Grant Thornton UK LLP's response to the Audit Reform Lab's report entitled "Value for money and accountability: a report on the Birmingham City Council section 114 bankruptcy"

17 August 2024

We welcome the opportunity to respond to this report, as the financial issues surrounding Birmingham City Council are of course a matter of public interest.

We have a legal duty of confidentiality towards the Council, and as such, are unable to share the full set of facts with the authors or any other third party without the consent of the Council. As a result, this statement is necessarily limited to information derived from public materials.

We believe this report presents significantly inaccurate and misleading information and inferences as to our role as the Council's auditors. This may be because, as the authors acknowledge, the report has been prepared solely on the basis of publicly available information and, therefore, without reference to accounting records and other confidential information which are central to explaining the causes and assessing the extent of Council's equal pay liability, including the role of any of the key parties involved. Equally, the report was commissioned by the Council's three recognised trade unions (UNISON, Unite and the GMB), which have a key role and, therefore, vested interest in equal pay issues at the Council, including in the conclusions of published commentary on such issues.

It is factually inaccurate to conclude that Oracle has precipitated the financial crisis at Council. Commissioners and the Council are clear in the 2024/25 budget about the matters that have resulted in the service cuts. Oracle is only part of the problem faced by the Council. Service pressures and equal pay claims play a greater part the Council's financial issues. Although Oracle has had a significant impact on the Council's finances (and we reported on this in January 2024), it is inaccurate to attribute the Council's financial problems solely (or even predominately) to Oracle. We are finalising our report into the issues that led to the failed implementation and will shortly publish a consultation draft. We therefore cannot comment on this further.

It is also factually inaccurate to state that Oracle has generated in-year service pressures. The cost of the system is more than anticipated (c£100m) but this is a fraction of the £1.2bn requested by Commissioners to deal with the financial issues at the Council.

The report comments that the Council's estimate of its equal pay claims liability is not a primary cause of the Council's financial issues. It should be noted, however, that the Council has already paid £1.4bn in respect of equal pay claims and the trade unions were involved in bringing many of these claims. As a result, the Council has previously needed to sell flagship assets, such as the NEC, to pay for these equal pay claims. To the extent that the report seeks to marginalise the significance of the Council's exposure to the equal pay issues, it is inaccurate.

Equal pay is a revenue cost; it reflects the salaries and wages that (allegedly) should previously have been paid to Council employees. The cost of the equal pay claims will only be finally known at the conclusion of the legal process (either through a final ruling or a settlement).

The report regularly questions the reliability of the £760m equal pay estimate. Until the litigation process is concluded, the equal pay liability can only be estimated. The Council has undertaken a significant level of work in arriving at its estimate of its liability, including taking legal advice. Both officers and commissioners have confirmed that this is the best estimate available of the Council's liability on the available information. It should be noted that provisions of this nature, of course, contain a high degree of estimation uncertainty. Due to the complexity of the litigation our audit of the estimate is on-going.

If the Council were to recognise its equal pay claims liability (as estimated by the Council) it would have negative general fund reserves. Legally, the Council is not permitted to operate in this manner and the impact on services of recognising the liability as revenue would have a significant impact on services. As a result, the Council had to consider other options to manage its equal pay liability. It has, therefore, determined that it needs to capitalise its equal pay liabilities (for which it would need a capitalisation directive from the Government). The need for a capitalisation directive has been confirmed by Commissioners. To enable it to capitalise these revenue costs, the Council would either need to borrow or raise capital through assets. As borrowing would place further financial pressures on the Council, Commissioners have instead decided to begin an asset sale programme to pay for these costs.

The report also raises questions with regard to assumptions in the 2023/24 budget and whether inflationary pressures and savings plans were appropriately developed. This matter is subject to audit review and we will shortly issue a consultation draft report to the Council. We therefore cannot comment on this further.

Finally, we note the questions that the authors raise about our role as auditor. We cannot comment on live audit work. However, we do not believe this report presents an accurate reflection of our work for the Council or that there are any concerns about our independence to conduct the audits. A key part of a high-quality audit is to only sign the audit report when we are comfortable we have received sufficient appropriate audit evidence across all areas of our work. Any words in this report relating to numbers having been "confirmed", "completed", "assessed" or similar before our audit work is complete are factually inaccurate; an audit remains ongoing until all the work is complete and the audit report has been signed, as any informed reader will understand.

Insofar as the report seeks to comment on Grant Thornton UK LLP's audit practice in general, it should be noted that we were the top scoring firm in the Financial Reporting Council's quality reviews in 2021, 2022 and 2023. The report does not, however, record this but instead refers to three previous sanctions that the firm has received from the FRC. The report does not explain that the two named matters related to audit work predating 2018, prior to the successful implementation of our audit quality journey which commenced in 2019 and has led to the achievement of leading quality scores in each of the last three years. As a leading provider of audit services to the public sector, Grant Thornton UK LLP takes seriously its quality obligations.

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