

**Report of the Chief Officer Financial Services**

**Report to Corporate Governance and Audit Committee**

**Date:** 27<sup>th</sup> July 2020

**Subject: Compliance with the governance requirements associated with setting an Emergency budget and issuing a Section 114 report**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. At the June meeting of Corporate Governance and Audit Committee Members asked for assurance in relation to the arrangements in place to meet the well-publicised impact of the Covid-19 pandemic, and associated emergency response and recovery, on the Council's financial position.
2. This report sets out the Council's process for the submission of an emergency budget and provides assurance that the proposed measures would be both agreed by Council's Executive Board and consulted upon prior to Full Council consideration of the proposals.
3. The report also sets out the legislative procedure for issuing a S.114 report in accordance with the Local Government Finance Act 1988 should the Council's S151 Officer conclude that it is necessary to do so.
4. The report provides assurance that should an emergency budget be set in 2020/21 then the Council will be able to comply with statutory and other guidance.
5. As detailed in the annual Statement of Accounts, and as reflected in the sustainability and robustness of the financial assumptions contained in Council's Medium Term Financial Strategy, the Council demonstrates that it remains a going financial concern and provides value for money services.

6. Grant Thornton the Council's External Auditors are fully supportive of the measures being taken by the Council to bring its finances back into balance and comply with statutory duties.

## **Recommendation**

7. Corporate Governance and Audit Committee are asked to note that there are appropriate procedures and processes in place should there be a requirement for Full Council to have to agree an emergency budget in 2020/21.

### **1. Purpose of this report**

- 1.1 The overall purpose of this report is to detail what the arrangements are in respect of the submission of an emergency budget to Full Council should there be the requirement for one and also provide assurance to this committee that the Council would comply with these arrangements.
- 1.2 The report also provides assurance to members that the Council remains a financial going concern and provides value for money services.

### **2. Background information**

- 2.1 In both May and June the Council's Executive Board received reports from the Chief Officer – Financial Services detailing the impact of COVID-19 upon the Council's financial position in 2020/21. The June report detailed how the impact of COVID-19 has resulted in a projected overspend of £197.6m which reduces to £193.5m if account is taken of non – COVID related savings. To date the Council has received £43.7m of Government funding towards the costs of COVID-19, of which £2.6m has been applied in 2019/20. Application of the remaining £41.1m of grant in 2020/21 would reduce the COVID financial pressure to £156.5m. It is currently assumed that Collection Fund income shortfalls of £60.9m would impact in 2021/22, leaving a COVID funding gap of £95.6m for 2020/21. This position reflects the June Executive Board Report and is continuously updated to both the Executive Board and to MHCLG.
- 2.2 In response to the financial position in 2020/21 Council has written to the Government, requesting additional support and flexibilities which would allow the Council to respond to the impact of the pandemic on its financial position. In addition the Council has implemented a number of management measures to start to mitigate this projected overspend and these include implementation of a recruitment freeze, restriction on the utilisation of agency staff and overtime, and implementation of an immediate freeze on non-essential spend.
- 2.3 The report to June's Executive Board recognised that if further support from the Government is not going to be forthcoming or is insufficient to address the forecast financial position then a number of measures have been identified which will

contribute towards addressing the level of overspend. These measures will require an emergency budget to be agreed by Full Council in the summer.

- 2.4 In addition the report detailed that if in the professional opinion of the Chief Officer - Financial Services the actions proposed in this report are insufficient to reduce the Council's cost base to enable there to be sufficient resources to fund services following the emergency budget in the summer, then a Section 114 report would be issued.

### **3. Main issues**

#### **3.1 Setting an Emergency Budget in 2020/21**

- 3.1.1 As recognised in the report to June's Executive Board if further support from the Government is not going to be forthcoming or is insufficient to address the forecast financial position then a number of measures have been identified which will contribute towards addressing the level of overspend. These measures will require an emergency budget to be agreed by Full Council in the summer.
- 3.1.2 In setting an emergency budget the Chief Officer – Financial Services would be required to submit a report containing the proposed emergency budget measures to the Council's Executive Board. Executive Board would be asked to agree these emergency budget measures for 2020/21 and also request that they be subject to consultation. In line with the Council's budget and policy framework procedure rules this would require referral of the proposed emergency budget to the appropriate Scrutiny Boards for a period of six weeks, although this can be reduced by Executive Board if special factors make such a period inappropriate. In addition the proposals must be the subject of wider consultation with stakeholders, including in this case public consultation, which must take place over such period as to make it meaningful.
- 3.1.3 A report containing the emergency budget measures along with the comments of Scrutiny and stakeholders would then be received at the next meeting of the Council's Executive Board. Executive Board would be requested to recommend to Council the adoption of the emergency budget measures. Full Council would receive these emergency budget measures with the relevant recommendation from the Executive Board.

#### **3.2 Issuing a Section 114 notice**

- 3.2.1 Section 151 of the Local Government Act 1972 requires local authorities to make arrangements for the proper administration of their financial affairs and the Chief Officer - Financial Services has responsibility for these arrangements.
- 3.2.2 If in undertaking this statutory role it is clear that the Council cannot deliver a balanced budget position in 2020/21 then it is incumbent on the Section 151 Officer under the Local Government Finance Act 1988, Section 114 (3) to "make a report under this section if it appears....that the expenditure of the authority incurred

(including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure”.

- 3.2.3 A Section 114 report would be issued after consultation with the Senior Management Team, the Executive Board and External Audit. The timing of the announcement would be such that it would allow for the implementation of specific actions, e.g. no new expenditure that is not of a statutory minimum requirement, which would contribute towards improving the Council’s financial position.
- 3.2.4 Before the Section 114 report was issued the Section 151 Officer would also ensure that all Scrutiny Chairs, the Chair of Corporate Governance and Audit, and the opposition Leaders were informed and kept updated on the position.
- 3.2.5 The Chartered Institute of Public Finance and Accountancy’s (CIPFA’) guidance to Chief Financial Officers (CFO) has been modified to allow councils under budgetary pressure due to COVID-19 the time and space to explore alternatives to freezing spending via a S.114 notice. These temporary modifications to guidance mean that it should not normally be necessary for S.114 notices to be issued while informal discussions with government are in progress. Specifically modifications require that at the earliest possible stage a CFO should make informal confidential contact with MHCLG to advise of financial concerns and a possible forthcoming S.114 requirement. In addition the CFO should communicate the potential unbalanced budget position due to COVID-19 to MHCLG at the same time as providing a potential S.114 scenario report to the council executive (cabinet) and the external auditor.
- 3.2.6 Under S115 of the Local Government Finance Act 1988 Councillors have 21 days from the issue of a Section 114 report to discuss the implications at a Full Council meeting and before the consideration of an emergency budget.

### **3.3 Role of Corporate Governance and Audit Committee**

- 3.3.1 The terms of reference for the Corporate Governance and Audit Committee includes the requirement “to review the adequacy of policies and practices to ensure compliance with statutory and other guidance.”
- 3.3.2 Therefore should there be a requirement for an emergency budget for to be adopted by Full Council, as described by the process outlined in 3.1 above, or Full Council adopts an emergency budget following the receipt of a S.114 report from the Chief Officer – Financial Services, then this Committee will be updated to give assurance that the process followed complies with the both the Council’s own governance arrangements and statutory requirements.

### **3.4 Going concern and Financial Health**

- 3.4.1 The draft Statement of Accounts for 2019/20, which can be found elsewhere on this agenda, notes that the financial uncertainty which the Council is facing does not impact on the going concern basis for the production of the accounts. The Code of Practice on Local Authority Accounting in the United Kingdom requires

that all councils should produce their accounts on a going concern basis. This is a reflection of the statutory position, that local councils do not have the power to cease their operations (as would be the case for a private sector body which was in financial difficulty).

- 3.4.2 As reflected in the updated Medium Term Financial Strategy that was received at Executive Board in October 2019, and that covered the period 2020/21 to 2024/25, the principle underpinning the strategy over the five years is to ensure that Leeds City Council is financially sustainable with less reliance upon short term solutions to fund recurring expenditure. An updated Medium Term Strategy which will cover the period 2021/22 – 2025/26, and which will take account of the impact of COVID-19 upon the Council's financial position, will build upon this requirement.
- 3.4.3 Financial Health reports which are received at the Council's Executive Board continue to demonstrate both the robustness of the Council's approved budgets and, COVID-19 impacts aside, the ability of the Council to deliver the required level of budgeted savings to deliver a balanced budget position.
- 3.4.4 Under the 2003 Local Government Act, the Chief Officer – Financial Services is required to make a statement to Council on the adequacy of reserves as part of the annual budget setting process. Grant Thornton's "Annual Audit Letter" for the year ended 31<sup>st</sup> March 2019 noted that "the Council has continued to maintain reserves at around 5% of net revenue expenditure" whilst at the same time recommending the "need for the Council to consider the adequacy of its reserves going forward." In accordance with this recommendation the current Medium Term Financial Strategy provides for resources to ensure that this 5% requirement is achieved although the level of reserves always remain under review particular in the context of the current COVID-19 pandemic.
- 3.4.5 With regard to the response to the impact of the COVID-19 pandemic upon Leeds City Council's financial position, a letter has been received by the Council's Chief Officer – Financial Services from Grant Thornton, the Council's external auditors which states that they are "fully supportive of the measures Leeds City Council are taking to help bring the Council's finances back into balance and comply with statutory duties.". A copy of this letter can be found in Appendix 1.

## **4. Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Extensive consultation was undertaken as part of the budget setting process, as outlined in the Revenue Budget and Council Tax 2020/21 report to Full Council on the 26<sup>th</sup> February 2020. This report has no direct issues requiring consultation or engagement.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 A specific equality impact assessment of the budget at a strategic level was undertaken and was reported to Full Council on the 26<sup>th</sup> February 2020 as part of

the Revenue Budget and Council Tax 2020/21 report. This report has no direct equality and diversity/cohesion issues.

### **4.3 Council policies and Best Council Plan**

- 4.3.1 The 2020 to 2025 Best Council Plan's ambitions, outcomes and priorities underpin the 2020/21 budget and have been used to ensure that the Council's financial resources are directed towards its policies and priorities and, conversely, that these policies and priorities themselves are affordable. Spending money wisely is one of the core Council's values, with the priority being for Directorates and services to keep within their budgets. Ensuring that the Council has appropriate financial management systems and procedures in place is clearly a key aspect and as such this report does provide some assurances, albeit not comprehensive, assurance that money is being spent wisely.
- 4.3.2 The terms of reference of the Corporate Governance & Audit Committee require the Committee to consider the adequacy of the Council's policies and practices to ensure compliance with statutory guidance and the adequacy of the Council's corporate governance arrangements.

### **4.4 Resources and value for money**

- 4.4.1 This report deals with the processes for the Council agreeing an emergency budget and/or the Section 151 officer issuing a S.114 report. There are no specific financial implications resulting from this report. The financial implications of an emergency budget or the issuing of a S.114 report would be contained in the respective reports received at Council.

### **4.5 Legal implications, access to information and call in**

- 4.5.1 Section 151 of the Local Government Act 1972 requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a Chief Financial Officer have responsibility for those arrangements.
- 4.5.2 Whilst there are no specific legal implications resulting from this report, the Chief Officer – Financial Services will be required to follow the requirements of the 1988 Local Government Finance Act if a S.114 report was issued.
- 4.5.3 This report does not require a key or major decision and is therefore not subject to call-in.

### **4.6 Risk Management**

- 4.6.1 There are no specific risks resulting from this report. Any significant and new risks in respect of the 2020/21 revenue budget are contained in the budget monitoring reports submitted to meetings of the Executive Board together with any identified slippage on budget savings plans.

- 4.6.2 Reports to Executive Board in respect of the Medium Term Financial Strategy and the Revenue Budget for the forthcoming financial year also identify risks associated with the assumptions contained in these two documents.
- 4.6.3 The Council's external auditors provide a risk assessment on the Council's financial resilience and the accounts process as part of their audit.

## **5. Conclusions**

- 5.1 In the context of the challenging financial position that was detailed in the respective reports of the Chief Officer – Financial Services, which were received at Executive Board in May and June, there are prescribed procedures and legislative requirements to follow if an emergency budget has to be set and/or a Section 114 report issued and that the Council will be required to follow these.
- 5.2 That the Council will continue to remain a financial going concern and provide value for money services.
- 5.3 That the Council's external auditors are fully supportive of the measures being taken by the Council to bring its finances back into balance and comply with statutory duties.

## **6. Recommendations**

- 6.1 Members of the Corporate Governance and Audit committee are asked to note that there are appropriate procedures and processes in place should there be a requirement for Full Council to have to agree an emergency budget in 2020/21.

## **7. Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.



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1 June 2020

Dear Victoria

### **Impact of Coronavirus COVID-19 upon Leeds City Council's 2020-21 Financial position**

Many thanks for taking time to update me on the above matter on 28 May in advance of our quarterly liaison meeting on 3 June 2020. I thought it would be useful to draft this letter following our discussion which summarises my understanding of the situation and on your proposed response to the challenges facing the Council. We agreed the content of this letter on 1 June and agreed to issue the letter as a final version on 17 June to coincide with the papers deadline for the Council's June 2020 Executive Board.

We noted in our Audit Findings (ISA260) Report in July, and in our Annual Audit Letter in August 2019, the Council needed to consider the adequacy of its level of reserves. We discussed that the Council's 31 March 2019 level of revenue reserves of £91.1m (£29m general fund and £63.1m earmarked general fund reserves) were likely to come under further pressure in the coming years unless income was increased or expenditure reduced.

The impact of the Covid-19 pandemic has now significantly increased the risks associated with the Council's financial position, with additional expenditure incurred coupled with a projected reduction across various income streams, including council tax, business rates, sales and fees and charges.

You have described the financial challenges in your report to the Council's Executive Board on 19 May 2020. Whilst the Government has provided support to the Council of £43.7m via two Covid-19 related grants you have acknowledged that without further Government support, the Council is facing a c£160m funding gap over the 2020-21 and 2021-22 period.

You set out to me your proposed approach to deal with these challenges via three key measures:

1. Request additional support from Government, specifically to underwrite revenue losses from income streams
2. Seek a Capitalisation Direction to cover the costs of Covid-19
3. Depending on the outcome to the above points, issue an emergency budget for 2020-21 by September 2020.

Should the above proposals and measures not be sufficient to bring the Council's 2020-21 budget back into balance, then a S114 Report would need to be issued.

You are also very mindful of the 2021-22 projections, where the original funding gap of £52m may possibly increase to double this figure without appropriate action being taken or further financial support arising. The delayed Comprehensive Spending Review and local government settlement adds further uncertainties to 2021-22 and beyond.

You have noted that you are in regular dialogue with the Chief Executive, the Corporate Leadership Team and senior Members of the Council and that they are supportive of your proposed measures to navigate the Council's finances through these difficulties. It will be important to maintain this level of engagement and communication with senior internal stakeholders as matters progress over the coming weeks. Without additional support and/or the capitalisation directive, it is inevitable that senior officers and members will have to make some difficult decisions during the remainder of 2020 as it is their statutory duty to do so.

You mentioned the service reviews which you are planning to perform in the coming weeks to help inform 2021-22 decisions, and the more immediate actions being taken to reduce costs to support a possible future 2020-21 emergency budget. As part of these reviews you are considering those areas where the Council is an outlier in terms of cost of service delivery to help inform the debate around where savings could be identified and achieved.

The Council went into 2019-20 in a reasonable financial position, albeit with a significant savings programme and an acknowledged need to build up its reserves position. The Covid-19 pandemic and its resulting financial implications has highlighted the Council's reserves position in a fairly brutal fashion.

As your appointed external auditor, I am fully supportive of measures you are taking to help bring the Council's finances back into balance and comply with statutory duties. I support you seeking additional central funding via your discussions with Government (as part of Core Cities, regional and Leeds specific engagements), and the service reviews which may ultimately result in an 2020-21 emergency budget.

I think it is unlikely the Government will fully fund the Council's gross budget gap, however, it will be important in your discussions with Government to demonstrate the Council's willingness to deal with the financial challenges itself as much as possible, including the need to utilise some of the Council's remaining reserves.

The likelihood of any additional financial support (on top of any further generic support for the local government sector) or capitalisation order from the Government is likely to be increased if you can demonstrate that the Council has taken all the reasonable measures it can in order to reduce the budget gap.

The Council may also find it helpful to categorise its spending in relation to the pandemic between following national prescription – eg homelessness measures, increases in support for care providers and any local measures. On the income side you could split revenue between statutory functions and Council decisions on investment and regeneration, so that arguments about the precise nature of spending pressures and income losses can be set out to Government.

An emergency budget which sets out additional savings and spending restrictions on areas where the Council is an outlier, utilises some reserves and is supported by Members and the Corporate Leadership Team should send a message to Government that the Council acknowledges its financial position and is genuinely doing something about it.

Following our call last week, I have raised the issue with Paul Dossett (Grant Thornton's Head of Local Government). He has a number of his own clients facing a similar challenge and also has sight of the issues across the local authority sector given his national position. I will continue to consult with Paul on this issue and have sent him a copy of this letter. I have also included the Chief Executive and Chair of the Corporate Governance and Audit Committee on the distribution list of this letter.

I do acknowledge the pressure the Council is under at this difficult time. As we discussed on 28 May, we agreed how important it will be to maintain a regular dialogue over the coming weeks as the circumstances develop and crystallise. I will continue to regularly engage with you on the issues raised in this letter and provide the support and challenge you would expect from external audit.

Yours sincerely

**Gareth**

**Gareth Mills**  
**Public Sector Audit Engagement Lead, Grant Thornton**

CC:

- Tom Riordan, Chief Executive, Leeds City Council
- Cllr Andrew Scopes, Chair of Corporate Governance and Audit Committee, Leeds City Council
- Paul Dossett, Head of Local Government, Grant Thornton