29 January 2025

To Accounts and Audit Committee Chair
Pendle Borough Council
Town Hall
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Dear Councillor Anwar

Pendle Borough Council: Conclusion of the audit for 2023/24 – letter to those charged with governance on the application of the local authority backstop 2023/24

As you will be aware, on 30 September 2024 parliament approved the 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, and for audit year 2023/24 by 28 February 2025. The new National Audit Office Code which was approved on 14 November 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 of Resources, and for reasons which I set out in more detail below, it will not be possible for us to complete our audit for 2023/24 by the statutory backstop date. We therefore propose to issue a disclaimer of our audit opinion. I attach a draft copy of this disclaimer for the attention of the Accounts and Audit Committee.

We are required under Auditing Standards to report certain matters to the Accounts and Audit 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 audit for 2023/24 – 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 28 February 2025. 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.

The audit opinion for the 2022/23 financial year was only issued on 23 October 2024. We had agreed with the Council that the audit of the financial statements for the year ended 31 March 2024 would not commence until the previous audit was concluded. This meant there was no realistic prospect of the audit of Council's financial statements for 2023/24 being completed in advance of the 28 February 2025 backstop.

In addition, the Council were late in publishing their 2023/24 financial statements. The statements were due to be published by 31 May 2024. The accounts were published 13 January 2025.

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

We undertook our Value for Money work and reported this to Accounts and Audit Committee on 29 January 2025 and have reported the outcome in our Annual Audit Report. The key findings were:

Items reported relating to 2021-22 and 2022-23 vfm work still in place for 23-24:

On 18 July 2024 we identified a significant weakness in the Authority's arrangements for financial sustainability. This was in relation to:

- The Authority identifying gaps between its future spending and income but not identifying the necessary savings to bridge these gaps. The Authority had a remaining budget gap of £1m a year from 2024/25 and would have extinguished its useable reserves by 2027 if it used reserves instead of identifying savings. We recommended that the Authority:
    - should urgently prepare and agree short and medium-term plans to close its budget gap using reserves to meet a significant part of the gap is unsustainable. The preparation of plans should include taking decisions regarding future years before the budget setting Council meetings

On 18 July 2024 we identified significant weaknesses in the Authority's arrangements for governance. This was in relation to:

- New governance and decision-making processes not being fully understood by members. As a result, there were been instances of members of the Executive speaking against decisions made by the Executive at Full Council meetings. Furthermore, the behaviour of some members towards each other and officers fell short of the standards that members have set for themselves. We recommended that the Authority:
    - commission a suitably qualified facilitator to work with members to identify any barriers to completing the change from a Committee system to the Leader and Executive model successfully. Based on that advice, the Council should commission the delivery of a mandatory development programme for all members, covering roles and responsibilities, accountability and effective leadership behaviour, within the Executive and Leader model.
- Governance arrangements underpinning the Council's relationships with its joint venture companies because members who are also directors of the companies do not always declare conflicts of interest. Legal agreements between the Council and the companies are not up to date and there is a lack of clarity about the roles of the Council's officers in relation to the companies. We recommended that the Authority:
    - the Authority commission independent legal advice on its relationships with and governance of its joint venture companies, PEARL, PEARL 2 , PEARL Brierfield Mill and PEARL Together, to ensure that all aspects of the governance of the companies are sufficiently robust and compliant with the law relating to local government and companies. The Council should then implement any recommended changes to governance arrangements in relation to the companies.
- The arrangements for determining planning applications were inconsistent. Area Committees have granted planning permission against the Council's policies. This has resulted in appeals and has generated avoidable costs and delays on development We recommended that the Authority:
    - commission a focussed independent legal report on the consistency, costs and efficiency of its planning process and the potential future impacts of continuing with the current arrangements.

New reporting items identified by 2023-24 vfm work:

On 29 January 2025 we also identified further significant weaknesses in the Authority's arrangements for governance. This was in relation to:

- The Authority has not produced the 2023/24 accounts in sufficient time for these to be audited and so they are backstopped. This represents a capacity problem. The Authority has had previous Key Recommendations (last in 2020/21) and Improvement Recommendations around capacity. Based upon the evidence we have reviewed, we have concluded that that there is a insufficient capacity within the finance function. We recommend:
    - The Authority should i) review the work required from key financial staff including taking account of a) further work needed on the accounts for 2023/24 to prevent the 2024/25 audit overrunning b) the 2024/25 audit work itself c)budget work and ii) prioritise providing the resources necessary to deliver this work.
- Internal audit identifying issues with information governance and issuing a limited assurance opinion in July 2024. They reported that fundamental weaknesses were identified in the Council's information governance processes to maintain the confidentiality, integrity and availability of personal identifiable data that the Council processes. We recommended that the Authority:
    - should urgently implement the actions identified by Internal Audit to address fundamental weaknesses identified in the Council's information governance processes to maintain the confidentiality, integrity and availability of personal identifiable data that the Council processes and holds.

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 we have implemented policies and procedures to meet the requirements of the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we 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 2023/24. 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

Georgia Jones

For Grant Thornton UK LLP

CC Director of Resources

Attachments: Draft Disclaimer of Opinion 2023/24

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 Pendle Borough 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 Accounts and Audit 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 Accounts and Audit 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 on 30 July 2024. In our plan we identified the following issues as significant audit risks:

- Management over-ride of controls
- Valuation of land and buildings
- Valuation of pension net fund surplus.

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

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 2023/24 we set a materiality level of £0.85 million based upon 1.8% of your draft gross expenditure for the period.

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

- 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
- 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 this year's audit of £128,100. Given the unusual circumstances of the backstop, we are awaiting a determination from PSAA as to the appropriate fee to be charged for this audit year.

We have not undertaken any non audit work in respect of 2023/24.

The fees do not reconcile to the financial statements. Where they do not, we have provided a reconciliation.

fees per financial statements	207,000
ISA 315 fee	(7,530)
Additional fees for 22/23	(49,000)
Fee to KPMG for grants	(23,000)
Rounding (as fees in £'000)	630
total fees per above	128,100