

27 November 2024

To Audit Committee Chair
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Dear Martin,

Torbay Council: Conclusion of the audit for 2022/23 – letter to those charged with governance on the application of the local authority backstop

As you will be aware, on 5 September 2024 the government published draft the Accounts and Audit (Amendment) Regulations 2024. These Regulations, which were approved on 30 September 2024, set a publication date for financial statements up to and including 2022/23 of 13 December 2024. The new National Audit Office Code, which is expected to be approved by 14 November, also requires that auditors should issue their audit report in time for the relevant authority to publish its accounts by the specified date in those Regulations. Where audit work is not concluded, this will result in either a qualification or disclaimer of opinion.

As discussed with your Director of Finance/Section 151 Officer, and for reasons which I set out in more detail below, it will not be possible for us to complete our audits for 2022/23 by the statutory backstop date. We therefore propose to issue a disclaimer of our audit opinion. I attach a draft copy of this disclaimer for the attention of the Audit Committee.

We are required under Auditing Standards to report certain matters to the Audit Committee, including our responsibilities as auditor, the scope of the audit, independence, audit fees and any matters arising from the audit. I set out more details on the audit below. Information regarding our responsibilities, the scope of the audit and fees are included in the Appendix.

Outcome of our audit for 2022/23 – Disclaimer of the opinion on the financial statements

For reasons set out below, it will not be possible for us to undertake sufficient work to support an audit opinion by the statutory deadline of 13 December 2024. This means that the limitations of scope imposed by the backstop are pervasive and therefore we have been unable to form an opinion on the financial statements by the due date. We therefore plan to issue a disclaimer of the audit opinion. We have attached the draft wording of our Audit Report for your information.

The main reason for the application of the backstop is that the completion of the 2021/22 audit was delayed and only signed on 2 September 2024. We had agreed with the Council that the audit of the financial statements for the year ended 31 March 2023 would not commence until the previous audit was concluded. This meant there was no realistic prospect of the audit of Council's financial statements for 2022/23 being completed in advance of the December 2024 backstop. In addition, as noted in our Audit Report, management have alerted us to various misstatements in the draft Statement of Accounts, which are likely to be material individually and/or collectively. Management are unable to identify the full extent of these misstatements and quantify their impact prior to the backstop date. The effects of those errors, identified or unidentified, could also therefore be both material and pervasive.

Chartered Accountants

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Outcome of this year's audit - Value for Money work and other work under the National Audit Office Code of Audit Practice

We undertook our Value for Money work for the year ended 31 March 2023 and reported the outcome in a combined interim Annual Audit Report and presented to the Audit Committee on 26 July 2023.

We are also required to report by exception if we have applied any of our statutory powers or duties.

We have nothing to report in respect of the above.

Independence

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention and consider that an objective reasonable and informed third party would take the same view. We have complied with the Financial Reporting Council's Ethical Standard and confirm that we, as a firm, and each covered person, are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

We confirm that we have implemented policies and procedures to meet the requirements of the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

Management letter of representation

We have asked management to provide a letter of representation in respect of the financial statements for 2022/23. This will be tabled as a separate agenda item.

Looking ahead

The circumstances resulting in the application of the local authority backstop are clearly extremely unusual. The government has signalled its intent that where backstops have been applied, local authorities and their auditors work together to recover the position over subsequent years. We will follow relevant guidance including from the NAO and the FRC to work with you over the coming year, as we seek to rebuild audit assurance.

Yours sincerely

Paul Dossett

For Grant Thornton UK LLP

cc Director of Finance (Chief Finance Officer/s151 Officer)

Attachments: Draft Disclaimer of Opinion 2022/23

Appendix

Responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of Torbay Council. We draw your attention to both of these documents.

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the Council's financial statements that have been prepared by management with the oversight of those charged with governance (the Audit Committee); and we consider whether there are sufficient arrangements in place at the Council for securing economy, efficiency and effectiveness in your use of resources. Value for money relates to ensuring that resources are used efficiently in order to maximise the outcomes that can be achieved.

The audit of the financial statements does not relieve management or the Audit Committee of its responsibilities. It is the responsibility of the authority to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the authority is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the authority's business and is risk based.

Audit Plan

Due to delays in the completion of prior year audits, we were unable to issue an audit plan in respect of this audit year.

Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

Due to delays in the completion of prior year audits, we were unable to determine a materiality level for the audit of the year ended 31 March 2023.

Key financial reporting and audit issues identified during the audit

As we have not undertaken any detailed work in respect of this year's financial statements audit, there are no issues we need to draw to your attention, except the possibility of material misstatements identified by management subsequent to the publication of the draft statements as identified on page 1.

Going Concern

As auditors, we are required to obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern (ISA (UK) 570).

In performing our work on going concern, we have had reference to Statement of Recommended Practice – Practice Note 10: Audit of financial statements of public sector bodies in the United

Kingdom (Revised 2020). The Financial Reporting Council recognises that for particular sectors, it may be necessary to clarify how auditing standards are applied to an entity in a manner that is relevant and provides useful information to the users of financial statements in that sector.

Practice Note 10 sets out the following key principles for the consideration of going concern for public sector entities:

- the use of the going concern basis of accounting is not a matter of significant focus of the auditor's time and resources because the applicable financial reporting frameworks envisage that the going concern basis for accounting will apply where the entity's services will continue to be delivered by the public sector. In such cases, a material uncertainty related to going concern is unlikely to exist, and so a straightforward and standardised approach for the consideration of going concern will often be appropriate for public sector entities
- for many public sector entities, the financial sustainability of the reporting entity and the services it provides is more likely to be of significant public interest than the application of the going concern basis of accounting. Our consideration of the Council's financial sustainability is addressed by our value for money work, which is covered elsewhere in this report.

Practice Note 10 states that if the financial reporting framework provides for the adoption of the going concern basis of accounting on the basis of the anticipated continuation of the provision of a service in the future, the auditor applies the continued provision of service approach set out in Practice Note 10. The financial reporting framework adopted by a local authority meets this criteria, and so where undertaking work on your audit, we would normally expect to apply the continued provision of service approach. In doing so, we would consider and evaluate:

- the nature of the authority and the environment in which it operates
- the authority's financial reporting framework
- the authority's system of internal control for identifying events or conditions relevant to going concern
- management's going concern assessment.

As we have been unable to form an opinion on the financial statements, we are unable to draw a conclusion in this area.

Design effectiveness of internal controls

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to management.

We have nothing to report in respect of the above.

Other matters which we are required to report on to those charged with governance

We are required to confirm the following:

- We have not been made aware of any incidents of fraud in the period and no issues have been identified during the course of our audit procedures.
- We are not aware of any related party transactions which have not been disclosed.
- We are not aware of any significant incidences of non-compliance with applicable laws and regulations.

Audit fees and non-audit fees

PSAA set a scale fee for this the year ended 31 March 2023 of £87,331. Given the unusual circumstances of the backstop, we are awaiting a determination from PSAA as to the appropriate fee to be charged for this audit year.

We have also undertaken the following non-audit work in respect of the year.

| Audit Service | Proposed Fee | Final Fee |
|--|---------------------|------------------|
| Audit of Teachers' Pension Scheme return year ending 31 March 2021 | 5,000 | 5,000 |
| Audit of Teachers' Pension Scheme return year ending 31 March 2022 | 7,500 | 7,500 |
| Audit of Teachers' Pension Scheme return year ending 31 March 2023 | 10,000 | 10,000 |
| Audit of housing benefits grant return year ending 31 March 2021 | 20,250 | 20,250 |
| Audit of housing benefits grant return year ending 31 March 2022 | 20,250 | 21,060 |
| Audit of housing benefits grant return year ending 31 March 2023 | 26,400 | 26,400 |

The fees do not reconcile to the financial statements, so we have provided a reconciliation:

| | 31 March 2023 |
|---|----------------------|
| Audit fees per financial statements | £126,000 |
| Consisting of: | |
| Accrual for 2020-21 fee variations | £23,205 |
| Accrual for expected 2021-22 fee variations | £41,350 |
| Accrual for then-unbilled 2022-23 audit scale fee | £61,932 |
| Total audit fees | £126,487 |
| Certification of grants per financial statements | £105,000 |
| Accrual over or (under)estimated | £14,790 |
| Total grant fees per above | £90,210 |

The level of these recurring fees taken on their own is not considered a significant threat to independence in comparison to the total fee for the audit of £87,331 and in particular relative to Grant Thornton UK LLP's turnover overall. Further, there is no contingent element to it. These factors all mitigate any perceived self-interest threat to an acceptable level.