

MINUTES of a **MEETING** of the **AUDIT COMMITTEE** held on 21 January 2025 at 5.00 pm

Present

Councillors

L Knight (Chair)
D Broom, E Buczkowski, G Czapiewski,
B Fish, R Roberts and A Stirling

Also Present

Councillor

J Buczkowski

Also Present

Officers

Andrew Jarrett (Deputy Chief Executive (S151)), Paul Deal (Head of Finance, Property & Climate Resilience) and Sarah Lees (Democratic Services Officer)

Councillors

Online

J Downes, S Robinson and N Woollatt

Officer Online

Kieran Knowles (Accountant)

Also in

Attendance

Craig Sullivan (Bishop Fleming) and Jennifer Whitten (Independent Person to the Audit Committee)

35. **APOLOGIES**

There were no apologies for absence.

36. **PUBLIC QUESTION TIME**

The following members of the public asked questions:

Nick Quinn

Regarding Agenda Item 6 - Updated Statement of Accounts 2023/2024

On Page 58 of the Draft Accounts, issued for this meeting, at 2 (d) are these words:

“The Council has also placed reliance on technical estimates supplied by third parties for the following:

- Property valuations made by the District Valuer
- Pension valuations supplied by Barnett Waddingham - Actuary

The Council has received very detailed reports from both of these sources outlining overall valuations and all of the key assumptions made in arriving at these final figures. These reports will be examined by the auditor during their audit of the Council's Accounts”.

On Page 61 of the Draft Accounts, in the "Impairments" section of the Table, are these words:

“The District Valuer valued the assets purchased from the Company at £2.016 million lower than the price paid. These assets are being held until the market recovers and a higher sales price can be realised”.

One of the ‘assets’ referred to is the Land at Knowle Lane, Cullompton – purchased by the Council, from 3 Rivers, for £3.66 million.

The implication of the wording is clear - The District Valuer had valued the Land at Knowle Lane and the Auditor had ‘examined’ that valuation.

Question 1

Did the District Valuer actually provide a valuation on the Knowle Lane land ‘asset’?

Response provided by the Audit Committee Chair:

Yes, as part of the year-end review of asset valuations.

Question 2

If so: On what date?

Response provided by the Audit Committee Chair:

11 March 2024

Question 3

If not: Why does it say, in the Statement of Accounts, that he did?

Response provided by the Audit Committee Chair:

Not relevant.

Question 4

What ‘report’ did the Auditor ‘examine’ in regard to the real value of this land?

Response provided by the Audit Committee Chair:

The year-end asset valuation report provided by the District Valuer.

I have one additional question, which was not submitted in advance:

Question 5

Referenced on page 11 of the Draft Accounts is the purchase, from 3 Rivers, of five units at Haddon Heights, Bampton. The price paid, in March last year, was more than £3million. Have any of these houses been sold yet?

Response provided by the Head of Finance, Property Services and Climate Resilience:

No, not at the current time.

Barry Warren

My first reference is to item 6 on your agenda, pages 18/19 Paragraph 3.2 where it states:

“As outlined at the December meeting, following Cabinet approval of the approach to resolving the Historic Rent error, a provision of £1,545k has been included within the accounts.”

The Cabinet Report of the 10th of December 2024 included in Paragraph 2.2 are these words “.... correct this position in consideration of advice secured and also considering the impact on both our current/former tenants and with regard to the financial viability of the Housing Revenue Account in both the short and longer term.”

The Cabinet decision is therefore to refund overpayments for 6 years. Tenants are currently still paying the excessive rents in accord with the letter they were sent in November 2024 and the Council is looking to pay refunds from February 2025.

Question 1

Is February 2025 when the 6 years gets calculated back from or is it from the date when the error was found?

Response provided by the Audit Committee Chair:

We can confirm that all over charged tenancies have now been corrected, so your initial statement is factually incorrect. You could substantiate some of your comments, or even obtain more information by contacting our officers prior to raising your questions, who I'm sure would be happy to help with your queries. The 6 year statutory refund limitation has been agreed by the Council after securing legal advice from King's Counsel (KC) and will go back 6 years prior to the error being identified.

According to the Auditors report it would appear that the error occurred in 2002. I am aware of a current tenant who was given the tenancy before 2002. This tenant has been apparently overcharged for the past 22+ years yet the Council will only be refunding for 6 years. This tenant is therefore NOT going to be refunded for the overpayment of rent for a period of 16+ years.

Question 2

The Council may consider this to be 'legally' correct but is it morally correct or defensible for this administration to take such action?

Response provided by the Audit Committee Chair:

I have already referred to the legal advice secured from KC.

Question 3

One of the reasons given is 'with regard to the financial viability of the Housing Revenue Account'. Is this putting money before people who are tenants and may not be so financially sound as others?

Response provided by the Audit Committee Chair:

It is difficult to understand the objective/rationale of this question. As all monies both past, current and present have been or will be from the tenants. Therefore, any decision made to increase the quantum of refund would ultimately have a direct impact on all of our tenants with regard to future levels of funding for essential works, repairs, maintenance and additions to the overall stock.

Question 4

Looking forward, are Audit Committee showing due diligence if they agree only the figure of £1,545k in the accounts to cover refunds?

Response provided by the Audit Committee Chair:

Yes I am content with our due diligence as this figure is the gross level of potential over charged rent going back 6 years from the point of discovery (net of 2024/25 which will be dealt with during the year) This gross estimate will ultimately be reduced by decisions relating to; benefit payments, historic write offs, rent arrears, etc. which are either still being modelled or we are yet to receive external advice on.

In relation to item 7 on the agenda may I congratulate the External Auditors for finding the error with the rent charges.

Question 5

Why was this error not found before, particularly by Devon Audit Partnership?

Response provided by the Audit Committee Chair:

As confirmed during a recent Scrutiny Committee this was an individual spreadsheet formatting error, which has been taken forward as part of a base calculation position. Since this error, all annual rent uplifting has been performed correctly, which has always been double checked by relevant officers. It is likely that both internal and external auditors have performed similar checks and reconciled the overall Housing rent at the summary level, which would have seemed materially correct at an aggregated level.

Previous external and internal auditors haven't located this error through whatever checking processes they deployed. Our new external auditors, Bishop Fleming, as part of their inaugural client take-on work discovered this error when performing a more detailed sample rent check/verification.

Paul Elstone

My questions relate to Agenda Item 7 Bishop Fleming Annual Findings Report.

Question 1

The Bishop Fleming Audit Report states that it was a formula error that caused the social rent over or underpayment problems.

The housing rental formula mentioned is quite simple and with few variable inputs and even less variables that could cause both over and under charge errors.

What precisely was the formula error (property valuations, bedroom weight factors how service cost were provisioned) or something else?

Question 2

The report also states that the repayments to tenants will only be made going back 6 years given "Statutory Limitations" this despite some tenants may have been overpaying rent for up to 23 years.

Very precisely what legislation is being used as this Councils point of reference, this to justify not making full rent refunds to its tenants?

Question 3

On investigating both Government and Social Housing Regulator documents there have been several documents published over the years that should have caused MDDC to conduct a comprehensive audit of its social housing rental calculations.

Its auditors should have been aware and similarly undertaken those checks. This including in March 2020 when the Social Housing Regulator issued a report referencing concerns and risk incurred about incorrect social rental payment calculations. The report referenced expectations of Officers and Members with regards to good governance including policy requirements

Additionally in April 2020 and updated in December 2022 a joint Policy Statement on rents for Social Housing was issued involving Government Departments and the Social Housing Regulator. A comprehensive but easy to read document.

Given the concerns raised in these and other documents there is reason to believe there has been negligence involved in not correcting the rent over payments much earlier.

Has this Council given full consideration to the fact that there could be a case for those tenants impacted to seek full recompense including damages and that certain specialist legal firms such as Leigh Day could become involved with massive cost and reputation implications ?

Question 4

Given this situation there would seem good reason for MDDC's internal auditors Devon Assurance Partnership and external auditors Grant Thornton to refer themselves to their regulator i.e. the Financial Reporting Council. Has this been done?

Question 5

Given there could be a case of professional negligence will MDDC look into if a financial claim can be made against its auditors. This to recover cost?

Question 6

Will tenants be given a complete breakdown showing the full details of all the overpayments they have made to this Council not just the amount the Council wants to refund?

Question 7

Will notional interest be paid to the tenants?

The Chair stated that as these questions had not been submitted in advance, a written response would be provided within the next 10 working days and attached to the minutes of this meeting.

37. **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

38. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 3 December 2024 were confirmed as a true and accurate record and **SIGNED** by the Chair.

39. **CHAIR'S ANNOUNCEMENTS**

The Chair welcomed Jennifer Whitten, the Independent Person, to her first official Audit Committee meeting at Mid Devon District Council and thanked her for attending.

40. **UPDATED STATEMENT OF ACCOUNTS 2023/2024**

The Chair stated that he would be taking items 6 and 7 together and then, after discussion, the Committee would consider the recommendations.

The Committee had before it a report * from the Deputy Chief Executive (S151) presenting the proposed final version of the 2023/24 Statement of Accounts to Members, highlighting any areas which have been amended since the draft accounts were published on the website, presented for external audit and considered by Audit Committee in June 2024.

The following was highlighted within the updated Statement of Accounts:

- The updated Statement of Accounts before the Committee were the culmination of the 2023/2024 accounts. These had been presented to the Committee in December 2024 but had needed readjusting in light of the Social Housing Rents error. These adjustments were shown in orange for ease of reference under Note 59.
- It was the Accountants view that the Accounts before the Committee this evening were a true and fair reflection of the Council's financial position as at 31st March 2024.

- The Committee were informed of the need, following discussion and resolution, for the Chair and necessary officers to sign the revised Letter of Representation, the Annual Governance Statement, the pages in the Accounts that the Section 151 Officer was responsible for and, as was normal practice, the Balance Sheet.

The following was highlighted within the Bishop Fleming, Audit Findings Report:

- This was an updated report to that which had been presented to the December 2024 Audit Committee meeting.
- The key issues that had been outstanding were referred to including finalising their review and testing of the supporting working papers for the provision for the social rents overcharged.
- ‘Other audit and financial matters’ on page 11 of their report were also referred to including the Valuation of the Pension Fund, 3 Rivers Developments Limited and Social Rents. The key issue was that this error had been identified. Similar occurrences had been found in other local authorities and Bishop Fleming had designed a test to assess for such errors. The important factor was that the Council had sought external legal advice in trying to resolve the matter.
- The audited adjustments on page 12 provided positive reassurance.

Discussion took place regarding:

- It was confirmed that the impact of the Housing Rents error would be on the Housing Revenue Account and not the General Fund.
- An indicative figure of £1.5m had been notified to Members as the error amount, however, determining this was a complicated matter. The Council was still working with the Department for Work and Pensions (DWP) to ascertain the benefits impact, whether or not tenants had moved within the 6 years referred to, some tenancies may have been under charged and some overcharged for the same tenant during a 6 year period. A full and thorough breakdown would be provided to Members as soon as it had been calculated.
- Member briefings were intended as well as regular reports to the Cabinet and the Homes PDG in order to keep Members updated.
- Compensation would need to be considered and there was a Mid Devon Housing policy in existence to help support decisions in that area.
- The complicated nature of the modelling process.
- Affected tenants had been written to.
- Whether reports in relation to this error should come to the Audit Committee as well as the Scrutiny Committee and the Cabinet. It was felt that feedback from this Committee, which had responsibility for monitoring risk, could then be relayed back to the Cabinet. It was **AGREED** that an update report on the Housing Rents error be brought to the next meeting of the Audit Committee.
- The use of Reserves and how they were funded.
- Concerns regarding staff sickness and the current challenges of recruiting to the local government sector.
- The complex format of the Statement of Accounts. There was general agreement that the Accounts had increased in length, increased in complexity, Audit fees had increased and yet their ability to be easily understood by the general public had decreased. However, until the legislation changed this

format would need to remain. Bishop Fleming confirmed that this Council's accounts were comparable in terms of length and complexity with other local authorities with perhaps the focus being in the wrong areas. A process of change and simplification was needed.

RESOLVED that:

- a. The 2023/2024 Statement of Accounts (noting the findings made by the external auditor, Bishop Fleming) be approved;
- b. The 2023/2024 Annual Governance Statement and the revised Letter of Representation be approved and all associated documents be signed by the relevant officers and Members.

(Proposed by Cllr R Roberts and seconded by Cllr B Fish)

Note: * Report previously circulated.

41. **BISHOP FLEMING ANNUAL AUDIT FINDINGS REPORT**

The Committee had before it, and **NOTED**, the 2023/2024 Annual Audit Findings Report from the external auditors, Bishop Fleming.

Discussion regarding this report had taken place under the previous item.

Note: * Report previously circulated.

42. **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

The Committee had before it, and **NOTED**, the items identified in the work programme for the next meeting. It was also requested that the following be on the agenda for the next meeting:

- An update report in relation to the Housing Rents error.
- An update on what support local authorities will be getting from the Government in relation to National Insurance contributions.

(The meeting ended at 5.59 pm)

CHAIR