

This report is public	
External Audit 2022/23 Update	
Committee	Accounts, Audit and Risk Committee
Date of Committee	25 September 2024
Portfolio Holder presenting the report	Portfolio Holder for Finance, Property and Regeneration, Cllr Lesley McLean
Date Portfolio Holder agreed report	12 September 2024
Report of	Assistant Director of Finance (S151 Officer), Michael Furness

Purpose of report

To update the committee on developments in relation to the proposed audit backstop in relation to the 2022/23 statement of accounts, note the draft Letter of Representation, and to seek delegated authority to finalise the accounts with the auditors by the backstop date for 2022/23's accounts.

1. Recommendations

The Accounts, Audit and Risk Committee resolves:

- 1.1 To note the updated dates proposed by the Ministry for Housing, Communities and Local Government for the audit backstop and the impact of this proposal on the external audit of the council's financial statements.
- 1.2 To note the draft Letter of Representation for 2022/23 (Appendix 3)
- 1.3 To agree that, once the final audit opinion for 2022/23 is received, the Assistant Director Finance (S151 Officer), in consultation with the Chair of the Accounts, Audit and Risk Committee (or Deputy Chair in their absence), be authorised to make any further changes to the accounts agreed with the auditors and sign the accounts. Any further changes will be brought to the Committee's attention at its next meeting following the signing.
- 1.4 To agree that the Assistant Director of Finance, in consultation with the Chair of the Committee (or Deputy Chair in their absence), be authorised to make any further changes to the letter of representation agreed with the auditors that may arise during completion of the audit. Any further changes will be brought to the Committee's attention at its next meeting following the signing.

2. Executive Summary

- 2.1 The Ministry for Housing, Communities and Local Government (MHCLG) published a statement on 30 July, indicating the intent to lay before parliament the required legislation to put in place a series of 'backstop' dates for audits of local authorities in England. Under this proposal the audits of the council's 2022/23 and 2023/24

statement of accounts would be required to be completed by the 13 December 2024 and 28 February 2025 respectively.

- 2.2 In practice this means that if the auditors have not been able to gain sufficient assurance by these dates they will have to issue a modified opinion, either a disclaimer opinion giving no assurance on the accounts, or a qualified opinion giving assurance in some areas of the accounts but not in others. From discussion with its external auditors, Ernst & Young LLP (2022/23) and Bishop Fleming LLP (2023/24) the council expects to receive a disclaimer opinion for both years.
- 2.3 This issue is widespread across English local authorities, and MHCLG expect hundreds of disclaimer opinions to be issued as part of this reset of the audit system for local authorities. It is expected that it will take several years for affected councils to return to the unqualified opinions that Cherwell District Council has received in previous years.

Implications & Impact Assessments

Implications	Commentary			
Finance	There are no finance implications arising directly from this report. However, as a result of the proposals laid out by MHCLG it is expected that the external audit fee for 2022/23 will be lower due to a reduced amount of work completed, and the 2023/24 and future years will see an increased fee for the additional work required. At this point in time it is not possible to quantify how much the external audit fee might change. Joanne Kaye, Head of Finance, 29 August 2024			
Legal	The obligations in law are as set out in the report and there are no legal implications in connection with this report. Shiraz Sheikh, Assistant Director of Law, Governance and Democratic Services (Monitoring Officer), 13 September 2024			
Risk Management	There are no risk implications arising directly from this report. Celia Prado-Teeling, Performance Team Leader, 29 August 2024			
Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact				N/A
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?				N/A
B Will the proposed decision have an				N/A

impact upon the lives of people with protected characteristics, including employees and service users?				
Climate & Environmental Impact				N/A
ICT & Digital Impact				N/A
Data Impact				N/A
Procurement & subsidy				N/A
Council Priorities	N/A			
Human Resources	N/A			
Property	N/A			
Consultation & Engagement	N/A			

Supporting Information

3. Background

- 3.1 On 8 February 2024 the then Department for Levelling Up, Housing and Communities (DLUHC), now Ministry of Housing, Communities and Local Government (MHCLG), and the National Audit Office (NAO) published a joint statement and associated consultations on local audit delays in England and their proposed method to clear the audit backlog. As noted in the consultation the number of unaudited accounts peaked on 30 September 2023 at 918, and in a recent letter from Minister of State Jim McMahon (Appendix 1) this is estimated to rise again to around 1,000 later this year.
- 3.2 To clear the backlog of historical accounts and ‘reset’ the system, DLUHC proposed putting a series of dates in law (the “backstop” dates) by which point local bodies would publish audited accounts for all outstanding years and the next five years of accounts.
- 3.3 Under this proposal Auditors would be required to issue an opinion before the backstop date, however, if they do not have enough time to complete all audit work before that date, then a modified opinion would be issued. Depending on the amount of work completed by the backstop date the modified opinion could either be a ‘qualified opinion’ or a ‘disclaimer opinion’ rather than the usual ‘unqualified opinion’. These mean the following:

- **Unqualified Opinion:**
This opinion is given when the auditor has gained sufficient assurance that the financial statements give a true and fair view.
- **Qualified Opinion:**
This opinion is given where the auditor has been unable to gain sufficient assurance over a limited area of the financial statements, but except for the effects of this, the financial statements give a true and fair view.
- **Disclaimer Opinion:**
This opinion is given where the auditor has been unable to gain sufficient assurance over a range of areas in the financial statements, and this is so pervasive that the auditor is unable to form an opinion on whether the financial statements give a true and fair view. In the case of the backstop date this would be because they have not been able to complete enough of the audit work in the time available rather than there being an issue with the transactions or audit evidence.

3.4 The consultation closed for responses on 7 March 2024, however due to the general election in July the legislation required for the proposal was not possible to be implemented before the first backstop date, which was 30 September 2024 for accounts up to and including the 2022/23 financial year.

3.5 The draft statement of accounts for 2022/23 were noted by the committee at its meeting 20 March 2024.

4. Details

4.1 On 30th July 2024 the Minister of State for Housing, Communities and Local Government, Jim McMahon, provided a written update to parliament on the backstop proposal. A summary of this was then sent in a letter to the council, which is attached at appendix 1.

4.2 This update confirmed the new government intended to continue with the proposed backstop system, however with revised dates which are as follows:

- Financial year 2022/23 or earlier: 13 December 2024
- Financial year 2023/24: 28 February 2025
- Financial year 2024/25: 27 February 2026
- Financial year 2025/26: 31 January 2027
- Financial year 2026/27: 30 November 2027
- Financial year 2027/28: 30 November 2028

4.3 In addition the minister proposed that the deadline for publication of draft Statement of Accounts be moved from 31 May to 30 June for the financial years 2024/25 to 2027/28.

4.4 The Council's statement of accounts for 2022/23 have not currently received an audit opinion. The external auditors for 2022/23, Ernst & Young LLP (EY), have confirmed that the new backstop dates have not changed their intention to issue a disclaimer opinion for the 2022/23 financial year. A letter sent out to S151 officers from EY on 21 August 2024 (attached at Appendix 2) confirms their intention to issue this disclaimer opinion by end of November 2024. However, this does not affect the value for money commentary work which has been completed and will be reported on alongside the audit opinion.

- 4.5 The council's new external auditors for financial years 2023/24 to 2027/28, Bishop Fleming, have been in discussion with the council for how this impacts the 2023/24 and future audits. The auditor guidance for the return to unqualified audit opinions through the backstop dates has yet to be finalised, however Bishop Fleming indicated that from the current discussions this would lead to a disclaimer opinion for the 2023/24 financial year, and potentially disclaimer or qualified opinions for 2024/25 and 2026/27 financial years before possibly returning to an unqualified opinion in 2026/27. The progression from disclaimer opinion to ultimately unqualified opinions is dependent on clarity over how assurance is to be gained over reserves and therefore may take longer.
- 4.6 The reason for this is, due to the disclaimer of the 2022/23 audit, Bishop Fleming will not have the assurance over the opening balances in the 2023/24 statement of accounts that they normally would following an unqualified opinion for the previous year.
- 4.7 Auditors gain assurance by obtaining and evaluating audit evidence, and then issuing a written report. They use a variety of procedures to obtain evidence, including inspection, observation, confirmation, recalculation, reperformance, and analytical procedures. The information must then be validated against specific benchmarks. Auditors can then conclude whether the financial statements are prepared in accordance with the applicable financial reporting framework, and whether they give a true and fair view.
- 4.8 A large amount of work is therefore required to catch up on this assurance, which central government expects to take place over several years. The proposed backstop dates for 2024/25 – 2027/28 are to allow this work to be spread out over the following financial years and not just create a new backlog of 2023/24 audits.
- 4.9 This situation is not unique to Cherwell District Council, and there is a similar pattern of disclaimed opinions slowly returning to unqualified opinions expected across many councils in England where a disclaimer opinion for 2022/23 will be given. An analysis of audit completions from LG Improve showed that at 31 July 2024 only 45 out of 164 district councils had completed the 2022/23 audit, indicating that there is likely to be close to 100 district councils in the same position as Cherwell District Council with a disclaimer opinion issued for 2022/23.
- 4.10 The draft statement of accounts was published in February 2024 following the completion of the majority of audit work on 2021/22. This was the point at which the council could confidently publish opening balances as auditors had assurance regarding the closing balances in the 2021/22 statements.
- 4.11 The Letter of Representation is an important part of the audit process whereby the Council, via the Section 151 Officer provides representations around the operation of the Council that allows and helps the auditors to form their opinion as to whether the financial statements give a true and fair view. A draft of the letter for 2022/23 has been provided by the auditors and is found at Appendix 3.

5. Alternative Options and Reasons for Rejection

- 5.1 Option 1: do not delegate authority to the S151 Office and Chair of the committee to agree the accounts and sign the letter of representation. This has been rejected because without delegation there is a risk that the backstop date could be missed, given that the accounts would need to be signed off by the committee at its 20 November meeting. The 8 November publication deadline for this meeting is significantly enough before the date by which EY intend to sign the accounts that there is a strong possibility the accounts would not be finalised in time. Another meeting of the committee before 13 December would need to be convened in that eventuality.

6 Conclusion and Reasons for Recommendations

- 6.1 MHCLG have indicated that they intend to lay before parliament secondary legislation when parliamentary time allows to enact the proposed backstop dates. This will significantly impact the audit opinion that can be given by the council's external auditors and councillors are asked to note the implications discussed in this report.

Decision Information

Key Decision	N/A
Subject to Call in	N/A
If not, why not subject to call in	N/A
Ward(s) Affected	All

Document Information

Appendices	
Appendix 1	Local Audit - Letter to councils from Minister Jim McMahon
Appendix 2	Ernst & Young Letter to S151 Officers
Appendix 3	Draft Letter of Representation 2022/23
Background Papers	None
Reference Papers	Local Audit Backlog Statement – Jim McMahon written statement to parliament 30 July 2024 - https://questions-statements.parliament.uk/written-statements/detail/2024-07-30/hcws46 Draft Statement of Accounts 2022-23 – Report taken to AARC on 20 March 2024

	Addressing the local audit backlog in England: Consultation published 8 February 2024 - https://www.gov.uk/government/consultations/addressing-the-local-audit-backlog-in-england-consultation/addressing-the-local-audit-backlog-in-england-consultation
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