type: none"> ▶ A statement of compliance with the Ethical Standard, including any non-EY firms or external experts used in the audit ▶ Details of any inconsistencies between the Ethical Standard and Group's policy for the provision of non-audit services, and any apparent breach of that policy ▶ Where EY has determined it is appropriate to apply more restrictive rules than permitted under the Ethical Standard ▶ The audit committee should also be provided an opportunity to discuss matters affecting auditor independence 	This Completion report for Those Charged with Governance

Appendix C – Required communications with the Audit Committee (cont'd)

Our Reporting to you

Required communications	What is reported?	When and where
External confirmations	<ul style="list-style-type: none"> ▶ Management's refusal for us to request confirmations ▶ Inability to obtain relevant and reliable audit evidence from other procedures 	This Completion report for Those Charged with Governance
Consideration of laws and regulations	<ul style="list-style-type: none"> ▶ Subject to compliance with applicable regulations, matters involving identified or suspected non-compliance with laws and regulations, other than those which are clearly inconsequential and the implications thereof. Instances of suspected non-compliance may also include those that are brought to our attention that are expected to occur imminently or for which there is reason to believe that they may occur ▶ Enquiry of the audit committee into possible instances of non-compliance with laws and regulations that may have a material effect on the financial statements and that the audit committee may be aware of 	This Completion report for Those Charged with Governance
Internal controls	<ul style="list-style-type: none"> ▶ Significant deficiencies in internal controls identified during the audit 	This Completion report for Those Charged with Governance
Representations	Written representations we are requesting from management and/or those charged with governance	This Completion report for Those Charged with Governance
System of quality management	How the system of quality management (SQM) supports the consistent performance of a quality audit	This Completion report for Those Charged with Governance
Material inconsistencies and misstatements	Material inconsistencies or misstatements of fact identified in other information which management has refused to revise	This Completion report for Those Charged with Governance
Auditors report	<ul style="list-style-type: none"> ▶ Key audit matters that we will include in our auditor's report ▶ Any circumstances identified that affect the form and content of our auditor's report 	This Completion report for Those Charged with Governance

Appendix D - Non-Compliance with Laws and Regulations (NOCLAR)

Non-Compliance with Laws and Regulations includes:

Any act or suspected act of omission or commission (intentional or otherwise) by the entity (including any third parties under the control of the entity such as subsidiaries, those charged with governance or management or an employee acting on behalf of the company), either intentional or unintentional, which are contrary to the prevailing laws or regulations

Management Responsibilities:

"It is the responsibility of management, with the oversight of those charged with governance, to ensure that the entity's operations are conducted in accordance with the provisions of laws and regulations, including compliance with the provisions of laws and regulations that determine the reported amounts and disclosures in an entity's financial statements."

ISA 250A, para 3

"The directors' report must contain a statement to the effect that... so far as the director is aware, there is no relevant audit information of which the company's auditor is unaware, and he has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditor is aware of that information."

ISA 250A, para 3

"Management is responsible for communicating to us on a timely basis, to the extent that management or those charged with governance are aware, all instances of identified or suspected non-compliance with laws and regulations ..."

Audit Engagement Letter

Management's responsibilities are also set out in the International Ethics Standard Board of Accountants' International Code of Ethics (IESBA Code) Para 360.08

Auditor Responsibilities

[The International Ethics Standard Board of Accountants' International Code of Ethics \(IESBA Code\)](#) section 360 sets out the scope and procedures in relation to responding to actual or suspected non-compliance with laws and regulations.

Professional accountancy organisations who are members of the International Federation of Accountants (IFAC), such as the Institute of Chartered Accountants in England and Wales (ICAEW) are required to adopt the IESBA Code of Ethics.

We as your auditor are required to comply with the Code by virtue of our registration with ICAEW.

"If the auditor becomes aware of information concerning an instance of non-compliance or suspected non-compliance with laws and regulations, the auditor shall obtain:

An understanding of the nature of the act and the circumstances in which it has occurred; and Further information to evaluate the possible effect on the financial statements

The auditor shall evaluate the implications of the identified or suspected non-compliance in relation to other aspects of the audit, including the auditor's risk assessment and the reliability of written representations, and take appropriate action."

ISA 250A, paras 19 and 22

Examples of Non-Compliance with Laws and Regulations (NOCLAR)

Matter

- ▶ Suspected or known fraud or bribery
- ▶ Health and Safety incident
- ▶ Payment of an unlawful dividend
- ▶ Loss of personal data
- ▶ Allegation of discrimination in dismissal
- ▶ HMRC or other regulatory investigation
- ▶ Deliberate journal mis-posting or allegations of financial impropriety
- ▶ Transacting business with sanctioned individuals

Implication

- ▶ Potential fraud/breach of anti-bribery legislation
- ▶ Potential breach of section 2 of the Health and Safety at Work Act 1974
- ▶ Potential breach of Companies Act 2006
- ▶ Potential GDPR breach
- ▶ Potential non-compliance with employment laws
- ▶ Suspicion of non-compliance with laws/regulations
- ▶ Potential fraud / breach of Companies Act 2006
- ▶ Potential breach of sanctions regulations

Appendix D - Non-Compliance with Laws and Regulations (NOCLAR) (cont'd)

What are the implications of NOCLAR matters arising?

Depending on the nature and significance of the NOCLAR matter the following steps are likely to be required, involving additional input from both management and audit.

This can have an impact on overall achievability of audit timeline and fees.

Across our portfolio of audits we have seen a steady increase in NOCLAR matters that need to be addressed as part of the audit over the past 3 years



Management response:

Timely communication of the matter to auditors (within a couple of days)

Determine who will carry out any investigation into the matter - in-house or external specialists or mix of both

Scope the investigation, in discussion with the auditors

Evaluate findings and agree next steps

Determine effect on financial statements including disclosures

Prepare a paper, summarising the outcome of the investigation and management's conclusions

Communicate the outcome to Those Charged With Governance (TCWG) and to us as your auditors. Report to regulators where required.

Key Reminders:

- ▶ Make sure that all areas of the business are aware of what constitutes actual or potential non-compliance and associated requirements
- ▶ Communicate with us as your auditors on a timely basis - do not wait for scheduled audit catch-ups
- ▶ Engage external specialists where needed
- ▶ Ensure that your investigation assesses any wider potential impacts arising from the matter, not just the matter itself.
- ▶ Plan upfront and consider any impact on overall accounts preparation and audit timeline - discuss the implications with us as your auditor

Audit response:

Initial assessment of the NOCLAR matter and its potential impact

Initial consultation with risk team to determine responsive procedures and the involvement of specialists

Understand and agree scope of management's investigation with support from specialists as needed

Evaluate findings and undertake appropriate audit procedures

Determine audit related impact including accounting and disclosure and audit opinion implications

Document and consult on the outcome of our procedures

Communicate the outcome with management, TCWG and where necessary other auditors within the group or regulators

Appendix E – VFM – Summary of recommendations

Recommendations

The table below sets out the recommendations arising from the value for money work in the year covered in this report, 2022/23. All recommendations have been agreed by management and relate to Improving economy, efficiency and effectiveness.

Recommendation

Management response

The Council needs to ensure that all services provided by a third party or sub-service line have up to date agreements with clear roles and responsibilities for all parties defined

The Council needs to ensure that the service agreements relating to the Pension Fund have clear key performance indicators included and that these are monitored and reported by management and Pension Committee

The Council should implement a communication SLA between all service providers so silo working does not recur

The Council should ensure that the focus of the quarterly partner meetings with PSS covers the relevant issues arising as well as standard agenda items

The Council should set up a regular meeting with all service providers attending that has clear agendas and minutes to set out what has been discussed and agreed so there is a documented trail for any future service delivery issues

The Council must communicate the Internal Audit review findings to the Pensions Committee and Standards and General Purposes Committee and implement all recommendations made by Internal Audit following their review of the overpayment with update reporting to the Committees about progress made

Appendix F – PSAA Statement of Responsibilities

As set out on the next page our fee is based on the assumption that the Council complies with PSAA's Statement of Responsibilities of auditors and audited bodies. In particular the Council should have regard to paragraphs 26-28 of the Statement of Responsibilities which clearly set out what is expected of audited bodies in preparing their financial statements. We set out these paragraphs in full below:

Preparation of the statement of accounts

26. Audited bodies are expected to follow Good Industry Practice and applicable recommendations and guidance from CIPFA and, as applicable, other relevant organisations as to proper accounting procedures and controls, including in the preparation and review of working papers and financial statements.

27. In preparing their statement of accounts, audited bodies are expected to:

- prepare realistic plans that include clear targets and achievable timetables for the production of the financial statements;
- ensure that finance staff have access to appropriate resources to enable compliance with the requirements of the applicable financial framework, including having access to the current copy of the CIPFA/LASAAC Code, applicable disclosure checklists, and any other relevant CIPFA Codes.
- assign responsibilities clearly to staff with the appropriate expertise and experience;
- provide necessary resources to enable delivery of the plan;
- maintain adequate documentation in support of the financial statements and, at the start of the audit, providing a complete set of working papers that provide an adequate explanation of the entries in those financial statements including the appropriateness of the accounting policies used and the judgements and estimates made by management;
- ensure that senior management monitors, supervises and reviews work to meet agreed standards and deadlines;
- ensure that a senior individual at top management level personally reviews and approves the financial statements before presentation to the auditor; and
- during the course of the audit provide responses to auditor queries on a timely basis.

28. If draft financial statements and supporting working papers of appropriate quality are not available at the agreed start date of the audit, the auditor may be unable to meet the planned audit timetable and the start date of the audit will be delayed.

Appendix G – Other Communications

EY Transparency Report 2024

EY has policies and procedures that instil professional values as part of firm culture and ensure that the highest standards of objectivity, independence and integrity are maintained. Details of the key policies and processes in place within EY for maintaining objectivity and independence can be found in our annual Transparency Report which the firm is required to publish by law. The most recent version of this Report is for the period ended 30 June 2024 and can be found here: [EY UK 2024 Transparency Report | EY – UK](#).