



EXTERNAL AUDITOR'S DRAFT ANNUAL REPORT 2020/21

1 PURPOSE OF REPORT

- 1.1 To draw the Audit & Governance Committee's attention to the draft 2020/21 Annual Audit Report for discussion.

2 LINKS TO COUNCIL'S PRIORITIES AND OBJECTIVES

- 2.1 This links to all of the Council's priorities and objectives.

3 RECOMMENDATION

- 3.1 It is proposed that the Committee **RESOLVES**

- (1) That the draft Annual Audit Report for the year ended 31 March 2021 be noted.

4 INTRODUCTION

- 4.1 The Council's external auditors, EY, are required to issue an Annual Audit Report to the Council following completion of their audit procedures for the year ended 31 March 2021.
- 4.2 The purpose of the Annual Audit Report is to communicate to the Council and its external stakeholders the key issues arising from external audit work that should be brought to the attention of the Council.
- 4.3 The draft 2020/21 Annual Audit Report is attached as Appendix 1. Review of this draft is the first step in finalising the financial statements for 2020/21 which were presented to the Committee on 28 April 2022 and have been on hold ever since. Reasons for that delay are set out in detail in the draft report and have previously been reported to this Committee, the Staff Appointments and Review Panel and Full Council. A full chronology is also set out in an Addendum to the updated Annual Governance Statement (see page 126 in the appendix to Item 5), which is part of the financial statements for 2020/21 to be considered by the Committee at Agenda Item 5 for this meeting.

5 RISK IMPLICATIONS

- 5.1 The role of external audit in finalising the Council's accounts is to provide unbiased, objective assessments of whether public resources are managed responsibly and effectively to achieve intended results. External auditors help public sector organisations achieve accountability and integrity, improve operations, and instil confidence among members and residents. Provision of the Auditor's Annual Report is a statutory requirement and a fundamental part of finalising the Council's annual accounts.

6 CRIME AND DISORDER IMPLICATIONS

- 6.1 None

7 ENVIRONMENTAL IMPLICATIONS

- 7.1 None

8 FINANCIAL IMPLICATIONS

- 8.1 An original scale fee of £43,324 was agreed by Public Sector Audit Appointments Limited (PSAA) for the 2020/21 audit. Subsequently, EY has proposed a further scale fee variation of £91,810 for reasons detailed in Appendix 1. The final scale fee, including variations, for the 2020/21 audit is therefore £133,257. This information has been provided to the S151 Officer but remains subject to determination by PSAA.

9 LEGAL IMPLICATIONS

- 9.1 Regulation 20 of the Accounts and Audit Regulations 2015 requires that the Committee must meet to consider the Annual Audit Report as soon as reasonably practicable. For reasons which are set out in the draft Annual Audit Report there has been a considerable lapse in time.
- 9.2 Once EY produces a final Annual Audit Report then the Council must publish (which must include publication on the Council's website) the audit letter; and make copies available for purchase by any person on payment of such sum as the Council may reasonably require.

10 HUMAN RESOURCES IMPLICATIONS

- 10.1 None

11 EQUALITY AND DIVERSITY IMPLICATIONS

- 11.1 An Equality Impact Assessment has not been completed as no decision is being made.

Lance Wosko

Assistant Director Finance & Procurement and S151 Officer

Background Papers:-

None.

For further information please contact Lance Wosko on:-

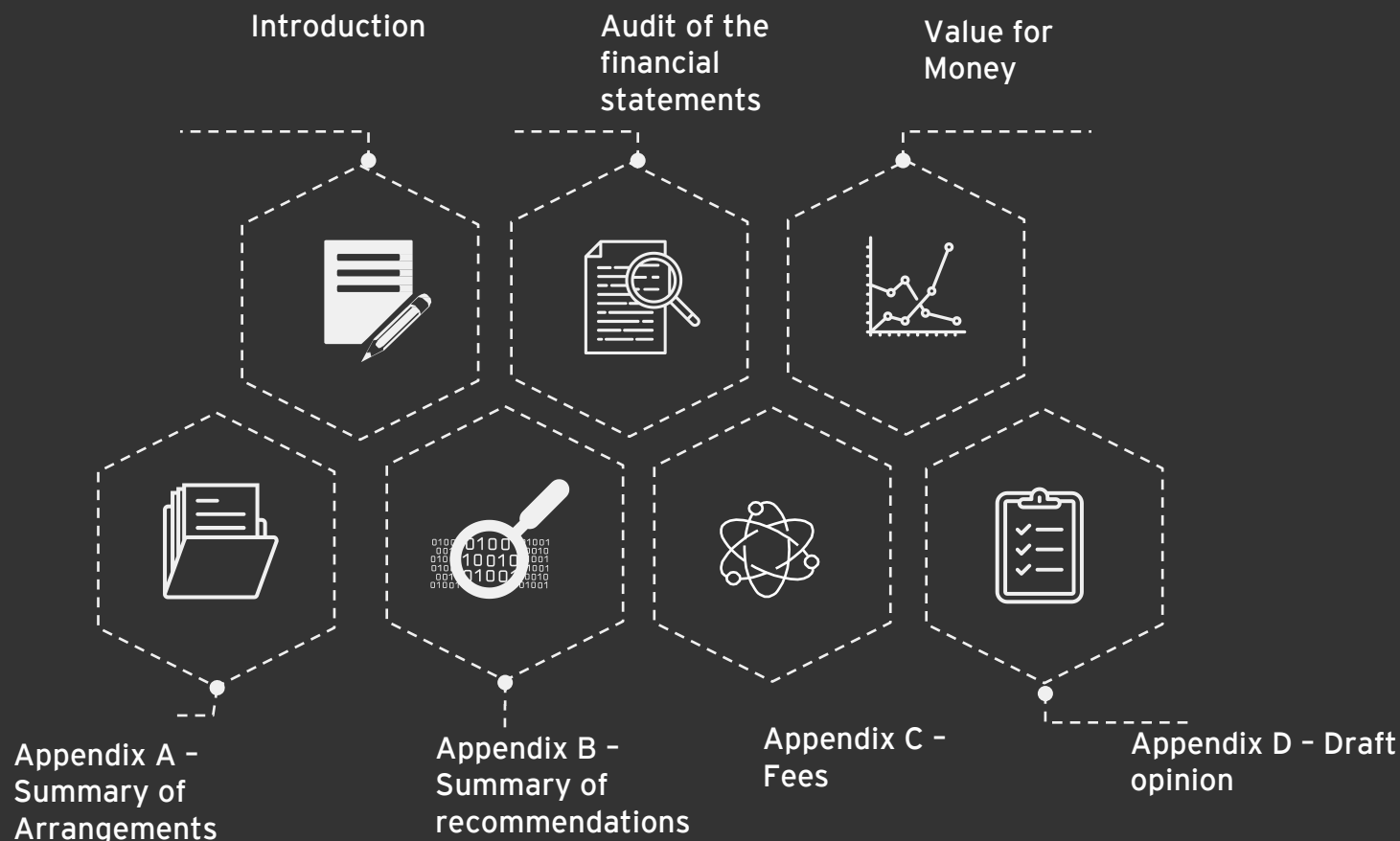
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**Castle Point Borough
Council
Auditor's Annual
Report - Draft**

Year ended 31 March 2021

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Public Sector Audit Appointments Ltd (PSAA) issued the "Statement of responsibilities of auditors and audited bodies". It is available from the PSAA website (<https://www.psa.co.uk/audit-quality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The "Terms of Appointment and further guidance (updated July 2021)" issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the Audit Committee and management of Castle Point Borough Council in accordance with the statement of responsibilities. Our work has been undertaken so that we might state to Audit Committee and management of Castle Point Borough Council those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than Audit Committee and management of Castle Point Borough Council for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



Introduction

Purpose

The purpose of this Auditor's Annual Report is to draw to the attention of the Council and the wider public, key issues and recommendations arising from the audit. Core elements of the report are a progress update on the risks identified in the risk assessment stage of the audit of the financial statements, the current position and proposed disclaimer opinion on the financial statements and our commentary on value for money (VFM) arrangements.

There has been a significant delay in the completion of the audit since our Provisional Audit Results Report was presented to the Committee in April 2022. In our April 2022 Report, we indicated that we had been made aware of an issue which may influence our work on the Council's financial statements and VFM arrangements and that the issue may impact on the risk profile of the audit.

Once we became aware of this issue, we conducted further enquiries, relying on work also undertaken by the Council, to seek to establish the related facts and circumstances. This has established that the issue identified resulted in significant weaknesses in governance and potentially unlawful transactions between 2012/13 to 2021/22 which also raised concerns regarding the integrity of senior management during this period. This report outlines our consideration of those transactions and the circumstances surrounding them and their impact on our statutory responsibilities, as outlined below.

Responsibilities of the appointed auditor

We had initially undertaken, and substantially completed, our 2020/21 audit work in accordance with the Audit Plan that we issued on 9 April 2021. We have complied with the National Audit Office's (NAO) 2020 Code of Audit Practice, other guidance issued by the NAO and International Standards on Auditing (UK).

As auditors we are responsible for:

Expressing an opinion on:

- The 2020/21 financial statements;
- Conclusions relating to going concern; and
- The consistency of other information published with the financial statements, including the narrative statement.

Reporting by exception:

- If the Governance Statement does not comply with relevant guidance or is not consistent with our understanding of the Council;
- If we identify a significant weakness in the Council's arrangements in place to secure economy, efficiency and effectiveness in its use of resources; and
- Any significant matters that are in the public interest.

Responsibilities of the Council

The Council is responsible for preparing and publishing its financial statements, narrative statement and annual governance statement. It is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.



Introduction (continued)

2020/21 Conclusions	
Financial statements	Disclaimer of opinion - In light of the issues set out in pages 11 to 15, we have determined we are unable to conclude on the completeness, accuracy and reliability of information and representations received from senior management who were in post at the time of preparation of the financial statements. We have therefore concluded we do not have the evidence we require, to issue an audit report on the financial statements for the Council for the year ended 31 March 2021.
Going concern	As we have identified an issue that is so pervasive that we are unable to conclude on the financial statements as a whole, it is not appropriate for us to conclude on whether the use of the going concern basis of accounting is appropriate.
Consistency of the other information published with the financial statement	We are unable to give an opinion on the consistency of financial information in the narrative statement and published with the statement of accounts as we are issuing a disclaimer of opinion.
Value for money (VFM)	We have identified a serious and pervasive weakness in governance arrangements in relation to the effective operation of internal controls and oversight of financial transactions; and procedures regarding recruitment, promotion and pay and conditions approval leading to a disclaimed opinion on the financial statements. We have included our VFM commentary in Section 03.
Consistency of the Annual Governance Statement	We are required to report if, in our opinion, the Annual Governance Statement is misleading or inconsistent with other information forthcoming from the audit or our knowledge of the Council. Notwithstanding our disclaimer of opinion on the financial statements due to the pervasive limitation described above, we have nothing to report.
Public interest report and other auditor powers	We have given careful consideration to whether we needed to exercise our auditor powers in relation to the significant issues outlined in this report. We are not currently minded to exercise our powers on the basis that the Council has now taken action to address the issues and underlying weaknesses and that the details have now been made public by the Council. We will however keep this under review. We have also made a number of recommendations in our VFM commentary in Section 03.
Whole of government accounts	The NAO group auditor has issued the assurance statement for 2020/21 and has confirmed that no further assurances are required from component auditors. Hence, no work in this area is required.
Certificate	We will issue our certificate on the conclusion of the audit.



Audit of the financial statements

Key findings

The Narrative Statement and Accounts is an important tool for the Council to show how it has used public money and how it can demonstrate its financial management and financial health.

During the completion of audit of the Council for the year ended 31 March 2021 in April 2022, we became aware of an issue which we assessed could impact on the completion of our audit of the Council's financial statements and our assessment of the Council's value for money arrangements. Once we became aware of these transactions, we conducted further enquiries to seek to establish the facts and circumstances leading to the transactions and their non-disclosure to us at the time of preparation of the accounts.

Further work undertaken by Internal Audit, the Council and ourselves identified that potentially unlawful transactions had occurred between 2012/13 to 2021/22 totalling £1,153,328. Of this, £200,610 relates to the 2020/21 year.

The Council has produced an Annual Governance Statement Addendum for 2020/21 which sets out the detailed timelines and weaknesses in arrangements leading to those payments.

We have considered the impact of these issues on both our opinion on the financial statements and our value for money assessment. Our conclusions in relation to our value for money assessment are set out in Section 03 of this report.

In relation to our opinion on the financial statements, we noted that management at the time had failed to disclose to us the impact of these transactions on the financial statements. Our enquiries led us to conclude that this was in part due to management's failure to implement adequate controls and general lack of guidance in relation to these transactions. However, there was also evidence of deliberate circumvention of controls. This calls into question the integrity of senior management of the Council during 2020/21.

In light of these issues, in particular the concerns over management integrity, and their pervasiveness to the financial statements, we have determined we are unable to conclude on the completeness, accuracy and reliability of information and representations received from senior management who were in post at the time of preparation of the financial statements. We have therefore concluded we do not have the evidence we require to issue an audit report on the financial statements for the Council for the year ended 31 March 2021. A draft disclaimed audit report is included in Appendix C. This remains subject to internal consultation and therefore may be subject to some change.

Notwithstanding these pervasive issues, our audit work on the 2020/21 financial statements had been substantially completed as April 2022, subject to Manager and Partner review. This had identified a number of risks in relation to our audit of the financial statements and our response to these risks and the progress on this work was reported to the 28 April 2022 Audit Committee meeting. We outline below the summary of work done at that point against the significant risks and other areas of audit focus we included in our Audit Planning Report. However, this work was not progressed after April 2022, due to the pervasive issues identified as set out in this report and the resulting disclaimer of opinion. Our previous provisional findings are however set out in this report for completeness.



Audit of the financial statements

Risk	Conclusion
<p>Misstatements due to fraud or error (Fraud risk)</p>	<p>As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement.</p> <p>As noted above, we identified transactions that are potentially unlawful, and potentially due to fraud. See further details in pages 10 to 12.</p>
<p>Incorrect capitalisation of revenue expenditure (Fraud risk)</p>	<p>Linking to our risk of misstatements due to fraud and error above, we have considered the capitalisation of revenue expenditure on property, plant and equipment as a specific area of risk given the extent of the Council's capital programme.</p> <p>We had substantially completed our work in this area, subject to completion of review processes, and had not identified any revenue items that had been inappropriately capitalised. Due to the issues noted in 'key findings' section, this work has not been subject to review.</p>
<p>Valuation of investment properties and other land and buildings valued at fair value (Significant risk)</p>	<p>The impact of Covid-19 was greatest for properties measured at fair value and the impact was likely to continue to affect values at 31 March 2021. Valuations of Investment properties were particularly impacted where rental income fell as a result of tenants default on their rents or sought to negotiate rent reductions due to poor trading conditions.</p> <p>We had substantially completed our planned procedures in this area but had not concluded our work. Due to the issues noted in 'key findings' section, this work has not been progressed further.</p>
<p>Valuation of land & buildings (Inherent risk)</p>	<p>Land and buildings represent a significant balance in the Council's accounts. Management is required to make material judgements and apply estimation techniques to calculate the year-end balances recorded in the balance sheet. There is therefore a risk fixed assets may be under/overstated or the associated accounting entries incorrectly posted.</p> <p>We had substantially completed our planned procedures in this area but had not concluded our work. Due to the issues noted in 'key findings' section, this work has not been progressed further.</p>



Audit of the financial statements

Risk	Conclusion
<p>Pension liability valuation and disclosures</p> <p>(Inherent risk)</p>	<p>The Local Authority Accounting Code of Practice and IAS19 require the Council to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme administered by Essex County Council. The Council's pension fund deficit is a material estimated balance and the Code requires that this liability be disclosed on the Council's balance sheet.</p> <p>The information disclosed is based on the IAS 19 report issued to the Council by the actuary to the County Council. Accounting for this scheme involves significant estimation and judgement and therefore management engages an actuary to undertake the calculations on their behalf.</p> <p>In addition to the above, in 2020/21 there was an impact of Covid-19 on the valuation of complex (Level 3) investments held by Essex Pension Fund, for example private equity investments where valuations as at 31 March 2021 were estimated. This was likely to impact on the IAS19 reports provided by the actuary and the assurances over asset values that are provided by the pension fund auditor, and consequently the assurance we are able to obtain over the net pension liability in the Council's accounts.</p> <p>We had substantially completed our planned procedures in this area but had not concluded our work. Due to the issues noted in 'key findings' section, this has not been progressed further.</p>
<p>Provision valuations</p> <p>(Inherent risk)</p>	<p>NNDR appeals provision:</p> <p>Each year the Council is required to estimate the liability arising from refunding ratepayers who have successfully appealed against the rateable value of their properties on the rating list. New information is provided by the Valuation Office each year on successful and unsuccessful appeals to allow the Council to make a judgement on the provision required. The calculation of the provision is performed in house by the Council – it is open to judgement and relies on a number of assumptions.</p> <p>Bad debt provision:</p> <p>Each year the Council makes an allowance for debts that may not be recovered. In the environment in 2020/21, we expected that additional provisions might be needed to account for the economic difficulties some residents were facing as a result of Covid-19. The provision is open to judgement & estimation which needs to reflect that economic uncertainty.</p> <p>We had substantially completed the above procedures and, subject to Manager and Partner review, had not identified any issues. Due to the issues noted in 'key findings' section, this work was not concluded.</p>



Audit of the financial statements

Risk	Conclusion
<p>Going concern disclosures (Inherent risk)</p>	<p>Covid has created a number of financial pressures throughout Local Government. It created financial stress through a combination of increasing service demand leading to increased expenditure in specific services, and reductions in income sources. There was at the time no clear statement of financial support from MHCLG that covered all financial consequences of Covid-19. In addition, the auditing standard, International Auditing Standard 570 Going Concern, was been revised in response to enforcement cases and well-publicised corporate failures where the auditor's report failed to highlight concerns about the prospects of entities which collapsed shortly after. The revised standard became effective for audits of financial statements for periods commencing on or after 15 December 2019, which for the Council was the audit of the 2020/21 financial statements.</p> <p>CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 states that a Council's financial statements shall be prepared on a going concern basis; the accounts should be prepared on the assumption that the functions of the Council will continue in operational existence for the foreseeable future and can only be discontinued under statutory prescription. However, ISA 570, as applied by Practice Note 10: Audit of financial statements of public sector bodies in the United Kingdom, still requires auditors to undertake sufficient and appropriate audit procedures to consider whether there is a material uncertainty on going concern that requires reporting by management within the financial statements, and within the auditor's report. To do this, the auditor must review management's assessment of the going concern basis applying IAS1 Presentation of Financial Statements.</p> <p>We had agreed with management that this work would be completed close to sign off date. Due to the issues noted in 'key findings' section, this work will now not be undertaken.</p>
<p>Recognition of grant income associated with Covid (Inherent risk)</p>	<p>Central Government provided a number of new and different Covid related grants to local authorities during the year. There were also funds that were provided for the Council to distribute to other bodies.</p> <p>The Council needed to review each of these grants to establish how they should be accounted for. The Council needed to assess whether it was acting as a principal or agent, with the accounting to follow that decision. Where the decision was that the Council was a principal, it also assessed whether there were any initial conditions that might also affect the recognition of the grants as revenue during 2020/21.</p> <p>We had substantially completed above procedures in this area and subject to Manager and Partner review, had not identified any issues. Due to the issues noted in 'key findings' section, this was not concluded.</p>

Other reporting issues

Other reporting issues

Other matters

As required by ISA (UK&I) 260 and other ISAs specifying communication requirements, we must tell you significant findings from the audit and other matters if they are significant to your oversight of the Council's financial reporting process. They include the following:

- Significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures;
- Any significant difficulties encountered during the audit;
- Any significant matters arising from the audit that were discussed with management;
- Any other matters significant to overseeing the financial reporting process;
- Written representations we have requested;
- Expected modifications to the audit report;
- Findings and issues around the opening balance on initial audits (if applicable);
- Related parties;
- External confirmations;
- Going concern;
- Consideration of laws and regulations; and
- Group audits

The issues we've discussed in page 5 of this report which led to us issuing a disclaimer of opinion on the statement of accounts was partially due to points 1-4 above. We have no other matters to report as of the date of this report.



Value for Money

We identified risks of significant weaknesses in the Council's VFM arrangements for 2020/21.

Scope

We are required to report on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We have complied with the guidance issued to auditors in respect of their work on value for money arrangements (VFM) in the 2020 Code of Audit Practice (2020 Code) and Auditor Guidance Note 3 (AGN 03). We presented our VFM risk assessment to the 28 April 2022 Audit Committee meeting which was based on a combination of our cumulative audit knowledge and experience, our review of Council committee reports, meetings with the S151 Officer and Head of Internal Audit and evaluation of associated documentation through our regular engagement with Council management and the finance team.

Reporting

We completed our risk assessment procedures as of April 2022 and at that time did not identify any risk of significant weaknesses in the Council's VFM arrangements. The progress of our work was reported to the 28 April 2022 Audit Committee meeting. We indicated in our report that until we had completed our work, further issues may arise. We also noted that an issue had recently come to light as a result of an ongoing Internal Audit review which might impact on our conclusion.

We have now fully considered the impact of the issue. As a result, we identified significant risks which impact the Governance reporting criteria: How the Council ensures that it makes informed decisions and properly manages its risks.

We set out the procedures we performed and findings in our VFM commentary in this report. We will also report on this matter by exception in the audit report on the financial statements. We also include within the VFM commentary the associated recommendations we have made to the Council. The draft opinion and VFM commentary is subject to internal consultation which is in progress and therefore there may be subject to further changes.

Our commentary for 2021/22 is set out over pages 9 to 11. The commentary on these pages summarises our conclusions over the arrangements at the Council in relation to our reporting criteria (see below) throughout 2020/21. Appendix A includes the detailed arrangements and processes underpinning the reporting criteria as identified through our initial audit work, prior to the identification of the significant weaknesses noted below. We also note in Appendix A which of those criteria are impacted by the VFM weaknesses reported in our commentary.

Our VFM commentary highlights relevant issues for the Council and the wider public.

We have matters to report by exception in the audit report.

Risks of significant weaknesses in arrangements identified

We have identified a serious and pervasive weakness in governance arrangements in relation to the effective operation of internal controls and oversight of financial transactions; and procedures regarding recruitment, promotion and pay and conditions approval leading to a disclaimed opinion on the financial statements.

Reporting criteria

Governance

Actual significant weaknesses in arrangements identified?

Pervasive weaknesses identified across the Governance reporting criteria. Details in the subsequent pages.

 Value for Money (continued)**Summary of VFM issues****Background:**

In March 2022, the Head of Internal Audit shared with us details of issues identified in relation to Senior Management Pay and Conditions. The issues included areas such as recruitment, promotion and pay approval for senior officers. At that time, the Internal Audit work was ongoing. We raised a number of questions with management throughout the process and engaged our EY Forensics Investigation Services to support us in our assessment of the impact of the issues identified. The Internal Audit report was finalised in July 2022.

Following the finalisation of the Internal Audit report, we requested that management establish the full facts and circumstances of each element of the payments that have been made, including consideration of whether senior officers had knowledge of, or involvement in, the decisions taken to make the payments and to consider whether there were further matters or payments that have not currently been identified. We noted that we would expect such an investigation to consider various sources of evidence, including interviews with relevant Council individuals and review of electronic and hard copy records, including but not limited to emails and any instant messaging on the Council's IT systems.

Management engaged an external reviewer in December 2022 to complete further work in relation to the issue and our review of the proposed scope of work concluded that this should be sufficient to address the issues we had noted. However, when the reviewer's work was concluded in August 2023, we were not satisfied that the scope of the work actually undertaken was sufficient to provide the assurances we required. The reviewer had simply confirmed the conclusions in the Internal Audit report. This report therefore provided no additional assurance regarding the question of whether senior officers had knowledge of or involvement in the payments and whether there were further matters or payments that had not been identified.

Management also engaged a legal firm (Bevan Brittan) to obtain advice as to the lawfulness of the key payments included in the Internal Audit report and suggest potential courses of action.

The Council has produced an Annual Governance Statement Addendum which includes more details on these issues and the actions taken by the Council to address these. This also includes details of the wide-ranging Transformation programme put in place by the new Chief Executive which aims to address the issues identified by Internal Audit as well as wider cultural issues identified.

We recommend that the Council:

- continues to advance their Transformation Programme; and
- determines what action to take in relation to the potentially unlawful amounts paid.

The results of our review of the reports noted above and the weaknesses in Councils value for money arrangements are summarised in the following slides.



Value for Money (continued)

Summary of VFM issues

The Council's arrangements regarding recruitment, promotion and pay approval and management were inadequate, as evidenced by the following circumstances and resulting transactions:

1. A scheme was established but not formally approved for senior management who were members of the Executive Management Team called 'Annual Leave Exchange Scheme for Senior Managers (Flexible Retirement)' which was a means of obtaining the services of flexibly retired part-time staff over and above their contracted hours. Under the scheme, Senior Managers who had a flexible retirement contract of employment had their 'annual leave entitlement and reduction in contracted hours consolidated and converted into hours so that they could be taken in a more flexible manner throughout the year'. This allowed the Senior Managers to accumulate leave credits of more than three times their original leave entitlement. Those eligible to the scheme could then receive payment for any untaken annual leave or carry any untaken annual leave over into the next year without limit.

Senior managers received annual leave payments in line with the above scheme from 2016/17 to 2021/22 totalling £263,351, out of which, £52,072 relates to 2020/21. The Council also had to pay £542,925 in 2015/16 as financial strain to the pension fund when those senior managers opted to be part of the scheme. This was due to the fact that those senior managers were 'retiring' early, but with a full pension that they had not yet contributed enough to the pension scheme to warrant.

These arrangements directly contravene the Council's policy for Annual Leave and Bank Holiday Entitlement which states that staff can carry over a maximum of five days leave to the following year, and payment will not be made in lieu of outstanding leave.

2. The senior management scheme is not published on the Council's intranet and there is nothing to indicate that the scheme, which was a change in policy for senior managers, was agreed by Members. The lack of transparency of the scheme suggests it had been deliberately withheld from those who were not party to it and the lack of formal agreement or oversight raises questions over its legitimacy.

The application of the above scheme to the then Chief Executive was approved through a special Cabinet Meeting on 20th June 2012. This decision was unlawful in that authority to grant retirement did not lie with Cabinet but with Council or a (politically balanced) committee of the Council. The Council paid £60,085 to the pension fund as financial strain for the Chief Executive's retirement.

The former Chief Executive authorised his own annual leave payments which aggregated to £59,240 from 2012/13 to 2019/20.

When the former Chief Executive passed away in March 2021, he held a cumulative annual leave balance of 1,542 hours. A sum of £142,726 was paid to his estate in respect of this. The payment was authorised by the then S151 Officer.



Value for Money (continued)

Summary of VFM issues (continued)

The Council's arrangements regarding recruitment, promotion and pay approval and management were inadequate, as evidenced by the following circumstances and resulting transactions:

3. The Council's Pay Policy Statement makes no reference to the Council's position regarding making payments to an employee's estate upon their death whilst employed. The Statement does however require severance packages of £100,000 and above for staff leaving the Council to be approved by full Council. Although the annual leave payment to the former Chief Executive's estate of £142,726 was not a severance package, in the circumstances of a payment to an individual at this level we consider that it would be reasonable for the same expectation regarding required approvals to apply to ensure that payments are appropriate and duly authorised, particularly considering that the payment was made due to discontinuance of employment.

There is no evidence that in determining to make the payment, the then Section 151 officer gave any such consideration to what would be an appropriate governance and approval process. In addition, the then Section 151 officer held no authority to make a payment to the late Chief Executive's estate in respect of either performance pay or the annual leave exchange scheme.

There was also lack of evidence of any challenge posed by the then Section 151 Officer and the then Monitoring Officer on the legality and regularity of payments made relating to annual leave and performance payments before approval. In our view, this calls into question their objectivity and integrity to pursue the interests of the Council and resulted in the potentially unlawful payment to the estate of the former Chief Executive.

4. The former Chief Executive authorised performance payments to himself from 2012/13 to 2019/20 totalling £79,189. Following the former Chief Executive's death in April 2021, the then Section 151 Officer authorised performance payments to herself for 2020/21 amounting to £5,812.

The then Section 151 Officer also authorised performance payments to four Heads of Service and one Strategic Director totalling £30,641. The then Section 151 Officer had no line management responsibility for any of these individuals and the Internal Audit report shows that nothing has been identified in the course of their work to demonstrate any assessment of adequate performance, performance against set objectives, or to show a performance review took place for any of the individuals receiving payment.

Segregation of duties require that review processes be in place before making payments to individuals, and that the preparer of the calculation, reviewer and recipient of the amount be different individuals. Approval of payments by the individual who is receiving the payment questions the integrity of the individual approving the payment.

Considering that the individuals approving such payments were two of the most senior statutory officers responsible for ensuring the accuracy of the statement of accounts, this calls into question management integrity and the reliability of the financial statements they have prepared. We consider that the impact on the financial statements could be pervasive considering that the officers involved in the unlawful transactions remained in the Council's employ throughout 2020/21 and therefore had access to systems and financial records. The then Section 151 Officer retained her position until August 2023.



Value for Money (continued)

Summary of VFM issues (continued)

The Council's arrangements regarding recruitment, promotion and pay approval and management were inadequate, as evidenced by the following circumstances and resulting transactions:

5. Management failed to implement controls and policies in relation to recruitment and promotion and granting of flexible retirement packages. There is also no documentation available to show that the Council had policies and procedures in place to ensure that market supplements, retention pay and performance payments as scheme are used properly and reasonably.
6. Since the issues relating to Senior Manager Pay and Conditions were initially brought to our attention in late March 2022, Internal Audit have concluded their review of these arrangements. The scope of this work was to 'assess the adequacy of arrangements to ensure that senior management are effectively recruited, pay and conditions are properly governed, applied consistently and administered appropriately.' As at July 2023, although the Internal Audit work had been complete for some time, findings were still only being discussed internally by current management and the final Internal Audit report was not presented to Members of The Council until August 2023.

Although we understand that it is important that the Council follows due process in considering this issue, it was over 15 months after the issue was first highlighted by Internal Audit before the issue was formally reported to Members. We reported our concerns regarding this delay in a letter to the Audit Committee in July 2023 and highlighted the slow progress of the Council in terms of the impact on:

- The current Chief Executive's time and attention to resolve the issue;
- Potential delays to implementation of the Council's Transformation agenda, and
- Distraction from day to day operations of the Council.

Appendices



Appendix A – Summary of arrangements

Financial Sustainability

Reporting Sub-Criteria	Findings
How the body ensures that it identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds these into them	Detailed service planning is undertaken alongside the budget process. The Financial Services team consult with service areas throughout the budget process. Cost pressures and/or savings items are identified on an ongoing basis. Executive Management Team also involves itself in budget process and oversees it. Monthly meetings between Service Accountants and Service Managers in which forecasts are discussed. These discussions feed into monthly budget monitoring reports which are presented to Executive Management Team for review.
How the body plans to bridge its funding gaps and identifies achievable savings	The Council had a programme of savings items which it had been working to deliver throughout the preceding financial year (2020/21). These were delivered in full before being incorporated into the budget (the council does not set in-year budget savings targets). Items included generation of additional income, policy changes on contribution into earmarked reserves, changes to delivery of functions, spend to save initiatives and re-procurement. Idea generation is service led, using service manager expertise and experience. To supplement this, finance staff seek to learn from other authorities in terms of what they have been doing and what has worked for them. Savings are not built into the budget until there is a high degree of certainty they can be delivered, meaning that the likelihood of in year pressures being created and replacement savings being required is minimal.
How the body plans finances to support the sustainable delivery of services in accordance with strategic and statutory priorities	Refer above comments. Also, the Council set council tax at the highest permissible level and indicates this as ongoing in its financial forecast. The Council has also established earmarked reserves to assist in smoothing the impact of fluctuating spend thus controlling as far as possible these cost pressures. Any decisions taken by Cabinet or Council are required to detail the financial implications. Where these implications are longer term, the decision paper should set out how the Council expects to fund them.
How the body ensures that its financial plan is consistent with other plans such as workforce, capital, investment, and other operational planning which may include working with other local public bodies as part of a wider system	All plans are linked and refreshed as required. Service plans bring workforce, assets and operational plans together. Furthermore, Service managers have the opportunity during the budget setting process to feed in the impact of other plans.
How the body identifies and manages risks to financial resilience, e.g. unplanned changes in demand, including challenge of the assumptions underlying its plans	This is achieved via various means, mainly through understanding of the Council's core business, awareness of external potential impacts and communication across all services. Regular financial planning and budget updates are presented for review to Executive Management Team and Cabinet. Furthermore, earmarked reserves are maintained for some specific risks.

Appendix A – Summary of arrangements (continued)

Governance

Reporting Sub-Criteria	Findings
<p>How the body monitors and assesses risk and how the body gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud</p>	<p>The Council has an established Internal Audit department and work programme. Internal Audit prepare annual plans to conduct different internal audit programs to ensure compliance with established procedures.</p> <p>The Annual Governance Statement considers a range of key business processes, including financial monitoring and value for money, as well as arrangements in place to prevent and detect fraud (see later criteria for more on the AGS).</p> <p>This section is impacted by VFM issues 1, 2, 3, 4 and 5.</p>
<p>How the body approaches and carries out its annual budget setting process</p>	<p>Detailed service planning is undertaken alongside the budget process. The Financial Services team consult with service areas throughout the budget process. Cost pressures and/or savings items are identified on an ongoing basis. Executive Management Team also involves itself in budget process and oversees it. Monthly meetings between Service Accountants and Service Managers are held in which forecasts are discussed. These discussions feed into monthly budget monitoring reports which are presented to Executive Management Team for review.</p>
<p>How the body ensures effective processes and systems are in place to ensure budgetary control; to communicate relevant, accurate and timely management information (including non-financial information where appropriate); supports its statutory financial reporting requirements; and ensures corrective action is taken where needed</p>	<p>The Council presents a policy framework and budget setting report annually which talks around financial planning strategy and talks about financial reporting and monitoring. See also financial update reports to Cabinet available on the Council's website.</p>
<p>How the body ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/Audit Committee</p>	<p>This is achieved by ensuring compliance with standard report format, use of business case approach for service change proposals. Also, there is a regular budget monitoring throughout the year. Service accountants work with services to facilitate the process.</p> <p>This section is impacted by VFM issues 1, 2, 3, 4, 5 and 6.</p>
<p>How the body monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of officer or member behaviour (such as gifts and hospitality or declarations/conflicts of interests)</p>	<p>This is ensured by an ongoing process with reminders to members and staff as appropriate. e.g. the HR Manager issues an annual reminder to all staff regarding gifts and hospitality just before Christmas each year. Members are frequently asked to declare interests prior to all meetings. Such arrangements (and compliance with these arrangements) are reported in the Annual Governance Statement</p> <p>This section is impacted by VFM issue 2, 4 and 5.</p>

Appendix A – Summary of arrangements (continued)

Improving economy, efficiency and effectiveness

Reporting Sub-Criteria	Findings
How financial and performance information has been used to assess performance to identify areas for improvement	The Council has a performance database which is updated by services and used to track performance against a range of measures covering Business Processes, People, Customers and Finance. A Corporate Performance Scorecard is agreed annually by Cabinet and is reported to Cabinet each quarter. Also, see below regarding how financial aspects are benchmarked.
How the body evaluates the services it provides to assess performance and identify areas for improvement	<p>The Council has a set of KPIs, and current and prior year performance is presented in Narrative Report.</p> <p>The Corporate performance reporting framework is supported by local performance monitoring of key indicators such as housing performance updates, revenue & benefits performance reports, COVID-19 grants performance tables, fraud and compliance reporting. These KPIs are reviewed by the Review Committee throughout the year. Several detailed reviews of service performance were undertaken during 2020-21 in light of COVID-19 and the potential impact on performance.</p>
How the body ensures it delivers its role within significant partnerships, engages with stakeholders it has identified, monitors performance against expectations, and ensures action is taken where necessary to improve	<p>The Council is an active member of ASELA (Association of South Essex Local Authorities). It has also entered into a formal partnership with Growth and Recovery Prospectus as part of the Asset Delivery Programme. Regular board meetings are held to manage this programme, which is significant to the Council in terms of strategic importance.</p> <p>The Council is also an active member of Rochford and Castlepoint Health and Wellbeing Board Partnership and is consulting on a new strategy which sets out the three-year plan to improve the health and wellbeing of residents in Castle Point and Rochford . The strategy outlines the work that the Council and partnership will do and the key areas it will be focused on, as well as the principles and approach they plan to take. The Council is also working together at a grass-roots level to make the biggest difference in our communities.</p>
How the body ensures that commissioning and procuring services is done in accordance with relevant legislation, professional standards and internal policies, and how the body assesses whether it is realising the expected benefits	<p>The Council has clear procurement policies and procedures and provides training for all officers. Compliance is regularly reported at the Leadership Team meetings. The Council also produces an annual contract monitoring report which reviews high value contracts.</p> <p>As an example, in the procurement of an ICT contract the following procedures were adopted;</p> <ul style="list-style-type: none"> - Engaged services of Essex procurement hub supplemented by in-house procurement expertise. - Development of specification with procurement specialists and consultation with in-house Legal Services. Financials assessed by the s151 Officer. - Scoring criteria set in advance of process. - Internal Audit undertook an assessment of process to ensure compliance with best practice. - Regular Management meetings to update and remind all Managers of their responsibilities.

Appendix B - Summary of recommendations

Recommendations

The table below sets out all the recommendations arising from the financial statements and value for money audits in 2020/21. All recommendations have been agreed by management.

Value for Money:

We recommend that:

- the Council continues to advance their Transformation Programme; and
- determines what action to take in relation to the potentially unlawful amounts paid.



Appendix C - Fees

Fees

We carried out our audit of the Council's financial statements in line with PSAA Ltd's "Statement of Responsibilities of auditors and audited bodies" and "Terms of Appointment and further guidance (updated April 2018)". As outlined in this Report, we have had to undertake significant additional procedures to address audit risks as set out in pages 5 to 8. We have provided details of the associated additional fee with the S151 Officer. The additional fee remains subject to determination by PSAA Ltd.

Description	Fee 2020/21 £
Scale fee	43,324
Changes in work required to address professional and regulatory requirements and scope associated with risk (Note 1)	28,873
Additional fee for scope changes and specific in year risks (Note 2)	13,000
Additional fee for VFM issues noted (Note 3)	51,060
Additional fee for disclaimed opinion and change in Partner	10,000
Total	133,257

All fees exclude VAT

Note 1: As reported in our Provisional Audit Plan, we do not believe that the current scale fee reflects the changes in the audit market and increases in regulation since the most recent PSAA tender exercise. As a result of these factors, we proposed an increase in the scale fee of £28,873.

Note 2: For 2020 /21, the scale fee represents the base fee, not including any additional audit work to address specific risks. Our 2020/21 audit was impacted by a range of factors, as detailed in our Provisional Audit Plan, many of which related to Covid-19, which resulted in additional work. In addition, PSAA published information on 2020/21 audit fees in August 2021. This provided guidance on the range of minimum additional fees in certain areas of the audit, such as the new VFM arrangements requirements and additional work as a result of ISA540 (the revised auditing standard on accounting estimates). The minimum fee variation for our work on additional reporting on VFM arrangements is £6,000 and £2,500 for our additional work on estimates.

Note 3: As noted in pages 9 to 13, we noted a significant weakness in VFM arrangements that impact all of the VFM reporting criteria. This amount includes the time we incurred in performing the work including time charged by EY Forensics Investigation Services and our Professional Practice Department, as well as the amount charged by the external legal firm we engaged to review the legal advice obtained by management.

Note 4: As the opinion will be disclaimed additional costs will be incurred in relation to the drafting of this as well as internal review and consultation requirements. In addition, due to the increased risk of the audit due to the issues noted in the report the signing partner is required to be an equity partner resulting in increased cost.

The additional fees referred to in notes 3 and 4 are currently estimates. We will confirm our final proposed additional fees and share them with management once the audit is complete. The final fee will be subject to determination by PSAA.

Appendix C - Fees Relationships, services and related threats and safeguards

The FRC Ethical Standard requires that we provide details of all relationships between Ernst & Young (EY) and the Council, and its members and senior management and its affiliates, including all services provided by us and our network to the Council, its members and senior management and its affiliates, and other services provided to other known connected parties that we consider may reasonably be thought to bear on the our integrity or objectivity, including those that could compromise independence and the related safeguards that are in place and why they address the threats.

There are no relationships from 1 April 2020 to the date of this report, which we consider may reasonably be thought to bear on our independence and objectivity.

Services provided by Ernst & Young

The previous page includes a summary of the fees that you have paid to us in the year ended 31 March 2021 in line with the disclosures set out in FRC Ethical Standard and in statute. Full details of the services that we have provided are shown below.

As at the date of this report, there are no future services which have been contracted and no written proposal to provide non-audit services has been submitted.

We confirm that we have not undertaken non-audit work other than the certification of the Council's housing benefit subsidy claim.



Appendix D - Draft Audit Report

Draft audit report

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF CASTLE POINT BOROUGH COUNCIL

Disclaimer of opinion

We were engaged to audit the financial statements of Castle Point Borough Council (the Council) for the year ended 31 March 2021 under the Local Audit and Accountability Act 2014. The financial statements comprise the:

- Comprehensive Income and Expenditure Statement,
- Movement in Reserves Statement,
- Balance Sheet,
- Cash Flow Statement,
- the related notes 1 to 24,
- Housing Revenue Account Income and Expenditure Statement, the Movement on the Housing Revenue Account Statement, and the related notes 1 to 4, and
- Collection Fund Income and Expenditure Statement and the related notes 1 to 2.

The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022).

We do not express an opinion on the accompanying financial statements of the Council. Because of the significance of the matters described in the basis for disclaimer of opinion section of our report, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for disclaimer of opinion

During the completion of our audit of the Council for the year ended 31 March 2021, we became aware of potentially unlawful transactions that occurred between 2012/13 and 2021/22 totalling £1,153,328. Out of this, £200,610 relates to the financial year 2020/21. As set out in the Council's Addendum to the Annual Governance Statement for 2020/21 on pages 119 to 125 and our value for money assessment below, senior management at the time failed to disclose to us the impact of those transactions on the financial statements. Once we became aware of those transactions, we conducted further enquiries to establish the facts and circumstances leading to the transactions and their non-disclosure to us. Those enquiries led us to conclude that this was in part due to management's failure to implement adequate controls and general lack of guidance in relation to these transactions. However, there was also evidence of deliberate circumvention of controls, which calls into question the integrity of senior management of the Council during 2020/21.

In light of these issues, we have determined we are unable to conclude on the completeness, accuracy and reliability of information and representations received from senior management who were in post at the time of preparation of the financial statements. We have therefore concluded we do not have the evidence we require to issue an audit report on the financial statements for the Council for the year ended 31 March 2021.

Matters on which we report by exception

We are required to report if, in our opinion, the Annual Governance Statement is misleading or inconsistent with other information forthcoming from the audit or our knowledge of the Council. Notwithstanding our disclaimer of opinion on the financial statements due to the pervasive limitation described above, we have nothing to report.

We report to you if:

- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014;
- we make written recommendations to the audited body under Section 24 of the Local Audit and Accountability Act 2014;
- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014;
- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014; and
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014.

We have nothing to report in these respects.

We report to you, if we are not satisfied that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2021. On the basis of our work, having regard to the Code of Audit Practice 2020 and the guidance issued by the Comptroller and Auditor General in April 2021, we have identified a significant weakness in the Council's arrangements for the year ended 31 March 2021.

We have identified a serious and pervasive weakness in governance arrangements in relation to the effective operation of internal controls and oversight of financial transactions; and procedures regarding recruitment, promotion and pay and conditions approval leading to a disclaimed opinion on the financial statements.

In forming our assessment, we have considered and reviewed:

- The Internal Audit Report on Senior Management Pay and Conditions issued in June 2022;
- The independent external consultant report on the Internal Audit Report issued in October 2023;
- The legal advice obtained by the Council in September 2023 and January 2024 regarding the lawfulness of the schemes and related payments.

Since the issue was initially brought to our attention in late March 2022, the new Chief Executive has implemented a wide-ranging Transformation programme. The details of the issue and further actions taken by management are detailed in the Council's Annual Governance Statement for 2020/21.

We recommend that the Council continues to advance their Transformation Programme and determines what action to take in relation to the potentially unlawful amounts paid.

This issue is evidence of weaknesses in proper arrangements for:

- how the body monitors and assesses risk and how the body gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud;
- how the body ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency
- how the body monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of officer or member behaviour; and

Responsibility of the Strategic Director (Resources)

As explained more fully in the Statement of the Strategic Director (Resources)' Responsibilities set out on page 17, the Strategic Director (Resources) is responsible for the preparation of the Statement of Accounts, which includes the Council financial statements, in



Appendix D - Draft Audit Report

Draft audit report (continued)

accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2020/21 as amended by the Update to the Code and Specifications for Future Codes for Infrastructure Assets (November 2022), and for being satisfied that they give a true and fair view and for such internal control as the Strategic Director (Resources) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Strategic Director (Resources) is responsible for assessing the Council's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Council either intends to cease operations, or has no realistic alternative but to do so.

The Authority is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

Auditor's responsibilities for the audit of the financial statements

Our responsibility is to conduct an audit of the Council's financial statements in accordance with International Standards on Auditing (UK) and to issue an auditor's report.

However, because of the matters described in the basis for disclaimer of opinion section of our report, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

We are independent of the Council in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard and the Comptroller and Auditor General's AGN01, and we have fulfilled our ethical responsibilities in accordance with these requirements.

Explanation as to what extent the audit was considered capable of detecting irregularities, including fraud

Irregularities, including fraud, are instances of non-compliance with laws and regulations. We design procedures in line with our responsibilities, outlined above, to detect irregularities, including fraud. The risk of not detecting a material misstatement due to fraud is higher than the risk of not detecting one resulting from error, as fraud may involve deliberate concealment by, for example, forgery or intentional misrepresentations, or through collusion. The extent to which our procedures are capable of detecting irregularities, including fraud subject to the pervasive limitation in the scope of our audit set out in the basis for disclaimer of opinion paragraph above, is detailed below. However, the primary responsibility for the prevention and detection of fraud rests with both those charged with governance of the entity and management.

We obtained an understanding of the legal and regulatory frameworks that are applicable to the Council and determined that the most significant are:

- Local Government Act 1972,
- Local Government and Housing Act 1989 (England and Wales)
- Local Government Finance Act 1988 (as amended by the Local Government Finance Act 1992)
- Local Government Act 2003,
- The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 as amended in 2018, 2020 and 2021,
- The Local Government Finance Act 2012
- The Local Audit and Accountability Act 2014, and
- The Accounts and Audit Regulations 2015.

In addition, the Council has to comply with laws and regulations in the areas of anti-bribery and corruption, data protection, employment legislation, tax legislation, general power of competence, procurement and health & safety.

Scope of the review of arrangements for securing economy, efficiency and effectiveness in the use of resources

We have undertaken our review in accordance with the Code of Audit Practice 2020, having regard to the guidance on the specified reporting criteria issued by the Comptroller and Auditor General in April 2021, as to whether the Castle Point Borough Council had proper arrangements for financial sustainability, governance and improving economy, efficiency and effectiveness. The Comptroller and Auditor General determined these criteria as those necessary for us to consider under the Code of Audit Practice in satisfying ourselves whether Castle Point Borough Council put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2021.

We planned our work in accordance with the Code of Audit Practice. Based on our risk assessment, we undertook such work as we considered necessary to form a view on whether, in all significant respects, the Castle Point Borough Council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

We are not required to consider, nor have we considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Certificate

We certify that we have completed the audit of the accounts of Castle Point Borough Council in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice issued by the National Audit Office.

Use of our report

This report is made solely to the members of Castle Point Borough Council, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 and for no other purpose, as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Council and the Council's members as a body, for our audit work, for this report, or for the opinions we have formed.

Janet Dawson (Key Audit Partner)
Ernst & Young LLP (Local Auditor)
 London
 Date

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