

11 November 2024

To Audit and Governance Committee Chair
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Dear Councillor Burhop

East Devon District Council: Conclusion of the audits for 2021/22 and 2022/23 – letter to those charged with governance on the application of the local authority backstop

As you will be aware, on 5 September 2024 the government published draft Accounts and Audit (Amendment) Regulations 2024. These Regulations set a publication date for financial statements up to and including 2022/23 by 13 December 2024. The new National Audit Office Code which is expected to be approved by Parliament towards the end of October 2024, also requires that auditors should issue their audit report in time for the relevant authority to publish its accounts by the specified date in those Regulations. Where audit work is not concluded, this will result in either a qualification or disclaimer of opinion.

As discussed with your Director for Finance, and for reasons which I set out in more detail below, it will not be possible for us to complete our audits for 2021/22 and 2022/23 by the statutory backstop date. We therefore propose to issue a disclaimer of our audit opinion for these years. I attach a draft copy of these disclaimers for the attention of the Audit and Governance Committee.

We are required under Auditing Standards to report certain matters to the Audit and Governance Committee, including our responsibilities as auditor, the scope of the audit, independence, audit fees and any matters arising from the audit. I set out more details on the audit below. Information regarding our responsibilities, the scope of the audit and fees are included in the Appendix.

Outcome of our audits for 2021/22 and 2022/23 – Disclaimer of the opinion on the financial statements

Unfortunately for reasons set out below, it will not be possible for us to undertake sufficient work to support an audit opinion by the statutory deadline of 13 December 2024. This means that the limitations of scope imposed by the backstop are pervasive and therefore we have been unable to form an opinion on the financial statements by the due date. We therefore plan to issue a disclaimer of the audit opinion. We have attached the draft wording of our Audit Report for your information.

As previously reported, these audits were delayed due to the 2020/21 audit not being concluded until November 2023 as a result of historic capacity issues within the finance team, which combined with national technical issues and subsequent audit team changes compounded the delay. As a result, it has not been possible to make a timely start on the 2021/22 and 2022/23 post-statements audits. The Council did not publish draft financial statements for 2021/22 until January 2024 and for 2022/23 until May 2024.

Outcome of this year's audit - Value for Money work and other work under the National Audit Office Code of Audit Practice

Chartered Accountants

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We reported the outcome of our Value for Money work in our interim Auditor's Annual Reports dated 14 December 2023 (for 2021/22) and 21 March 2024 (for 2022/23) to the Audit and Governance Committee. We intend to issue the final versions alongside the backstop audit opinions.

The key findings for the year ended 31 March 2022 noted significant weakness in relation to governance with three key recommendations in the following areas:

- weaknesses in some officer and member relationships and in the culture of the Council;
- an observed lack of understanding in the roles and responsibilities of officers and members; and
- poor attendance at Overview and Scrutiny and Audit and Governance Committees.

Our findings for the year ended 31 March 2023 confirmed the weaknesses in respect of the prior year had not yet been resolved, therefore remain for the year ended 31 March 2023.

We are also required to report by exception if we have applied any of our statutory powers or duties.

We have nothing to report in respect of the above.

Independence

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention and consider that an objective reasonable and informed third party would take the same view. We have complied with the Financial Reporting Council's Ethical Standard and confirm that we, as a firm, and each covered person, are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

Management letter of representation

We have asked management to provide a letter of representation in respect of the financial statements covering 2021/22 and 2022/23. This will be tabled as a separate agenda item.

Looking ahead

The circumstances resulting in the application of the local authority backstop are clearly extremely unusual. The government has signalled its intent that where backstops have been applied, local authorities and their auditors work together to recover the position over subsequent years. We will follow relevant guidance including from the NAO and the FRC to work with you over the coming year, as we seek to rebuild audit assurance.

Yours sincerely

Jackson Murray

For Grant Thornton UK LLP

CC: Director for Finance

Attachments: Draft Disclaimer of Opinion 2021/22 and 2022/23

Appendix

Responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of East Devon District Council. We draw your attention to both of these documents.

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the Council's financial statements that have been prepared by management with the oversight of those charged with governance (the Audit and Governance Committee); and we consider whether there are sufficient arrangements in place at the Council for securing economy, efficiency and effectiveness in your use of resources. Value for money relates to ensuring that resources are used efficiently in order to maximise the outcomes that can be achieved.

The audit of the financial statements does not relieve management or the Audit and Governance Committee of its responsibilities. It is the responsibility of the authority to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the authority is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the authority's business and is risk based.

Audit Plan

We issued an Audit Plan for 2021/22 on 17 November 2022 to the Audit and Governance Committee. In our plan we identified the following issues as significant audit risks:

- Management over-ride of controls;
- Improper revenue recognition (rebutted);
- Valuation of land and buildings, including investment properties and Council Dwellings; and
- Valuation of the pension fund liability.

We have not identified any other significant risks since the date we issued our audit plan.

Due to delays in the completion of prior year audits, we were unable to issue an audit plan in respect of the 2022/23 audit year.

Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

For 2021/22 we set a materiality level of £1.7m, as reported in the Audit Plan issued 17 November 2022. We have not conducted any work past the planning stage for the 2021/22 audit.

Due to delays in the completion of prior year audits, we were unable to determine a materiality level for 2022/23.

Key financial reporting and audit issues identified during the audit

As we have not undertaken any detailed work in respect of this year's financial statements audit, there are no issues we need to draw to your attention.

Going Concern

As auditors, we are required to obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern (ISA (UK) 570).

In performing our work on going concern, we have had reference to Statement of Recommended Practice – Practice Note 10: Audit of financial statements of public sector bodies in the United Kingdom (Revised 2020). The Financial Reporting Council recognises that for particular sectors, it may be necessary to clarify how auditing standards are applied to an entity in a manner that is relevant and provides useful information to the users of financial statements in that sector.

Practice Note 10 sets out the following key principles for the consideration of going concern for public sector entities:

- the use of the going concern basis of accounting is not a matter of significant focus of the auditor's time and resources because the applicable financial reporting frameworks envisage that the going concern basis for accounting will apply where the entity's services will continue to be delivered by the public sector. In such cases, a material uncertainty related to going concern is unlikely to exist, and so a straightforward and standardised approach for the consideration of going concern will often be appropriate for public sector entities; and
- for many public sector entities, the financial sustainability of the reporting entity and the services it provides is more likely to be of significant public interest than the application of the going concern basis of accounting. Our consideration of the authority's financial sustainability is addressed by our value for money work, which is covered elsewhere in this report.

Practice Note 10 states that if the financial reporting framework provides for the adoption of the going concern basis of accounting on the basis of the anticipated continuation of the provision of a service in the future, the auditor applies the continued provision of service approach set out in Practice Note 10. The financial reporting framework adopted by a local authority meets this criteria, and so where undertaking work on your audit, we would normally expect to apply the continued provision of service approach. In doing so, we would consider and evaluate:

- the nature of the authority and the environment in which it operates;
- the authority's financial reporting framework;
- the authority's system of internal control for identifying events or conditions relevant to going concern; and
- management's going concern assessment.

As we have been unable to form an opinion on the financial statements, we are unable to draw a conclusion in this area.

Design effectiveness of internal controls

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to management.

We have nothing to report in respect of the above.

Other matters which we are required to report on to those charged with governance

We are required to confirm the following:

- we have not been made aware of any incidents of fraud in the period and no issues have been identified during the course of our audit procedures.
- we are not aware of any related party transactions which have not been disclosed.
- we are not aware of any significant incidences of non-compliance with applicable laws and regulations.

Audit fees and non-audit fees

PSAA set a scale fee for the 2021/22 audit of £42,132 and £46,633 for the 2022/23 audit. Our Audit Plan for 2021/22 proposed an audit fee of £63,232. Given the unusual circumstances of the backstop, we are awaiting a determination from PSAA as to the appropriate fee to be charged for the audit years.

Our proposed fees, based on time charged and expenses incurred to date, calculated at PSAA charge-out rates, are:

2021/22 - £66,310

2022/23 - £20,000

We have also undertaken the following non audit work in respect of 2021/22 and 2022/23:

Audit Service	Proposed Fee	Final Fee
<u>2021/22</u>		
CFO Insights	£5,000	£5,000
Pooling of housing capital receipts return	£6,000	£7,500
Housing benefits return	£20,000	£24,165
	<u>£31,000</u>	<u>£36,665</u>
<u>2022/23</u>		
Pooling of housing capital receipts return	£20,000	Not yet billed
Housing benefits return	<u>£30,000</u>	<u>£24,000</u>
	<u>£50,000</u>	<u>TBC</u>