

MIDDLESBROUGH COUNCIL	
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Report of:	The Chief Executive, Director of Finance and Director of Legal and Governance Services
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Submitted to:	Audit Committee
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Date:	6 October 2023
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Title:	Section 24 Report – Delivery and oversight arrangements
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Report for:	Information
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Status:	Public
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Strategic priority:	All
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Key decision:	Not applicable
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Why:	Not applicable
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Urgent:	Not applicable
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Why:	Not applicable
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Executive summary	<p>This report sets out the planned reporting arrangements for delivery of the action plan that was agreed by Council on 18 September 2023, in response to 11 statutory recommendations made by the Council’s External Auditors Ernst & Young LLP (EY), exercising their powers under Section 24, Schedule 7(2) of the Local Audit and Accountability Act 2014.</p> <p>The agreed recommendations and supporting action plan that was agreed by Council on 18 September 2023 is at Appendix1 of this report.</p>
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Purpose

1. This report sets out the planned reporting arrangements for delivery of the action plan that was agreed by Council on 18 September 2023, in response to 11 statutory recommendations made by the Council's External Auditors Ernst & Young LLP (EY), exercising their powers under Section 24, Schedule 7(2) of the Local Audit and Accountability Act 2014.

Background and relevant information

2. On 21 August 2023, the External Auditor issued a report to update on the Council's Value for Money arrangements and issued 11 statutory recommendations in relation to required improvement in the Council's governance arrangements. This is the culmination of the review of the Council's progress since the External Auditor initially made 7 non-statutory recommendations within their 2020/21 Audit Results Report which was considered by Corporate Affairs and Audit Committee in July 2022.
3. At the July 2022 meeting, the Council's three statutory officers (Chief Executive, Director of Legal and Governance Services and Director of Finance) submitted a report entitled 'Commencing a Corporate Governance Improvement Journey' that set out how the Council intended to respond to those concerns.
4. In November 2022, EY issued a progress report, assessing delivery against the non-statutory recommendations. At that time, EY judged that steps taken were in line with expectations and the future actions identified to date appeared to be appropriate steps towards addressing both the depth and breadth of cultural and governance issues at the Council. However, they had some concerns about whether the actions would create a real positive cultural change within the organisation.
5. Since November 2022, while progress has continued to be made, the Council's External Auditors have assessed that while there are signs of improvement in the pace at which the Council is addressing the significant cultural and governance weaknesses, the Council has not made the overall progress that it expected to see since November 2022. The report reflects the auditor's view of the entire period from November 2022 to August 2023.
6. In addition, three further significant weaknesses have been identified, in relation to financial sustainability, contracting and procurement and Middlesbrough Development Company.
7. At a meeting of full Council on 18 September 2023, all 11 recommendations were unanimously accepted and an action plan to address them was agreed in the same meeting.

Oversight of delivery against the action plan

8. Going forward, progress against the action plan will be reported to this committee as a standing item until delivery of all actions is complete.

- 9. Progress will also be reported to the Independent Improvement Advisory Board (IIAB) that has been established to oversee delivery of the Council’s Corporate Governance Improvement Plan, as set out in the report to Council on 18 September 2023 that outlined phase three of the Corporate Governance Improvement Plan.
- 10. Both the Chair of the IIAB and the Council’s three statutory officers will also meet regularly with both the External Auditor and the Department of Levelling Up, Housing and Communities in separate meetings to discuss the Board’s independent view of the Council’s progress against both the Section 24 action plan and phase three of the Corporate Governance improvement Plan. Progress against the CGIP will be reported as a standing item to each ordinary meeting of full Council to maintain member visibility.
- 11. Since the report was approved by Council on 18 September 2023, two actions have been completed in line with their target dates:

Action	Supporting information
Review and relaunch of use of Purchasing Cards, for essential users only and subject to mandatory training	Review of all existing purchasing cards completed. Process in place for reducing the number of cards across the business and mandatory training developed for cardholders identified moving forward. Training for the initial cohort will be complete by November 2023 and then there will be a rolling programme of training aligned with the assignment of cards going forward.
Identify any remaining pre-2021 ‘open’ exemptions	Completed. Some exemptions were identified as a result of this exercise, a full analysis of this will be reported to this Committee in December within the annual assurance report on Procurement activity.

What decision(s) are being recommended?

- 12. That Audit Committee agrees the proposed monitoring arrangements.

Rationale for the recommended decision(s)

- 13. The Council must respond effectively and at pace to the statutory recommendations if it is to meet its Best Value duty and return to a stable and financially sustainable organisation that meets the needs of the citizens of Middlesbrough.
- 14. Member oversight will be a key step in both delivery of these actions and provision of assurance that they are having the intended impacts they were designed to do to address the governance weaknesses identified by the Council’s External Auditors.

15. Failure to deliver against the statutory recommendations could result in the External Auditor exercising their further powers with the potential for Public Interest Report
16. This could then lead to a further escalation of intervention by the Department for Levelling Up Homes and Communities (DLUHC) who have the ultimate power of appointing independent Commissioners to run the Council which may include the suspension of the democratic processes of the Council which would remove the decision-making role of all elected members.

Other potential decision(s) and why these have not been recommended

17. Not applicable.

Impact(s) of the recommended decision(s)

Legal

18. Schedule 7 of the Local Audit and Accountability Act 2014 required full Council to consider the statutory recommendations. Full council approved actions in response to the statutory recommendations and it is no incumbent on the council to appropriately monitor progress against those recommendations. It is proposed that Audit Committee fulfil this important function.

Strategic priorities and risks

19. If the Council fails to respond effectively to the recommendations of its External Auditors, EY, this will have a negative impact on the following strategic risks:
- Failure to meet a balanced budget.
 - Risk of an unlawful decision by the Council.
 - Corporate governance is not fit for purpose.

Human Rights, Equality and Data Protection

20. Not applicable.

Financial

21. The implementation of the action plans will be delivered through a combination of existing staff resources and additional capacity as indicated within the action plan.
22. In particular, the development and implementation of a transformation programme to return the Council to a position of financial stability and sustainability will require substantial investment. The investment will be quantified as an integral part of the 2024/25 Council Plan, budget setting and MTFP process as individual service transformation plans are developed.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Delivery of standing item reports on progress against the Section 24 recommendations to this committee	Head of Governance, Policy and Information	31/12/2024

Appendices

1	Middlesbrough Council Action Plan
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Background papers

Body	Report title	Date
Corporate Affairs and Audit Committee	Lessons Learnt: Best Value Inspection of Liverpool City Council	5 Aug 2021
Corporate Affairs and Audit Committee	Boho X: Draft findings from internal audit and proposed management response	6 Apr 2022
Corporate Affairs and Audit Committee	Audit Results Report 2020/21	22 Jul 2022
Corporate Affairs and Audit Committee	Statement of Accounts 2020/21	22 Jul 2022
Corporate Affairs and Audit Committee	Lessons learned: Best Value and external assurance within other councils.	22 Jul 2022
Corporate Affairs and Audit Committee	Commencing a corporate governance improvement journey	22 Jul 2022
Council	Corporate Governance Improvement Journey: CIPFA findings and next steps	19 Oct 2022
Council	Corporate Governance Improvement Plan and progress update	30 Nov 2022
Corporate Affairs and Audit Committee	External Audit: Value for Money Governance Update	5 Dec 2022
Council	Corporate Governance Improvement Plan and progress update	18 Jan 2023
Corporate Affairs and Audit Committee	Statement of Accounts 2020/2021	28 April 2023
Corporate Affairs and Audit Committee	Auditor's Annual Report – Year Ended 31 March 2021	29 June 2023
Council	Corporate Governance Improvement Next Steps	5 July 2023
Council	Section 24 Statutory EY recommendations	18 September 2023

Contact:

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