

**Cherwell District Council**  
**Accounts, Audit and Risk Committee**

**9 October 2015**

<b>Statement of Accounts 2014-15</b>
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**Report of Director of Resources**

This report is public

**Purpose of report**

To approve the Statement of Accounts and Letter of Representation for the financial year 2014-15.

**1.0 Recommendations**

The meeting is recommended to:

- 1.1 Approve the Statement of Accounts for 2014-15
- 1.2 Approve the Letter of Representation for 2014-15

**2.0 Introduction**

- 2.1 The accounts for 2014-15 were presented to the Accounts, Audit and Risk Committee on the 23 September 2015 following completion of the audit carried out by Ernst and Young, the Council's external auditors.
- 2.2 The committee determined that they were not prepared to approve the accounts given the view expressed from Ernst and Young at the meeting.
- 2.3 The Committee also requested that a full review of the events, leading to both the initial error and it not being identified until 2014-15, be undertaken and reported back.
- 2.4 A review will be undertaken once the Statement of Accounts is approved. It will be undertaken by an independent body and will report back to the Accounts, Audit and Risk Committee as soon as possible.
- 2.5 This report seeks to summarise the issue raised at the meeting, to update members on progress made over the last two weeks and to seek approval of the accounts.

## **3.0 Report Details**

### **Background information**

- 3.1 The accounts for 2014-15 were certified by the Council's Director of Resources and Section 151 (S151) officer by the statutory deadline of the 30 June. They were considered and endorsed at the Accounts, Audit and Risk Committee held on the 24 June 2015. The external audit of the accounts is triggered at this point and the accounts are audited over the summer with any revisions being highlighted for the Committee in September.
- 3.2 The Committee in September is then asked to formally approve the audited accounts in order for the statutory deadline of the 30 September to be met. The accounts that go to the Committee in September have been approved by the Council's S151 officer (the Director of Resources) after he has taken into account any audit findings and queries throughout the external audit process and applied his judgement to the accounts to determine if he feels the accounts should be amended as a result of the audit findings.
- 3.3 The Council's S151 officer took the view that no material adjustments to the accounts were required and approved them as a true and fair view of the Council's financial affairs at that point in time.

### **The Revised Accounts**

- 3.4 After the auditors have audited the accounts there will often be some amendments that need to be considered prior to finalisation of the accounts. There were some adjustments that the auditors highlighted for 2014-15 that were minor in nature and those adjustments were made to the accounts. The Committee was taken through those adjustments at the September meeting. There was also a query from the external auditor on one debtor contained within the accounts and this was raised with officers in the run up to the accounts being approved by the S151 officer.

### **Department of Communities and Local Government (DCLG) Debtor**

- 3.5 As part of their audit Ernst and Young highlighted an accrual that had been raised for approximately £1.5m. The debtor was raised in 2011-12 and related to a government return called the NNDR3 that was submitted and audited for the financial year 2011-12. The NNDR 3 certifies how much business rates the Council collects on behalf of the Government and it appears that it paid over £1.5m to the Government more than it should have as a result of this incorrectly completed return. A debtor was raised in the general ledger to reflect that this amount was owed to the Council by the Government.
- 3.6 This debtor accrual was still in the accounts in 2014-15 as the overpaid amount had not been re-imbursed by the DCLG.
- 3.7 As part of considering the audited set of accounts the S151 officer was asked, by the external auditors, to consider if he would be writing off (or impairing) any of the

outstanding debt owed. After careful consideration he determined that he would not be writing off any of the debt in 2014-15 as in his opinion it was premature to do so.

### **Audit Committee meeting 23 September 2015**

- 3.8 The external audit team was aware of the Director of Resources' position on the accounts prior to the meeting. They were also aware that the Director of Resources had approved the accounts and were comfortable with the approach being taken.
- 3.9 Unfortunately, the position of the external audit team had not been relayed to the Director of Ernst and Young (Mick West) who was to attend the meeting. It was also unfortunate that for a number of reasons Mr West was not able to attend for the start of the meeting and joined the meeting just as the Committee was considering whether the accounts should be approved or not.
- 3.10 Having not been briefed by his team and therefore going into the meeting 'cold' Mr West gave his view on the outstanding debtor and drew the Committee to believe that the accounts should not be approved.
- 3.11 As a result the Committee determined that they would not approve the accounts but held the view at the time that they could delegate responsibility to the Head of Finance and Procurement in consultation with the Chairman of the Committee to continue discussions with Ernst and Young and the DCLG with a view to being able to sign off the accounts before the statutory deadline of the 30 September.
- 3.12 As it turns out delegated authority cannot be granted to an officer to approve the statement of accounts which is the reason why this additional meeting of the Accounts, Audit and Risk committee has been set up.

### **Post audit committee meeting**

- 3.13 Since the meeting there have been a number of further discussions with Ernst and Young and correspondence and contact with DCLG.

### **Ernst and Young**

- 3.14 The following email was received by the Director of Resources from Ernst and Young's director who was present at the meeting on the 29 September 2015. It clearly states that he now has no issue with the accounts or the judgement exercised on the accounts and encourages the Council to approve them.

*"We have discussed at some length the position on the £1.5m CLG debtor in respect of the 2011/12 overpayment to the NNDR pool for MoD properties.*

*Since the meeting of the Accounts, Audit and Risk Committee I have received and reviewed the additional information you have provided explaining the reasons for the overpayment and the basis for your claim for reimbursement from the CLG.*

*We have noted the delay in pursuing your claim and the recent engagement with the CLG seeking reimbursement. You have received no indication that full reimbursement is not probable and no impairment of the debt is needed at this*

*stage. Engagement with the CLG started only recently (September 2015); there is no indication that the CLG is refusing to consider the claim; and there is no indication of its willingness to meet the claim.*

*I have also received from you the rationale that you are applying in making the judgement that at this point it is premature to impair the debtor. I now understand the reasoning behind this judgement and have no issue with it.*

*The Council is responsible for preparing the accounts and reaching judgements on the collectability of debts. It is the auditor's responsibility to carry out an audit of the financial statements. This includes considering key judgements and their impact on the accounts. Different views can be taken on the treatment of the CLG debtor and its presentation in the accounts – and the view taken by the Council is not unreasonable based on the information and explanations I have received.*

*The views I expressed at Committee were based on limited information. I am now more fully informed. I am satisfied with the responses received from the Council since the meeting and there is now no reason, in my opinion, why the accounts cannot be approved using the delegated authority granted by the Committee to the Head of Finance and Procurement in consultation with the Chairman of the Committee and I would encourage this to happen ahead of the statutory deadline of the 30 September 2015.”*

### **Department of Communities and Local Government (DCLG)**

- 3.15 The council was asked to submit information to the DCLG for reimbursement of the overpaid funds which they would take into account as a ‘special consideration’. This information was submitted and the Council requested the overpaid funds to be repaid to the Council.
- 3.16 The DCLG’s official position is that they have not concluded their consideration of the matter. At one point, in discussions with them, they did indicate that they may not be able to re-imburse the funds but when pushed on the reasoning behind this they reverted to the formal position already stated which was that they were still considering the matter.

### **S151 Officer’s opinion**

- 3.17 The S151 officer is responsible for certifying the accounts in June and with the Accounts, Audit and Risk committee for approving the accounts in September. The S151 officer has to state that the accounts provide for a “true and fair view of the final position of the council”.

### **S151 Original Judgement (exercised 23 September 2015)**

- 3.18 Since the meeting the S151 officer set out his reasoning to the external auditor as to why he felt that it is premature to write off any of the DCLG debt for the 2014-15 accounts. This is set out below in an email sent to Ernst and Young on 29 September 2015:

*“The accounts that I approved last Wednesday 23/09/15 included a debtor of £1.5m to the DCLG. I was aware of this and asked questions in relation to it. I was also aware that the issue of impairment had been raised by your audit team.*

*I formed the view that the Council should not impair the debt at this stage as it would be premature to do so and therefore in my opinion the accounts did give a true and fair view of the financial affairs of the Council at the end of March 2015.*

*The debt with the DCLG will be pursued and indeed discussions have taken place with the DCLG over the matter. The DCLG have said that they will consider the reimbursement of the overpaid amount as a ‘special consideration’ and prior to me signing the accounts encouraged the Council to re-submit the NNDR3 form with the correct figures included and also additional evidence for them to be able to consider the matter further. We have duly completed these requests and await their determination.*

*To write off or impair any of the debt at this stage would be accepting that we cannot recover the debt and, at this stage, this is not a view I currently hold as I have received nothing from the DCLG which states that this is likely to be the case. Indeed I think that if I formally impair the outstanding debt in the accounts, which of course is a public document, then I am actually weakening the Council’s financial position and I am reluctant to do that. My opinion has not altered since I originally approved the accounts as I have received no additional information that changes the position and therefore my judgement on the matter since last Wednesday.*

*Of course, if the DCLG determine that the amount is not recoverable and we feel that there is no legal basis to object to this view then that will be the time to consider writing off the amount. We are not in that position at this point in time and therefore my professional judgement is that it would be wrong to formally write off the amount in the 2014-15 accounts.”*

#### S151 officer re-considered judgement (30 September 2015)

- 3.19 On the 30 September 2015 there were two developments and the S151 officer reconsidered the matter to determine if his opinion on the accounts should be altered in the light of this additional information that wasn’t available at the time of originally approving the accounts.
- 3.20 The first piece of information related to the view of Ernst and Young on the matter and as set out earlier in the report at paragraph 3.14.
- 3.21 The second development related to the discussion held with DCLG referred to above at paragraph 3.16.
- 3.22 The re-considered judgement of the S151 officer was set out in an email to the Chairman of this Committee, the Leader of the Council and the Lead Member for Financial Management. An excerpt of this is re-produced below:

*“The Ernst and Young and DCLG information is new information that I do need to take into account, consider and determine if it alters my opinion on the accounts. The Ernst and Young information is very positive, the DCLG information less so.*

*I accept that the likelihood of the recovery of the debt is now lower than it was up until receiving this information but without a formal response from the DCLG, and confirmation that this will not come today [30 September 2015], I actually have no hard information to consider in order to be able to understand their rationale and logic and in turn be able to determine whether therefore I believe the debt is still recoverable or not.*

*As I am not in receipt of their formal position and therefore cannot scrutinise it and see if it stands up to challenge I am still not in a position where I would recommend that the accounts are changed. This new information is not material, in my view, to alter my opinion on the accounts for 2014-15. The judgement I applied last Wednesday [23 September 2015] has not been altered sufficiently for me to change the accounts as a result of this new information and therefore the accounts for 2014-15 should be approved unamended from the set that went to Committee. I am still of the view that it is premature to write off any of the outstanding debt for the financial year 2014-15 for the reasons set out above.”*

#### **4.0 Conclusion and Reasons for Recommendations**

- 4.1 This report sets out the situation in relation to the approval of the accounts for 2014-15 at the time of writing the report (6 October 2015). If any new information comes to light between now and the Committee meeting on Friday 9 October 2015 an update will be presented to the Committee.
- 4.2 After considering the events that took place at the meeting of The Accounts, Audit and Risk Committee held on the 23 September 2015 and information that has been forthcoming since the meeting, the Section 151 officer is still of the view that the accounts do not need to be amended to write off any of the £1.5m debtor held in the balance sheet for the accounts for 2014-15.
- 4.3 The overriding view is that it is premature to take that course of action at this stage and nothing he has received since the meeting has convinced him that it would be correct to write off any of the funds.
- 4.4 The external auditor now understands the position better than he did at the meeting and understands why the S151 officer is applying this judgement and has no issue with it.
- 4.5 The amount is not material and the external auditor has confirmed that if the accounts remain as they are they will be offering an unqualified opinion on the accounts.
- 4.6 Therefore, the committee is requested to approve the Statement of Accounts and Letter of Representation for 2014-15 contained at Appendix 1 and Appendix 2 of this report respectively.

## 5.0 Consultation

Councillor Barry Wood, Leader  
Councillor Ken Attack, Lead  
Member for Financial  
Management

Councillor Wood is supportive of the recommendations  
Councillor Attack is supportive of the recommendations

Councillor Mike Kerford-Byrnes,  
Chairman, Accounts, Audit &  
Risk Committee

Councillor Kerford-Byrnes is supportive of the  
recommendations

## 6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To not approve the statement of accounts. This is not recommended as the accounts should have been approved by the end of September 2015 and the longer they remain un-approved the more damaging for the authority it will be.

Option 2: To approve the accounts after writing off the £1.5m debt. This course of action is not recommended as it runs counter to the opinion of the Council's S151 officer as set out clearly earlier in this report.

## 7.0 Implications

### Financial and Resource Implications

7.1 There are no direct financial implications stemming from this report.

Comments checked by:

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### Legal Implications

7.2 Pursuant to regulation 8(3) of the Accounts and Audit Regulations 2011 (now repealed by the Accounts and Audit Regulations 2015 but still deemed in force for the purposes of the 2014/15 financial year) the statement of accounts must be approved by a committee or whole meeting of the Council prior to 30 September in the following financial year. Accordingly the purported delegation of authority to the Head of Finance and Procurement at the meeting of the Committee on 23 September 2015 did not meet the relevant legal requirements.

Comments checked by:

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### Risk Implications

7.3 If the accounts are not approved there is continued reputational risk to the Council.

Comments checked by:  
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## 8.0 Decision Information

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

Sound budgets and a customer focussed council

### Document Information

Appendix No	Title
Appendix 1	Draft Statement of Accounts 2014-15
Appendix 2	Letter of Representation 2014-15
Background Papers	
None	
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