



**Report to: Audit and Governance Committee, 6th December 2023**

**Report of: Corporate Director- Finance and Resources (s151 Officer) and  
Corporate Director- Planning and Governance (Monitoring Officer)**

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**Subject: BEST VALUE INTERVENTIONS IN LOCAL GOVERNMENT**

## **1. Recommendation**

**1.1 That the Committee notes the information set out in this report and identifies any particular topics of interest for more in-depth consideration by Members.**

## **2. Background**

2.1 At its last meeting, the Committee asked the Council's s151 Officer and Monitoring Officer for more information about the circumstances in which local authorities' issue s114 notices and become involved in Best Value interventions from the Secretary of State.

2.2 This request was triggered by the national headlines of the financial distress reported at Birmingham City Council; the Committee was aware that this followed a number of other s114 notices and high-profile interventions at local authorities around the country. In light of the very significant budget challenges facing the Council, the Committee requested an in-year discussion on the relevant financial and governance issues, supplementing the reporting to Committee which is undertaken cyclically through the Annual Governance Statement and the Internal and External Audit Opinions.

## **3. Information**

### **Balanced budgets and s114 notices**

3.1 Under the Local Government Finance Act 1992, local authorities are required to set a lawful balanced budget following a specific process each year and adhering to specific codes of practice. In the absence of a specific legal definition, the Chartered Institute of Public Finance and Accountancy (CIPFA) has suggested that:

*...at its very simplest, a balanced budget means that the council is content that the combination of income, the sensible use of reserves and having robust savings plans in place means that underlying income will cover on-going costs and future commitments in a sustainable and manageable way.*

3.2 Notwithstanding the annual budgeting cycle, under Section 114(3) of the Local Government Finance Act 1988 the local authority's chief finance officer ("s151 officer") is under a duty to issue a public report if at any time they consider the expenditure to be incurred by the council during a financial year is likely to exceed the available resources. A copy of this report has to be sent to all members and the external auditor.

- 3.3 The issue of a s114(3) report triggers a short-term statutory prohibition on entering into 'any new agreement which may involve the incurring of expenditure' without the permission of the chief finance officer. There is no statutory requirement to avoid expenditure under existing agreements or to terminate existing agreements. Under the legislation the Chief Finance Officer may only give consent to new agreements if they consider that the agreement will prevent the situation which led to the report being issued from getting worse; improve the situation; prevent recurrence.
- 3.4 The report has to be considered at a meeting of the full Council within 21 days of the report being issued. At the meeting the authority has to decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it. Once the report has been considered, the prohibition period ends and all statutory controls on spending end too.

### **Best Value duty and Government intervention**

- 3.5 Separately, under the Local Government Act 1999, local authorities are under a general duty to secure best value. This is described in the legislation as a duty to make arrangements to secure continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Under the same legislation, the Secretary of State has powers to make directions, undertake reviews and inspections with a view to ensuring that a local authority meets its best value duty.
- 3.6 The use of the Secretary of State's powers has come to the fore in recent years with the appointment by the Government of special commissioners in a number of local authorities where specific service failings and/or budget failings have been identified. The co-existence of a s114 notice and a Best Value intervention is not guaranteed in all cases, but in many instances, one has preceded the other. Overarching themes around governance, culture and leadership are usually identified and reported.

### **Current debate**

- 3.7 Information in the Appendices provides the Committee with a sample of current debate on these issues. This including a House of Commons Library briefing, with hyperlinks to previous Library briefings, as well as two interviews with Max Caller CBE, widely recognised at the Government's chief commissioner for local government.
- 3.8 Also set out in the Appendices is a consultation document produced by the Department for Levelling Up Housing & Communities in July: Best Value Standards and Intervention- A statutory guide for best value authorities. The response to this consultation produced by the Local Government Association in August is also appended.
- 3.9 The stated objective of the new statutory guidance is to provide clarity on what the best value duty means, the standards expected by Government and what modes of intervention might take place if there are concerns that legal duties are not being met.

It should be noted that there is a fairly high degree of support indicated by the Local Government Association's response. There are some points of difference, for example, the potential value of corporate peer challenges alongside the establishment of the new data-driven Office for Local Government (Oflog).

- 3.10 A further announcement or publication from Government is now awaited. Since the summer consultation, Birmingham City Council's failings have been opened up by Government commissioners and so it is possible that the final Government document will be influenced by early findings/ lessons learned there.
- 3.11 In the Government consultation document, 7 themes for demonstrating best value are proposed:
- (i) Continuous improvement
  - (ii) Leadership
  - (iii) Governance
  - (iv) Culture
  - (v) Use of resources
  - (vi) Service delivery
  - (vii) Partnerships & community engagement
- 3.12 The Government guidance suggests indicators of good health and poor health in the demonstration of each of these 7 themes at a local authority.
- 3.13 This list of best value themes is not dissimilar from the CIPFA principles of good governance, around which the current format of the Council's Annual Governance Statement is constructed.

### **Office for Local Government (Oflog)**

- 3.14 This year, the Government established the Office for Local Government, a new monitoring body for local government, as part of the Department for Levelling Up, Housing & Communities. The role of Oflog will be to provide authoritative and accessible data and analysis about the performance of local government and support its improvement.
- 3.15 The first chief executive of Oflog was appointed in July and consultation has recently been undertaken on the types of data which Oflog will collect and report on. Attached at Appendix 3 is the Chief Executive's statement of 26 October in which the next steps and draft metrics for Oflog are set out.

### **Next steps**

- 3.16 The Committee will wish to review the detailed information set out in these Appendices and consider how the Council's current governance and assurance arrangements will need to take account of the new reporting regime proposed by Government.
- 3.17 The Committee may also wish to consider which elements of this overall report would make future agenda items for Committee as well as topics for wider Member briefings and training events.

**Ward(s):** All  
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**Background Papers:** None

**Appendix 1: Best Value Standards and Intervention: Government consultation**  
**Appendix 2: LGA response to Government consultation**  
**Appendix 3: Oflog: Next Steps and draft metrics document**  
**Appendix 4: House of Commons Library briefing**  
**Appendix 5: Max Caller interviews- Local Government Lawyer article and Room  
151 article**