

CABINET

Monday, 22 January 2024

BEST VALUE NOTICE UPDATE

Report of the Chief Executive

Recommendations

It is recommended that Cabinet:

- (1) notes the contents of this report, including an acknowledgement of the improvements made to date; and**
- (2) agrees the broad proposed approach set out below.**

Summary

This report formally advises Cabinet of a Best Value Notice received by the Council on 19 December 2023; provides background on the Government's Best Value framework; updates Cabinet on work already done prior to receipt of the notice; and sets out the overall proposed approach to the Council's response to the Best Value Notice and other recent external reviews in the form of a single consolidated action plan.

Statutory Powers

Chapter 1 of the Localism Act 2011

Part 1 (Best Value) Local Government Act 1999

Strategic Implications

1. The proposed approach to the Council's response to the Best Value Notice and other recent external reviews in the form of a single consolidated action plan will help to support all of the themes within the Corporate Plan 2023-26. In particular, as several of the proposed actions and improvements will seek to develop internal and procedural matters, this includes the theme of 'Improving our Organisation'.

Background

2. The Council received a [Best Value Notice](#) (BVN) on 19 December 2023 (attached as Appendix 1). This was the culmination of a process that began in May 2022, when the then Minister of State for Equalities and Levelling Up

Communities notified the Leader of the Council that she intended to use new powers to investigate the Council's capital borrowing position. The review was commissioned from the Chartered Institute of Public Finance and Accountancy (CIPFA) and took place in early 2023. A report was completed in March 2023, but – despite the Council requesting early publication – not published until the BVN was issued in December ([CIPFA report](#) attached as Appendix 2).

3. The Best Value Duty, originally implemented by the coalition Government and revised in 2015, relates to the statutory requirement for local authorities and other public bodies (defined as best value authorities in Part 1 of the Local Government Act 1999) to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.
4. Following recent consultation, a statutory guide for best value authorities¹ was issued in July 2023 to provide greater clarity on how to fulfil the Best Value Duty by describing what constitutes best value, the standards expected by the department and the models of intervention at the Secretary of State for Levelling Up, Housing and Communities' disposal in the event of failure to uphold these standards (section 29 of the guide). The latter include, for example, Best Value Inspections or a non-statutory Improvement Board, escalating to more serious interventions such as Ministerial Directions or appointment of Commissioners. The graphic from the consultation in Appendix 3 is helpful in understanding the levels of intervention.
5. The BVN the Council received is the lowest level of Government intervention and may fairly be described as ‘light-touch’ compared to other BVNs that have been issued. Contrary to reports in the local media, it is not an “order” to stop borrowing, nor is it an intervention in the Council's day-to-day business or a Government-led improvement programme.
6. The BVN is, to quote the notice itself, “a formal notification that the Department has concerns regarding an authority and is a request that the authority engages with the Department to provide assurance of improvement.” Subject to confirmation by the Department for Levelling-Up, Housing and Communities (DLUHC), it is anticipated that this will mean providing a quarterly update on the Council's response to the concerns raised.
7. Two principal concerns were raised by Government, both of which were expected following the CIPFA review, and relate to the Council's level of borrowing and a lack of capacity and expertise in several teams that are critical to the successful delivery of the Council's plans being Assets, Finance, Internal Audit and Housing Management. As such the main content of the notice is not a surprise, and staff have been working since mid-2023, when the conclusions were informally known, to take forward a number of important

¹ [Best value standards and intervention draft guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/121444/best_value_standards_and_intervention_draft_guidance.pdf)

actions (see paragraph 18 and Appendix 4) in anticipation of the Government's final response being issued.

8. The BVN also contains a requirement for an external governance review, which was not specifically anticipated but is linked in the BVN to "further exploring the issues identified by CIPFA regarding financial management". The Council has confidence in its governance, which has been borne out by other reviews such as the recent LGA Corporate Peer Challenge, but it will be beneficial to have a further review of decision-making processes to ensure they remain robust.
9. It should be noted that the BVN praises the Council for having "engaged constructively and openly with the CIPFA capital review" and indicating it is "already taking some steps to address the concerns raised in the review." The Council has always stressed that it welcomes the Government's interest in our business, and that we found the CIPFA review beneficial and the resulting report fair and balanced: in addition to highlighting areas of risk, CIPFA also stated that they had identified "few matters of major concern".
10. The BVN lasts for 12 months, but (subject to how Government interprets how its concerns have been addressed) may be extended or lifted early. The Government also has the option to escalate the terms of the Notice so that the level of intervention becomes more serious and active, potentially risking delivery of schemes that give Government significant concern and, at the highest levels of intervention, reducing Councillors' control of Council business.
11. However, the 'light-touch' BVN that has been received does not in any way prevent or complicate normal business at the Council. The BVN is also clear that it is for the Council, not the Government, to lead the improvement process. At this point in time it is too early to establish how the Council's plans will have to be adapted, and over what timeframe, to allow the notice to be lifted in due course.
12. The Council has been extremely open with DLUHC officials, who have been extensively briefed on the assets and schemes that have given rise to higher borrowing levels, and have indicated no desire to step in.
13. Nevertheless, the BVN does serve to highlight the continuing importance of strong governance and risk management, including the presentation of all options to decision-makers with an analysis of how each option will affect compliance with the BVN. For the life of the notice it will be an important and live consideration, and the Council will need to respond in the way that it deems best serves the public interest.

Proposed Approach

14. The BVN follows several other external reports/assessments that took place in 2023, including for example a recent external audit report, which was presented to Audit and Resources Committee on 16 January, and October 2023 LGA Corporate Peer Challenge, a report on which was already

scheduled for this agenda when the BVN was received. All these reports draw conclusions in similar areas, and it is therefore now proposed to address all recommendations through a single consolidated action plan.

15. Since receipt of the BVN, staff from across the council have been working on integrating and consolidating the outcomes into one single action plan. The elements of the action plan that are relevant to the BVN are likely to be as follows:
 - a. Debt reduction/management plan agreed with DLUHC;
 - b. Action to continue to increase capacity and expertise in the teams identified;
 - c. External governance review with terms of reference focused on financial decision-making and scrutiny;
 - d. Follow-up visit by the Peer Challenge team with a focus on the issues raised in the BVN.
16. A sub-group of the Corporate Leadership Board has been formed to act as a Best Value Working Group, which will initially meet at least fortnightly during the life of the notice, take ownership of the delivery of the agreed action plan and co-ordinate reports to Cabinet. The Group's intention is to act proactively and transparently, with the objective of achieving sufficient progress and Government confidence to secure the lifting of the BVN in due course.
17. The Chief Executive is leading engagement with senior DLUHC officials, in parallel with a Finance workstream led by the Deputy Section 151 Officer. The proposed approach set out in this report will be shared with DLUHC, and clarification on exit criteria will be sought.

Work already done

18. The actions and improvements that have already been undertaken in response to the external reports/assessments outlined above are presented in Appendix 4. Those actions still in train, and any further updates, will be consolidated into a single action plan and brought to Cabinet as soon as practical, with progress reported at regular intervals thereafter.

Financial Implications

19. This report in itself has no financial implications. The action plan may result in financial implications that Cabinet will need to consider.

Risk Assessment

20. The central risk to consider is taking insufficient account of the BVN and not pursuing an action plan that is robust enough to satisfy DLUHC that the notice can be lifted. Should the level of Government concern increase it may escalate its involvement up the Best Value 'ladder', with more active inspections, directions or other forms of control. These outcomes are not currently at all likely given the Council's openness to improvement and constructive dialogue with Government.

21. Another risk is that the Council may feel forced by the BVN process to take action that it believes is demonstrably against the public interest. Early conversations with DLUHC indicate that this is not their intention, and are open to pragmatic discussions about what action is reasonable. Cabinet will be kept updated on this.
22. A third risk is that the BVN process will distract senior Council staff and take their attention away from other Council priorities. The reality is that this is unavoidable to some extent; and in fact, it is important for the protection of those priorities that senior management pays sufficient attention to the BVN and ultimately ensures that it is lifted.

Equality and Diversity Implications

23. The Equality Act is not relevant to the proposed approach set out in this report because the actions and improvements that have already been undertaken in response to the external reports/assessments, and the further approach to be undertaken, as set out in this report, deals with internal or procedural matters only. Therefore, it is considered that for this decision the Equality Duty does not need to be addressed and an Equality Impact Assessment (EqIA) has not been carried out.

Climate Change and Environmental Implications

24. The actions and improvements that have already been undertaken in response to the external reports/assessments, and the further approach to be undertaken, as set out in this report, is aligned with internal and procedural matters and as such there are no direct Climate Change and Environmental Implications.

Conclusion

25. A Best Value Notice has been served on the Council. Significant work has already been undertaken in response, including the preparation of a consolidated action plan, and the engagement process with Government is under way. Cabinet is asked to note the contents of this reports and agree the proposed approach.

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CHIEF EXECUTIVE

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Appendices Attached: 4

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

[Corporate Peer Challenge Action Plan](#)
[Response to EY Value for Money Report](#)