

REPORT TO:	EXTRAORDINARY COUNCIL 19 November 2020
SUBJECT:	Report in the Public Interest concerning the Council's financial position and related governance arrangements & establishment of an overarching Improvement Board
LEAD OFFICER:	Katherine Kerswell, Interim Chief Executive Jacqueline Harris Baker, Executive Director of Resources and Monitoring Officer Lisa Taylor, Director of Finance, Investment and Risk and Section 151 Officer
CABINET MEMBER:	Councillor Hamida Ali Leader of the Council
WARDS:	All
FINANCIAL IMPACT:	
<p>There will be costs associated with the implementation of the recommendations detailed within the report and for the production of the external auditor's report. These costs are currently unknown and an update regarding associated costs will be presented to the 18th January 2021 meeting of Cabinet for consideration and approval as part of the report detailed in recommendation 1.7 below.</p>	

1. RECOMMENDATIONS
<p>Council is recommended to:</p> <p>1.1 Fully accept the findings of the Report in the Public Interest, the scale and urgency of the issues that it raises, and all of the external auditor's recommendations, from R1 to R20, and note that R1a, R1b, R2, R3, R9, R12, R14, R18, and R20 have been identified by the external auditor as high priority, as detailed in appendix A;</p> <p>1.2 Agree the four additional recommendations, LBC1 to LBC4, detailed in appendix B to the report;</p> <p>1.3 Agree the Action Plan detailed at appendix B to the report, including the indicative timeline and accountabilities;</p> <p>1.4 Note that the Action Plan includes a response to each of the external auditor's recommendations;</p> <p>1.5 Agree that the Council continues to seek external support from across the sector to ensure that it learns from best practice nationally;</p> <p>1.6 Agree that the Scrutiny and Overview Committee and the General Purposes and Audit Committee, at their next meetings, consider and review the Action Plan</p>

from their differing constitutional positions and report their feedback in separate reports to Cabinet at its 18th January 2021 meeting;

- 1.7 Request that Cabinet receive a report at its 18th January 2021 meeting on the Action Plan. The report will respond to the feedback from the Scrutiny and Overview Committee and the General Purposes and Audit Committee. The report will also provide further detail on the recommendations, timelines and accountabilities, the delivery mechanism to support the improvement work and the costs, where possible, associated with implementing the recommendations;
- 1.8 Note that a report will be brought back to Council in November 2021 to update Members on the progress on implementing the Action Plan.
- 1.9 Note that prior to November 2021, there will be progress monitoring on this Action Plan and other associated plans. Cabinet will receive quarterly updates on progress. Updates will also be presented to the Scrutiny and Overview Committee and the General Purposes and Audit Committee, having regard to their respective terms of reference. Council will receive quarterly reports from the Improvement Board;
- 1.10 Agree to maintain a regular and open dialogue with the external auditor, the Local Government Association (LGA) and the Ministry of Housing, Communities and Local Government (MHCLG) to keep them apprised of the Council's progress in implementing its action plan in addition to inviting them to be members of the Council's Improvement Board;
- 1.11 Agree that the Chief Executive undertakes a review of the capacity needed to deliver the improvements required of the Council and seeks to secure the specialist skills needed to deliver those improvements;
- 1.12 Agree to establish an overarching, independently chaired Croydon Renewal Plan Improvement Board as detailed in paragraph 7 of the report;
- 1.13 Note that the LGA has been commissioned to support the Council in undertaking an independent initial investigation of senior management actions in regard to the findings of the Report in the Public Interest to assess what, if any, formal action is required to be taken under any relevant process; and
- 1.14 Note and welcome the Non-Statutory Rapid Review being undertaken by representatives of the MHCLG and that its recommendations will be incorporated into the overall improvement programme.

2. EXECUTIVE SUMMARY

- 2.1 This report details the findings of the external auditor, Grant Thornton, in the Report in the Public Interest concerning the Council's financial position and related governance arrangements published on Friday 23 October 2020.
- 2.2 The report sets out the Council's statutory obligations in response to the Report in the Public Interest, which to date have been met in full. The report also outlines the further statutory requirements following the Extraordinary Council Meeting which have yet to be taken.

- 2.3 The report requests Council to agree an Action Plan in response to the recommendations made by the external auditor and to agree the overarching Croydon Renewal Plan Improvement Board to govern the wider improvements required to the Council as well as these specific set of recommendations.

3. BACKGROUND

- 3.1 On Friday 23 October 2020, the Council's external auditor issued a Report in the Public Interest (the Report) concerning the Council's financial position and related governance arrangements. The full report is attached at appendix A.
- 3.2 The Report has been published as the external auditor is of the opinion that the Council:
- i) Has experienced deteriorating financial resilience for a number of years
 - ii) Has significant issues relating to its financial sustainability
 - iii) Has not responded promptly to previous audit recommendations and concerns
 - iv) And that this needs to be brought formally to the public's attention
- 3.3 The Report highlights concerns in a number of areas across the Council, namely:
- i) Overspends in Children's social care and Adults' social care over a number of years
 - ii) Reserves not maintained at a sustainable level
 - iii) Reliance on use of capital receipts for transformation expenditure
 - iv) Not managing Dedicated School Grant within existing budgets
 - v) The impact of Unaccompanied Asylum Seeking Children expenditure
 - vi) Treasury Management and affordability
 - vii) The complexity and risk of the Council's subsidiary company structure
 - viii) The Council's culture and governance of its financial decision making
- 3.4 In particular, the Report states that:
- i) There has been "corporate blindness" to the seriousness and urgency of the financial situation
 - ii) There is little evidence that £50m of transformation money has reduced demand, delivered savings or reduced costs in children's or adults' social care
 - iii) The Council has focused on service improvement without sufficient attention to controlling overspends
 - iv) There has been investment in the "Place area" without addressing if that investment was delivering the intended outcomes
 - v) Financial governance has been focussed on lobbying government for additional funding and not supported by actions to contain spending within available funding
 - vi) Numerous opportunities have been missed in recent years to tackle the Council's financial position

3.5 The Report contains 20 recommendations, of which 9 are identified as priority recommendations.

3.6 The Council fully accepts the findings of the Report and the recommendations that have been made.

4. STATUTORY FRAMEWORK FOR REPORTS IN THE PUBLIC INTEREST

4.1 Reports in the Public Interest are issued under the provisions of the Local Audit and Accountability Act 2014. The Act sets out a number of statutory requirements that a Local Authority must comply with following the publication of the Report.

4.2 The Council is required under the Act to consider the recommendations of the Report and decide what action to take in response in public at a dedicated Council meeting. It is also essential that all decisions made by the Council with regard to its governance and other improvements are taken in full cognisance of the report's findings and recommendations.

Publicising the Report

4.3 Following receipt of the Report, the Council is required to ensure that it is brought to the attention of public, elected members, its partner organisations and stakeholders.

4.4 At 5.40pm on 23 October 2020, a dedicated page was published on the Council's website that included the full Report, the formal public notice, further information about the Report, details on how to receive a copy of the report via the post and details on how to inspect a copy of the report at the Council's offices. The webpage can be found here - www.croydon.gov.uk/democracy/budgets/report-in-the-public-interest?home=banner. As at 5 November 2020, the webpage had been viewed over 8000 times and the report had been downloaded over 5500 times. On the same day, the Council published the Your Croydon e-bulletin, which is delivered to over 80,000 registered email addresses, containing information about the report.

4.5 A formal public notice was also published in the Croydon Guardian on Thursday 29 October 2020, which was the first available edition of the paper in which the notice could be included.

4.6 The Council issued a press release to ensure that the report was brought to the attention of the press and public. To date, the Report has been covered by the Guardian, BBC News, BBC London Radio, Thornton Heath Chronicle, Croydon Guardian, Croydon Advertiser, Radio Jackie, My London, The Evening Standard, On London and a range of trade publications including the Municipal Journal and the Local Government Chronicle.

- 4.7 The Council has also proactively contacted partner organisations to share the report and the Council’s regulators, such as Ofsted.
- 4.8 Full copies of the report were also sent to all elected Members on 23 October 2020 as well as the Borough’s three Members of Parliament. The report was also sent to all members of the Council’s General Purposes and Audit Committee, including independent Members. All Council staff were contacted via email with a link to the report and extensive staff briefings have been given. At the time of publication of this report, over 2000 staff had discussed the Report in webinars with the Leader of the Council and the Chief Executive.
- 4.9 The report has also been shared with all of the Council’s subsidiary companies.
- 4.10 Grant Thornton has issued the Secretary of State of Housing, Communities and Local Government with a copy of this report.

Responding to the Report

- 4.11 Within a period of one month beginning with the day upon which the Council received the report, the Council is required to hold an Extraordinary Council Meeting (this meeting) to consider the report.
- 4.12 In considering this report, Members of the Council are asked to vote on the recommendations, response and action plan or amend these as they see fit.
- 4.13 A notice has been published on the Council’s website on 10 November 2020 providing all relevant details of this meeting to comply with Local Audit and Accountability Act requirements. The link can be found here: <https://www.croydon.gov.uk/democracy/budgets/report-in-the-public-interest?home=banner> and a further public notice was placed in the Croydon Guardian on Thursday 12 November 2020. In addition, the agenda and supporting papers have been published to comply with the usual Local Government Act 1972 requirements.
- 4.14 Following the Extraordinary Council Meeting, the Council is required to publish a public notice, approved by the external auditor, that summarises the outcome of the meeting. That notice will be published in both the local press and on the Council’s dedicated webpage following this meeting.

Other Considerations

- 4.15 In considering the Report and the proposed action plan, Members should also take into particular consideration their personal responsibilities, and the Council’s constitutional and legal responsibilities, under two further areas. These are the Seven Principles of Public Life, better known as the Nolan Principles, and the Council’s “best value” duty under the Local Government Act 1999.

- 4.16 Croydon has adopted the Nolan Principles as part of its constitution. They establish the ethical standards and framework for conduct for all those working and governing in the public sector. These standards are mandatory and lay the foundations to the Council's constitution.
- 4.17 The Nolan Principles are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Croydon has expanded the honesty principle to also include truthfulness. These principles apply equally to elected Members as well as to officers. They frame the code of conduct that guides behaviour and governance practice in the Council's constitution.
- 4.18 The Local Government Act 1999 introduced the duty of "best value" for all local authorities. This duty requires Councils to "make arrangements to secure continuous improvement in the way in which its functions are exercised having a regard to a combination of economy, efficiency and effectiveness".
- 4.19 The Non-Statutory Rapid Review of the Council which is currently being undertaken (please see paragraph 8 for more details) is being conducted in line with the best value principles and duty under this Act.
- 4.20 In fulfilling that duty, the Council needs to be a learning organisation that focuses on improvement and development; a Council that is open to challenge and which is fully accountable to the people of Croydon.
- 4.21 When considering the recommendations and Action Plan, Members may find it helpful to reflect on the Council's overall governance practice in relation to its commitments to the Principles of Public Life and its best value responsibilities.
- 4.22 The Council will need to continue its very recent focus on learning and seeking support, advice, guidance and challenge from partners across the sector to ensure that the improvements it delivers reflect best practice nationally. The fourth LBC recommendation speaks to this area of work and seeks to create a new system of internal control and a new set of behaviours, accountabilities, role clarity and effective practice in the Council. This will be based on extensive staff engagement and consultation that ensures we can function as an efficient and effective environment, free from fear and built on trust and openness.

5. CROYDON'S ACTION PLAN

- 5.1 The recommendations in the Report will be responded to by way of a detailed Action Plan as outlined in Appendix B to this report.
- 5.2 The Action Plan has been developed with support from colleagues drawn from across the Council, ensuring that it has benefitted from a blend of knowledge and expertise. Our thanks go out to the many staff who have contributed to the development of the Action Plan and we look forward to their continued involvement in its implementation.

- 5.3 In addition to the recommendations made by the external auditor, the Council is proposing four additional local recommendations to support its improvement work. These are listed as LBC1 to LBC4 within the Action Plan.
- 5.4 This report to Council also includes an additional recommendation to note that the LGA has been commissioned to undertake an independent initial investigation into senior management actions over the period covered by the Report in the Public Interest. This independent initial investigation will advise whether there is any formal action to be pursued through any relevant formal disciplinary process. The decision to undertake this independent initial investigation supports the Council's commitment to being open and fully accountable for the actions that have led to the report being issued. The investigation will report to the Interim Chief Executive in the first instance.
- 5.5 Overall accountability for the delivery of the Action Plan will jointly rest with the Leader of the Council, Councillor Hamida Ali and the Interim Chief Executive, Katherine Kerswell.
- 5.6 Accountability for individual recommendations in the Action Plan are clearly identified by Cabinet Member, and for individual actions by chief officers.
- 5.7 Following this Extraordinary Council Meeting, the Action Plan will be submitted to both the Scrutiny and Overview Committee on 8 December 2020 and the General Purposes and Audit Committee on 2 December 2020 to consider and review it from their different constitutional positions.
- 5.8 Those Committees will submit their feedback in the form of separate reports to Cabinet at its meeting on 18th January 2021. The report to Cabinet will also provide further detail on the recommendations, timelines and accountabilities, the delivery mechanism to support the improvement work and the costs associated with implementing the recommendations.

6. DELIVERING THE ACTION PLAN WITHIN THE CROYDON CONTEXT

- 6.1 The Report has been published at a very challenging time for Croydon. In addition to managing the local response to the COVID-19 pandemic and the strain that has placed on delivering Council services, the Council is also responding to a number of other very serious issues relating to its financial position, financial governance and its overall efficiency and effectiveness as an organisation.
- 6.2 These issues include:
- i) The second national lockdown, supporting test and trace in addition to preparations for an emerging vaccine programme;
 - ii) The Council issuing a section 114 notice;
 - iii) Residents' concerns about their Council;
 - iv) Reputation, organisational confidence and staff morale;
 - v) Budget development to deliver in-year savings and savings required in future years;

- vi) The need to submit a request to the Ministry of Housing, Communities and Local Government for approval to capitalise the 2020/21 in-year budget deficit and for further capitalisation funds over the next three years to be able to safely and sustainably balance the budget;
- vii) The 75 recommendations made in the Croydon Finance Review - Phase One;
- viii) The limited assurance opinion and resulting actions specified by the Head of Internal Audit;
- ix) The Strategic Review of the Council's group of companies and entities.
- x) The MHCLG Rapid Review to advise the Secretary of State in regard to our capitalisation request and any actions / recommendations arising
- xi) The need for an overarching Improvement Programme that draws all this together

6.3 In responding to these issues, it will be necessary to reshape and resize the Council in order to ensure its resources are organised to fully support the resolution of these issues and to ensure its financial sustainability. The Council has to deliver its statutory duties and will then have to right size any further discretionary services within available funding.

6.4 Given the challenges that the Council currently faces, careful consideration will need to be given to whether the Council has the capacity and capability to undertake all of the improvements that are required within a very demanding timescale.

6.5 The Council will need to both rebalance its immediate priorities to ensure that sufficient capacity is focussed on delivering improvements at pace, as well as working to ensure that it has the necessary skills available to deliver that improvement.

6.6 This will require the Council to seek to secure those specialist skills where they do not currently exist within the Council, through a combination of seeking external support and providing opportunities to staff to be seconded and develop new skills in those roles.

6.7 The Council has already benefitted in recent months from external support, advice, guidance and challenge from a number of people and bodies. The Council is hugely grateful for the support that it has received from:

- Grant Thornton
- The Local Government Association
- Ian O'Donnell, Independent Financial Consultant
- Chris Buss, Independent Financial Consultant
- Members of the Financial Review Panel that includes:
 - o Duncan Whitfield, Strategic Director of Finance and Governance, London Borough of Southwark
 - o Debbie Warren, Chief Executive, Royal London Borough of Greenwich
 - o Matthew Kershaw, Chief Executive, Croydon Clinical Commissioning Group (CCG)
 - o Mike Sexton, Joint Chief Financial Officer, Croydon CCG

- PricewaterhouseCoopers
- David Courcoux, London Borough of Tower Hamlets
- CIPFA

6.8 The Council has also benefitted from the tireless work and contributions from staff right across the organisation. Through this report, the Council formally places on record its thanks and gratitude to staff, working under very difficult conditions for an extended period of time, for all their efforts to help improve the Council's position.

6.9 In considering the actions required to address the recommendations in the Report, it is important to note that the actions will require a change in culture and governance behaviour, as well as changes to processes and systems.

6.10 It will take some time to fully implement all of the changes required in the recommendations proposed in the Action Plan. The Council has already started to make changes that will support the required improvements. These include:

- New political and officer leadership that is prioritising new ways of working, with a focus on making the Council more open to learning and external support;
- The strengthening of governance arrangements which will include monthly reporting of financial progress and performance;
- A clearer requirement to evidence risk and benefits when programmes of work and business cases are presented for approval and during implementation;
- A clearer understanding of risk that places greater focus on the Council's overall exposure to risks and monthly reporting;
- Much more open and regular communication with staff; and
- Beginning to build an awareness and understanding across the organisation with all our staff of the urgent need to change and improve our ways of working.

7. CROYDON RENEWAL PLAN OVERARCHING IMPROVEMENT BOARD

7.1 Members will be aware that there are a number of reviews that have taken or are taking place in relation to the Council's financial position, its governance and its overall efficiency and effectiveness as an organisation.

7.2 Those reviews include:

- i) The Croydon Renewal Plan for financial recovery
- ii) The Report in the Public Interest
- iii) The Rapid Review
- iv) Croydon Finance Review Phase One
- v) The Strategic Review of the Council's Group of companies and entities
- vi) The Centre for Governance and Scrutiny (CfGS) review of Scrutiny
- vii) The Governance Review

- 7.3 A number of these already have their own reporting and governance arrangements which will need to be further reviewed. Council is now recommended to establish an independently chaired overarching Croydon Renewal Plan Improvement Board.
- 7.4 The independently chaired Board will have oversight of the overarching improvement plan for Croydon. It will support and challenge the delivery of the Council's improvement journey as it seeks to recover its financial position, strengthen its governance and ensure that it is an effective organisation that delivers value for money services.
- 7.5 The Improvement Board will submit a public report on its work to Council every three months.
- 7.6 Further details on the Board, including its terms of reference, detailed Membership, costs and the initial overarching Croydon Renewal Plan will be presented to a future meeting of Cabinet and subsequently to Council.
- 7.7 Attached at Appendix C is a diagram explaining at high level the key actions for Croydon Council's Improvement Plan.

8. NON-STATUTORY RAPID REVIEW OF CROYDON COUNCIL

- 8.1 On 29 October 2020, the Ministry of Housing, Communities and Local Government confirmed that a non-statutory rapid review of the Council was to be conducted and would run until the end of November 2020.
- 8.2 The independent review is to give assurance to the Secretary of State, with particular reference to the Croydon Renewal Plan and to the Council's request for a capitalisation direction as per Council's decision on 28 September 2020.
- 8.3 The leadership of the Council has welcomed the review, recognising it as an important opportunity to share in detail with the Government the issues that Croydon currently faces and the work that has begun to ensure that Croydon operates in a more efficient and effective way, within a financially stable and balanced budget.
- 8.4 The findings of the Rapid Review will be presented to a future meeting of Council following its completion. Any recommendations for future action will be incorporated into the overarching improvement programme.

9. CONSULTATION

- 9.1 In addition to the publicity and communications detailed in paragraphs 4.3 - 4.8 above, a briefing was held for all Members of the Council on the Report in the Public Interest on Thursday 22 October 2020, the day prior to its publication. This briefing was immediately followed by question and answer sessions with Members within their political groups.
- 9.2 Both political groups on the Council were offered further briefings following the publication of the report and these have taken place on 30 October 2020 (administration group) and 4 November 2020 (opposition group).

10. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 10.1 The recommendations in this report will help to ensure that the Council operates to best practice standards with regard to its financial governance and overall financial effectiveness.
- 10.2 Having stronger corporate and financial governance will help improve the underlying financial viability of the Council and the sustainability of its finances in the long term.
- 10.3 There will be costs associated with the implementation of the recommendations detailed within the report. These costs are currently unknown and an update regarding associated costs will be presented to the January 2021 meeting of Cabinet for consideration and approval.
- 10.4 Capacity and capability within the Council to deliver the recommendations is a key risk when considered against the other reviews and likely resulting recommendations and the overall improvement needed for the Council.

The impact of both forthcoming budget reductions and the reintroduction of COVID-19 restrictions preventing staff from attending the office will need to be carefully managed to ensure that it does not impair the delivery of the recommendations.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk and Section 151 Officer

11. LEGAL CONSIDERATIONS

- 11.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that the Report in the Public Interest ("the Report") is issued under the provisions of the Local Audit and Accountability Act 2014 ("the Act"). The Council must comply with the requirements of the Act in responding to the Report. At the time of writing this report, all of the relevant requirements of the Act have been fully complied with.

- 11.2 Under the provisions of the Act, the Council must decide whether the Report requires the authority to take any action or whether the recommendations are accepted. It must decide what action to take in response to the Report and its recommendations. The recommendations and proposed actions by the Council are set out in the body of this report and accompanying Action Plan.
- 11.3 After considering the Report and its response to it, the Council must notify the external auditor of its decisions, and publish a notice containing a summary of those decisions which has been approved by the external auditor.
- 11.4 The powers set out in the Act are without prejudice to the duties and responsibilities contained in sections 114 – 116 of the Local Government Finance Act 1988 and section 5 of the Local Government and Housing Act 1989 as regards reports which may be issued by the Council's Chief Finance Officer or its Monitoring Officer or indeed powers set out in Part I of the Local Government Act 1999 regarding Secretary of State intervention in a local authority.
- 11.5 The recommendations in this report focus on improving the governance of the Council. This is in line with the Council's own Constitution and seek to promote the Council's statutory duty of best value and continuous improvement.

Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer.

12. HUMAN RESOURCES IMPACT

- 12.1 There are no human resource impacts arising directly from the recommendations in this report. However, there will be impacts associated with the delivery of the improvement plan. The improvement plan is part of a range of measures relating to improving the Council's financial position and it is inevitable that this will ultimately impact on the Council's workforce, when the Council's agreed Human Resources policies and procedures will be followed.
- 12.2 Human resources impacts will be appropriately reported to the relevant decision-making bodies as individual actions from the plan are implemented.

Approved by: Sue Moorman Director of Human Resources

13. EQUALITIES IMPACT

- 13.1 There are no equality impacts arising directly from the recommendations in this report. As such, an equality analysis has not been undertaken following the initial response to the external auditor's report. However, there will be impacts associated with the delivery of the improvement plan. The improvement plan is part of a range of measures relating to improving the Council's financial position and it is inevitable that this will ultimately impact on the Council's workforce and the communities it serves.

- 13.2 Consideration will be given as each of the individual actions included in the Action Plan are implemented as to whether they are relevant to equalities and will require an equalities impact assessment undertaken to ascertain the potential impact on vulnerable groups and groups that share protected characteristics.
- 13.3 Any improvements to governance that arise from the implementation of the recommendations in the action must pay due regard to ensuring that all residents in Croydon are able to understand the actions the Council takes in their name, the decisions it makes to spend resources on their behalf, and who is accountable for that action.
- 13.4 Close attention will need to be paid to ensure the Council is as transparent as possible and is as open and engaging with all its local communities through this process of improvement and afterwards in the new governance practices that are established.

Approved by: Yvonne Okiyo, Equalities Manager

11. DATA PROTECTION IMPLICATIONS

11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

The Head of Democratic Services and Scrutiny comments that the recommendations of this report do not involve the processing of personal data and as such, there are no data protection implications arising from this report.

Approved by Elaine Jackson, Interim Assistant Chief Executive.

CONTACT OFFICER: Stephen Rowan, Head of Democratic Services and Scrutiny

APPENDICES TO THIS REPORT

- Appendix A - Report in the Public Interest
- Appendix B - Action Plan
- Appendix C - High Level Improvement Diagram