Thurrock - An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future

Extraordinary Council

To the Members of Thurrock Council

The next meeting of the Council will be held at **7.00 pm** on **9 January 2023**

Council Chamber, Civic Offices, New Road, Grays, Essex RM17 6SL

Membership of the Council:

James Halden (Mayor)
Susan Little (Deputy Mayor)

Qaisar Abbas
John Allen
Alex Anderson
Deborah Arnold
Paul Arnold
Chris Baker
Gary Byrne
Adam Carter
Daniel Chukwu
Colin Churchman
Gary Collins
George Coxshall
Mark Coxshall
Jack Duffin
Tony Fish
Robert Gledhill
Shane Hebb
Victoria Holloway
Andrew Jefferies
Barry Johnson
Tom Kelly
Cathy Kent
John Kent
Martin Kerin
Steve Liddiard
Ben Maney
Fraser Massey
Allen Mayes
Sara Muldowney
Augustine Ononaji
Srikanth Panjala
Maureen Pearce
Terry Piccolo
Georgette Polley
Jane Pothecary
Shane Ralph
Kairen Raper
Joycelyn Redsell
Elizabeth Rigby
Sue Sammons
Sue Shinnick
Jennifer Smith
Graham Snell
Luke Spillman
James Thandi
Lee Watson
Lynn Worrall

Ian Wake
Acting Chief Executive

Agenda published on: 23 December 2022

Agenda

Open to Public and Press

		Page
1	**Apologies for absence**	
2	**Declaration of Interests**	
	To receive any declaration of interests from Members.	
3	**Section 114 Report and Chief Executive's Response**	**7 - 46**

Queries regarding this Agenda or notification of apologies:

Please contact Jenny Shade, Senior Democratic Services Officer by sending an email to Direct.Democracy@thurrock.gov.uk

Future Dates of Council:

25 January 2023 and 22 February 2023 (Budget)

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Information for members of the public and councillors

Access to Information and Meetings

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The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities. If you wish to film or photograph the proceedings of a meeting and have any special requirements or are intending to bring in large equipment please contact the Communications Team at CommunicationsTeam@thurrock.gov.uk before the meeting. The Chair of the meeting will then be consulted and their agreement sought to any specific request made.

Where members of the public use a laptop, tablet device, smart phone or similar devices to use social media, make recordings or take photographs these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee. The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

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- You should connect to TBC-GUEST
- Enter the password **Thurrock** to connect to/join the Wi-Fi network.
- A Terms & Conditions page should appear and you have to accept these before you can begin using Wi-Fi. Some devices require you to access your browser to bring up the Terms & Conditions page, which you must accept.

The ICT department can offer support for council owned devices only.

Evacuation Procedures

In the case of an emergency, you should evacuate the building using the nearest available exit and congregate at the assembly point at Kings Walk.

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Members of the Council should ensure that their device is sufficiently charged, although a limited number of charging points will be available in Members Services.

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- Access the modern.gov app
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DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF

Breaching those parts identified as a pecuniary interest is potentially a criminal offence

Helpful Reminders for Members

- *Is your register of interests up to date?*
- *In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?*
- *Have you checked the register to ensure that they have been recorded correctly?*

When should you declare an interest *at a meeting?*

- **What matters are being discussed at the meeting?** (including Council, Cabinet, Committees, Subs, Joint Committees and Joint Subs); or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**

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Does the business to be transacted at the meeting
- **relate to; or**
- **likely to affect**

any of your registered interests and in particular any of your Disclosable Pecuniary Interests?

Disclosable Pecuniary Interests shall include your interests or those of:

- your spouse or civil partner's
- a person you are living with as husband/ wife
- a person you are living with as if you were civil partners

where you are aware that this other person has the interest.

A detailed description of a disclosable pecuniary interest is included in the Members Code of Conduct at Chapter 7 of the Constitution. **Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a Non-Pecuniary interest? – this is an interest which is not pecuniary (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

Pecuniary

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting

If the Interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register

Unless you have received dispensation upon previous application from the Monitoring Officer, you must:

- **Not participate or participate further in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **leave the room while the item is being considered/voted upon**

If you are a Cabinet Member you may make arrangements for the matter to be dealt with by a third person but take no further steps

Non- pecuniary

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature

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You may participate and vote in the usual way but you should seek advice on Predetermination and Bias from the Monitoring Officer.

PROCEDURE FOR MOTIONS

No speech may exceed 4 minutes without the consent of the Mayor [Rule 19.8], except for the proposer of any motion who shall have 5 minutes to move that motion (except on a motion to amend where the 4 minute time shall apply) [Rule 19.8(a)]

All Motions will follow Section A and then either Section B or C

A.	A1	Motion is moved	[Rule 19.2]
	A2	Mover speaks	[Rule 19.8(a) (5 minutes)
	A3	Seconded	[Rule 19.2]
	A4	Seconder speaks or reserves right to speak	[Rule 19.3] (4 minutes)

Then the procedure will move to either B or C below:

B. **IF there is an AMENDMENT (please see Rule 19.23)**		**C.** **If NOT amended i.e. original motion**	
B1	The mover of the amendment shall speak (4 mins).	C1	Debate.
B2	The seconder of the amendment shall speak unless he or she has reserved their speech (4 mins).	C2	If the seconder of the motion has reserved their speeches, they shall then speak.
B3	THEN debate on **the subject**.	C3	The mover of the substantive motion shall have the final right of reply.
B4	If the seconder of the substantive motion and the amendment reserved their speeches, they shall then speak.	C4	Vote on motion.
B5	The mover of the amendment shall have a right of reply.		
B6	The mover of the substantive motion shall have the final right of reply.		
B7	Vote on amendment.		
B8	A vote shall be taken on the substantive motion, as amended if appropriate, without further debate.		

Our Vision and Priorities for Thurrock

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

1. **People** – a borough where people of all ages are proud to work and play, live and stay

   - High quality, consistent and accessible public services which are right first time
   - Build on our partnerships with statutory, community, voluntary and faith groups to work together to improve health and wellbeing
   - Communities are empowered to make choices and be safer and stronger together

2. **Place** – a heritage-rich borough which is ambitious for its future

   - Roads, houses and public spaces that connect people and places
   - Clean environments that everyone has reason to take pride in
   - Fewer public buildings with better services

3. **Prosperity** – a borough which enables everyone to achieve their aspirations

   - Attractive opportunities for businesses and investors to enhance the local economy
   - Vocational and academic education, skills and job opportunities for all
   - Commercial, entrepreneurial and connected public services

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9 January 2023	ITEM: 3
Extraordinary Council	
Section 114 Report and Chief Executive's Response	
Wards and communities affected: All	**Key Decision:** Key
Report of: Councillor Graham Snell, Portfolio Holder for Finance	
Accountable Assistant Director: N/A	
Accountable Director: Jonathan Wilson, Acting Director of Finance and s151 Officer	
This report is Public	

Executive Summary

On 19 December 2022, the Council's Acting Director of Finance & Section 151 Office issued a report under Section114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces 'a financial situation of an extremely serious nature'.

Councillors are asked to note the Chief Executive's response to the report and endorse a series of actions to put the Council in a stronger financial position in future.

1. Recommendation(s)

That Council:

1.1 Endorse the findings set out in the Section 114 report.

1.2 Endorse the Chief Executive's response to the Section 114 report, including the specific recommendations to Council set out in section 1 of the report. This includes the approval of Expenditure Control Processes put in place (and as set out in Appendix 4).

1.3 Note the Council's ongoing discussions with DLUHC in relation to the agreement of the exceptional financial support.

1.4 Note the Chief Executive's response and that if it is not delivered, and/or sufficient savings are not identified, the s.151 Officer may issue a further s.114 report.

Reason: Council is required to meet and formally consider the s.114 report and agree an action plan to address the issues raised in it.

2. Introduction and Background

2.1 On 23 February 2022 the Council agreed the Revenue and Capital budget.

2.2 The report identified that a balanced position could only be set with support from capital receipts to support transformational activity and the continued use of reserves.

2.3 Furthermore it noted the investment strategy remained paused and that, despite significant savings identified, there remained 'significant further action' required from members to address future funding gaps.

2.4 In July 2022, the Council was made aware of significant concerns around the valuation of specific investments. A review process commenced, and the initial review highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and Communities (DLUHC).

On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

2.5 The Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;

- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

2.6 Taken together, the Secretary of State considered that there was a pressing case for urgent government action to protect the interests of the residents and taxpayers of Thurrock, as well as to provide assurance to the sector that action was being taken. The scale and nature of the issues was emerging rapidly, and the Secretary of State was concerned that further evidence of failure could come to light very quickly and require prompt action.

2.7 The Secretary of State nominated Essex County Council to the role of Commissioner. The intervention package included two complementary parts:

- The first is that the Council's functions over managing its financial resources, exercise of the statutory requirement to arrange for the proper administration of the Council's financial affairs, and all functions associated with the strategic financial management of the Authority will be overseen by Essex County Council, in the role of Commissioner.

- The second part is that the Secretary of State appointed Essex County Council as a Best Value inspector, to inspect the governance, audit (internal and external), risk management, overview and scrutiny functions of the Council, and consider their impact on service delivery.

2.8 Both parts share a common goal, which is to protect the interests and services of the people of Thurrock.

2.9 As part of the intervention process the scale of the financial risk faced by the Council has been provisionally quantified as part of the Quarter 2 financial report presented to Cabinet on 14 December 2022. This confirmed a projected gross funding gap of £469m for 2022/23 and a further projected funding gap of £184m in 2023/24.

2.10 The projected funding gaps have confirmed the need for exceptional financial support from government. Further assessment of the Medium-Term Financial Strategy has confirmed that, as currently projected, the actions the Council can take to mitigate the scale of financial losses reflected will not be sufficient to address these losses. Consequently, there is no clear path to financial sustainability without exceptional support from government. Discussions continue with officials at DLUHC to consider this position.

Section 114 Report

2.11 On 19 December 2022 the Council's Acting Director of Finance & s151 Officer issued a report under s114 of the Local Government Finance Act 1988, which was sent to all Councillors. This advised them that the Council faces "that it faces a financial situation of an extremely serious nature and significant steps are now necessary to restrict expenditure as set out in the report. The report is at Appendix 1.

2.12 The issue of a Section114 report is a serious step and has only been issued at a small number of other local authorities.

2.13 The Section 114 report details the findings supporting the issue of the report and explains that 'Thurrock Council will not have the resources available to meet its expenditure. The Council will need to seek Exceptional Financial Support from the Department for Levelling Up, Housing and Communities (DLUHC) for the financial year 2022/23 and to support budget setting for 2023/24. This is based on the conclusion of the Section 151 Officer that Thurrock Council has no prospect of returning to financial sustainability without significant and extraordinary financial support from government including Capitalisation Directions'.

2.14 In accordance with the statutory requirements, the Council's Acting Chief Executive and the Interim Monitoring Officer have been consulted on and support the issue of the Section 114 report. The external auditors have also been informed, as have DLUHC officials.

Chief Executive Response

2.15 On the 23 December 2022, the Chief Executive issued a public response stating that Councillors and Officers recognised the gravity of the situation and committing to all efforts needed to put the Council on a secure long term financial footing. The response identified all the work areas either under way or planned to bring this about. The response is at appendix 2.

2.16 The report sets out the detail of the spending controls put in place in parallel with the issue of the Section 114 report.

2.17 The report acknowledges the scale of the financial challenge and the levers available to the Council to mitigate these gaps. It also concurs with the Section 114 report that exceptional financial support is required from government.

2.18 The report sets out progress made since Intervention was announced at the Council on 2 September 2022 and notes there is an Improvement Recovery Plan in place that has been agreed with Commissioners and will be further iterated once the findings of the Best Value Inspection have been received.

2.19 The report includes recommendations to Council members as set out in Section 1 which seek acknowledgement of the current position of the Council and references the need to consider the further findings of the Best Value Inspection and seeks member approval of the expenditure control processes put in place.

3. Reasons for Recommendation

3.1 The purpose of the recommendations is to seek endorsement of the Section 114 report and the associated Chief Executive Response and to note the ongoing discussion with DLUHC on the form of exceptional support. Finally, members are asked to note that if the response as set out in the Chief Executive response is not delivered then a further Section 114 report may be required.

4. Consultation (including Overview and Scrutiny, if applicable)

4.1 The form and content of the Section 114 report has been consulted on with Commissioners, DLUHC and with officials from the Chartered Institute of Public Finance and Accountancy (CIPFA). Commissioners have also been consulted with on the form and content of the Chief Executive response.

5. Impact on corporate policies, priorities, performance and community impact

5.1 The Section 114 report and the Chief Executive response reference the impact of responding to the report. The report specifically requires additional spending controls are implemented within the authority with immediate effect. These controls were implemented on 19 December 2022. The response to the wider financial position is included within the wider Improvement and Recovery Plan developed by the Council in response to the intervention. The first iteration has been agreed with Commissioners.

To address the funding gaps identified the Council has continued and extended the asset disposal process which continues to evolve, and projections are included within the Medium-Term Financial Strategy to date.

6. Implications

6.1 Financial

Implications verified by: **Jonathan Wilson**
Acting Director of Finance and s151 Officer

The financial implications are set out in the body of the report. The Section 114 Notice has been issued following the assessment and quantification of the financial risk attaching to the Investment Strategy of the Council. This has been set out clearly in the Quarter 2 Financial Report to Cabinet which was considered by members on 14 December 2022.

Significant action has been taken to address the risks arising from specific investments and to consider the wider action the Council can take to mitigate the financial impacts. However, it is clear the Council will require exceptional financial support from Central Government to balance the 2022/23 financial position and to set a budget in 2023/24.

Discussions continue with DLUHC to consider the request for this exceptional support. The wider context has been shared to understand the current medium and longer-term financial position in the absence of this support. This confirms the financial losses now attached to the Investment Strategy cannot be managed by the Council itself.

The Council commits to taking all actions possible improve the financial position. As the report sets out, this action is included in the Improvement and Recovery plan which was shared with government on 3 December 2022.

6.2 **Legal**

Implications verified by: **Mark Bowen**

Interim Project Lead - Legal

The need to issue a s.114 report is triggered in prescribed circumstances, including where the chief finance officer believes that the expenditure of the authority incurred (including expenditure it proposed to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

The process for the issuing of the report is set out in the 1988 Act and have been followed. s.115 of the 1988 Act requires full Council to consider the report within 21 days and decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.

s.115(6) states that pending consideration of the report by full Council, there is a prohibition period which runs from the date the report is made to the date of the full Council meeting. During this period, the Council must not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority unless the chief finance officer of the authority authorises it in writing, specifying a prescribed reason.

The chief finance officer may only give authority for the purposes of subsection (6) if he considers that the agreement concerned is likely to:

(a) prevent the situation that led him to make the report from getting worse,
(b) improve the situation, or
(c) prevent the situation from recurring.

Failure to comply with the procedure set out in paragraph 3.2.3 above will result in the Council being deemed not to have had the power to enter into the agreement and as such the Council's actions will be deemed unlawful.

The formal prohibition period set out in paragraph 3.2.3 will cease on 9 January 2022, however full Council is then being asked to endorse the Section 114 report which requires controls to be extended to the end of the 2023/24 financial year, which will restrict the Council's ability to incur further expenditure.

The Council's legal duties around budget setting are set out in s.31A of the Local Government Finance Act 1992, which requires the Council to set its council tax, taking account of the need to balance its expenditure with its revenue. Section 30 (6) of the 1992 Act requires that the Council Tax is set before 11 March 2023.

There are powers set out in Part I of the Local Government Act 1999 regarding Secretary of State intervention in a local authority of which the Council should likewise be mindful.

The Council's external auditor also has power available under the Local Audit and Accountability Act 2004 to issue an advisory note, make statutory recommendations and issue a public interest report if it has concerns about the effect of the Council's decision making in relation to the Council's accounts.

Case law has determined that the issue of a s.114 report does not alleviate the Council from following a fair and lawful process in relation to decision-making on service reductions or realignment. Whilst a lawful budget must be set and this can provide an evidence base for a local authority to take a revised approach to service provision motivated by its financial position, this does not relieve the Council of the need to act lawfully. This includes the need to conduct needs assessments, consider whether proposals should be subject to consultation and if so, conscientiously consider the results of such consultation, assess, and have due regard to equality implications and to take all other relevant information into account to inform its decision.

There will be clear roles for Cabinet and Overview and Scrutiny Committees in terms of future decision-making regarding service proposals to inform the future budget setting process for 2023/24.

6.3 **Diversity and Equality**

Implications verified by: **Natalie Smith**

Strategic Lead, Community Development and Equalities

As set out in the legal implications section, the Council must demonstrate that it has complied with its wider duties when making decisions to reduce or change services. It will be expected that equality implications will be assessed and reported to decision-making as part of the budget setting process.

6.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

The Council continues to consider the wider implications of the Section 114 report.

7. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Quarter 2 Financial Report 2022/23
- Medium Term Financial Strategy

8. Appendices to the report

- Appendix 1 – Section 114 report
- Appendix 2 – Chief Executive response to the Section 114 report
- Appendix 3 – Thurrock Directions
- Appendix 4 – Expenditure Control Process

Report Author:

Jonathan Wilson

Acting Director of Finance and Section 114 report

Corporate Finance

Appendix 1

Report to all Elected Members of Thurrock Council

s.114 Local Government Finance Act 1988

Jonathan Wilson, Acting Director of Finance and Section 151 Officer – 19th December 2022

1. Purpose of report and executive summary

1.1 Members of the Council are asked to consider this report by the Acting Director of Finance and Section 151 Officer. The report is written to meet my statutory and professional responsibilities. Members of Thurrock Council must consider this report and respond as required by the Local Government Finance Act 1988, by the 9th January 2023 (21 days from the notice).

1.2 The Local Government Finance Act 1988, places certain responsibilities on the Chief Finance Officer. Section 114(3) states: -

'The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed resources (including sums borrowed) available to it to meet that expenditure.'

This is a mandatory duty placed upon the Chief Finance Officer in these circumstances.

1.3 The purpose of this Section 114 notice is to make it clear to Members of the Council that it faces a financial situation of an extremely serious nature and significant steps are now necessary to restrict expenditure as set out in the report. As reported to Cabinet on the 14th December 2023, in 2022/23 Thurrock Council will not have the resources available to meet its expenditure. The Council will need to seek Exceptional Financial Support from the Department for Levelling Up, Housing and Communities (DLUHC) for the financial year 2022/23 and to support budget setting for 2023/24. This is based on the conclusion of the Section 151 Officer that Thurrock Council has no prospect of returning to financial sustainability without significant and extraordinary financial support from government including Capitalisation Directions.

1.4 The provisional deficit for the 2023/24 budget is £452m against a budget of £153m. It is already clear that Thurrock Council cannot contain its expenditure budget in 2023/24 within available resources. This is a pattern that continues for later years. Further assistance will be required including Capitalisation Directions covering future financial years. Indications are that Thurrock Council will need to seek extraordinary support beyond Capitalisation Directions and dialogue has commenced with DLUHC.

1.5 The scale of the financial issue as quantified above supports the issue of this report.

1.6 A copy of this report has also been sent to the Council's auditors BDO. This report is supported by the Interim Head of Paid Service and the Interim Monitoring Officer.

2. Current Position

2.1 Following intervention and the appointment of Essex County Council as Commissioner by the Secretary of State on the 2nd September 2022, a review of the Council's finances has identified a series of material financial issues that have led to a previously unreported material financial deficit as outlined below. There is also a Best Value Inspection due to report its findings in early 2023 which may identify further financial matters that require consideration.

2.2 As reported to Cabinet on 14th December 2022, there is an in-year deficit of £452m, significantly in excess of the resources available to Thurrock Council to meet that expenditure. The causes of the deficit are outlined below and should be seen within the context of the Council holding very limited unrestricted and general fund reserves:

- Write down of investment assets to reflect the latest assessed fair (market) value of those investments.
- Requirement to rectify the historic under assessment of Minimum Revenue Provision for the repayment of debt on capital investments.
- Exposure to rising interest rates as a consequence of reliance on short term loans to finance the Council's borrowing requirement.
- Loss of investment income.
- Unfunded financial pressures linked to demand levels and inflationary impacts.

2.3 Overall, the projected impact of these issues is significantly above the approved revenue budget and the level of revenue reserves held by the Council. The current estimated revenue deficit projected for 2022/23 of £452m is after applying revenue reserves and capital receipts of £17m to offset the gross £469m pressure. Consequently, the expenditure Thurrock Council is projecting to incur in 2022/23 exceeds the resources available to it, leading to the issuing of this Section 114 notice.

2.4 It should be noted that these figures are estimates and are expected to change as work continues on reviewing the financial position of the Council and the 2023/24 budget is set.

2.5 The issuing of the Section 114 notice means that entering into new agreements for expenditure will stop until at least 31 March 2024, unless there is explicit written consent from the Section151 Officer to do so. In addition, temporary measures will be put in place to stop all further non-essential expenditure prior to the Full Council meeting, when members will be asked to approve further measures to control spending and improve the finances of the

Council. Details of these measures will be set out by the interim Head of Paid Service separately to this notice.

2.6 The prohibition on entering into new agreements and restrictions on other spending applies to all Council services, including statutory services, those delivered through Council controlled companies and connected entities. A control framework will be put in place to ensure this happens while ensuring that key services to for example vulnerable children and adults, are not impacted.

2.7 Spending controls will need to remain in place for the foreseeable future and at least for the remainder of 2022/23 and 2023/24. A progress report on the action plan underpinning the further measures will be made to full Council in February 2023.

3. Legal framework

3.1 Section114(3) requires the "The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure."

3.2 The process for issuing a Section 114 notice and the effect of it are set out in various sections under the 1988 Act. Subsection 3(A) requires the chief finance officer to consult, so far as reasonably practicable, the head of paid service and the monitoring officer.

3.3 The Council's interim chief executive and interim monitoring officer have been fully engaged in all budget discussions. The Finance Recovery Board, part of the governance of the statutory intervention, were also consulted, and their views have been considered in finalising this report.

3.4 Section115 requires full Council to consider and decide on the report within 21 days beginning on the day the report is sent. Full Council must consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it. The meeting must be held not later than 21 days beginning with the day the report was sent and this decision is reserved to full Council.

3.5 Section115(6) states that pending consideration of the report by full Council, there is a prohibition period which runs from the date the report is made to the date of the full Council meeting. During this period, the Council must not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority unless the chief finance officer of the authority authorises it to do so.

3.6 Subsection (6A) states the chief finance officer may only give authority for the purposes of subsection (6) if he considers that the agreement concerned is likely to:

(a) prevent the situation that led him to make the report from getting worse,
(b) improve the situation, or
(c) prevent the situation from recurring.

3.7 Subsection (6B) requires that authority for the purposes of subsection (6) shall:

(a) be in writing,
(b) identify the ground on which it is given, and
(c) explain the chief finance officer's reasons for thinking that the ground applies.

3.8 Subsection (8) states that if subsection (6) is not complied with, the Council shall be taken not to have had power to enter into the agreement (notwithstanding any option to do so under contract or otherwise). Therefore, the Council's actions will be deemed unlawful.

3.9 Section 116 requires the Council to notify its external auditors of the report and the time, date, and place of the full Council meeting. The external auditors also need to be informed of the outcome of the meeting as soon as practicable. The external auditors have been kept informed of the emerging financial position and the planned work. The external auditors will need to consider the implications of this report on their statutory functions and the implications for their opinion on the 2020/21 accounts which remain unsigned.

3.10 Guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) recommends that informal contact is made with DLUHC, lead members and statutory officers in advance of issuing a s.114 report, to undertake some scenario testing and to ensure a robust action plan to address the issues raised. Lead members have been kept up to date on the emerging budget situation, as have the executive board including the key statutory officers and there has been regular liaison with DLUHC officials and CIPFA.

3.11 The Council's legal duties around budget setting are set out in Section 31A of the Local Government Finance Act 1992, which states:

(1) In relation to each financial year a billing authority in England must make the calculations required by this section.

(2) The authority must calculate the aggregate of:

(a) the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year in accordance with proper practices,

(b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices,

(c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure,

(d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for,

(e) any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with regulations under Section 97(2B) of the 1988 Act,

(f) any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with Section 97(4) of the 1988 Act, and

(g) any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction under Section 98(5) of the 1988 Act and charged to a revenue account for the year.

4. Details of the Report

4.1 Thurrock have been in dialogue with DLUHC since July 2022. On 2nd September 2022 the Secretary of State announced there would be a statutory intervention at the Council and Essex County Council were appointed as Commissioner. The intervention was made due to the Council's exposure to significant financial risk. In response to the intervention the Council has worked with Commissioners to deliver the requirements of the statutory Directions. As part of this process the Council has reviewed the specific exposure to the financial risk linked to investments specifically and the Quarter 2 reported to Cabinet on the 14th December 2022 reports a £452m funding gap (after application of revenue reserves and capital receipts of £17m).

4.2 The Directions specifically required:

- An action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;
- An action plan to ensure the Authority's capital, investment and treasury management strategies are sustainable and affordable;
- A strict debt reduction plan, and an updated minimum revenue provision (MRP) policy in line with all relevant rules and guidelines;
- An action plan to ensure the Authority is complying with all relevant rules and guidelines relating to the financial management of the Authority; and
- A suitable scheme of delegations for financial decision-making.

4.3 The work undertaken since intervention has highlighted several financial issues with a significant impact:

i. The value of investment assets held by the Council are significantly overstated and the initial assessment of this requires a write down of £275m. The issues that underly this assessment are likely to need to be reflected in prior year accounts. As the 2020/21 accounts are still open, pending conclusion of the external audit for that year, it is likely that a prior period restatement will be required in the 2020/21 accounts.

ii. Minimum Revenue Provision (MRP) has not been set aside in respect of capital investments in line with DLUHC and CIPFA guidance and the recalculation indicates a further £129m of set aside is required to ensure the guidance is applied appropriately. This is subject to a further view from external audit which is expected to confirm the MRP has not been calculated in a prudent manner as required by the regulations and hence the Council may have breached its statutory duties.

iii. The current estimated negative General Fund balance prior to any additional support by DLUHC as at 31 March 2023 is £452 million.

iv. The Council's Treasury Management and Capital strategy approved by Council in February 2022 requires considerable improvement. Specifically, this will need to reflect how the Council will deliver the specific requirements of the directions, such as the managed reduction of debt aligned to a strategy to divest of commercial investments.

v. The accounts for the Council for 2020/21 have yet to be signed off by BDO, the Council's external auditor. As the 2020/21 audit is not yet complete, it is expected that the issues identified will need to be rectified in the 2020/21 Accounts, including by prior period restatement of comparative figures for earlier years. Consequently, the 2020/21 accounts are likely to remain open for some time and will be subject to significant change.

vi. The Council has two wholly owned companies and is the majority shareholder in a third company. Governance and financial management arrangements remain under review and will be subject to further reporting in due course.

vii. The impact of the intervention is that significant capacity is required to address the range of actions identified. This remains challenging for the existing finance team and further support has been sought in several areas and this continues to remain under review to support the transformation required.

viii. Financial processes, reporting and internal controls are under review as part of both the intervention. Budget monitoring was improved in response to the recent LGA peer review and further improvements are being made in conjunction with Commissioners. The wider review of financial governance is also a focus of the intervention and issues identified will be built into the Improvement Plan.

ix. There has been inadequate monitoring of transformation projects and the monitoring arrangements in place have sat separately to budget monitoring. As such, there is insufficient clarity on whether anticipated savings or improvements are being achieved and on actions taken to manage the risk of non-delivery.

x. The HRA and the associated 30-year business plan remains subject to review.

4.4 There has been full acceptance and understanding of the issues identified by the Council's Directors Board and Cabinet and a commitment to work to address these going forward.

4.5 The current level of the general fund reserves is £11m and this level will only be maintained by the Council securing exceptional financial support for the projected deficit in 2022/23.

4.6 The current position reported at Quarter 2 confirms that the Council needs to seek this support from DLUHC . There must be a willingness on the part of the Council to take the decisions including reducing expenditure, that will be required to achieve a balanced outturn in 2022/23 and to set a lawful budget in 2023/24. This process must be performed at pace and the decisions taken must be implemented.

4.7 As a minimum this will require that appropriate action is taken in areas where costs that can be safely and legitimately reduced. All accounting adjustments and one-off interventions have now been exhausted.

4.8 Given that no immediate remedy is available it is likely that the restrictions to control in-year spending will need to remain in place for the remainder of the 2022/23 financial year and for the 2023/24 financial year.

4.9 Legal advice has been sought on the legality of the Council's ongoing situation and the Councils interim Monitoring Officer has been consulted on and supports the contents of this report. The Council is also fully engaging with its external auditors.

Budget Setting 2023/24

4.10 The Council's Medium Term Financial Strategy (MTFS), as approved in March 2022, had a funding gap of £14m required over the three-year period, leaving further savings needing to be identified in 2023/24 and 2024/25. This assumed the delivery of £18m savings including £14.2m in the 2023/24 budget and the requirement to increase reserves to an acceptable level. These figures have deteriorated considerably since the MTFS was approved in March 2022. A draft MTFS was reported to Cabinet on the 14th December 2022.

4.11 As a result of the issues now identified and set out above, exceptional financial support is being sought from DLUHC as well as additional savings. The decision on exceptional financial support will be required to enable the Council to be able to set a legal budget by the statutory deadline of 11 March 2023, per Section 30(6) Local Government Finance Act 1992.

4.12 The provisions of Section 25 Local Government Act 2003 require that, when the council is making the calculation of its budget requirement, it must have regard to the report of the Section 151Officer as to the robustness of the estimates made for the purposes of the calculations and the adequacy of the proposed financial reserves. Work is currently ongoing to seek to ensure that the Council can set a robust 2023/24 budget.

5. Future Operating of the Council

5.1 The issuing of a Section 114 notice is a serious matter and will impact on how the Council operates. Local Authorities however cannot go into liquidation or bankruptcy as their operations cannot be discontinued without statutory prescription. The Council will pay all existing creditors and make payments on all existing contracts that are in place and the Council will continue to deliver its statutory services including services to vulnerable children and adults.

6. Next Steps/Timescales

6.1 The requirement of this Section 114 notice is that the Council must meet within 21 days of issue, to consider this report and decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.

6.2 Elected Members must take responsibility to make choices and decisions to immediately reduce costs immediately to support Thurrock Council reducing the deficit (that is the gap between expenditure and available resources) in 2022/23.

6.3 This will also be the case for 2023/24 and potentially future financial years. It will not be possible for Thurrock Council to achieve financial sustainability without exceptional financial support from DLUHC.

Activity	**Date**
Issue of Section 114 Notice	19 December 2022
Issue of Papers for Full Council	23 December 2022
Full Council • Endorse the contents of the Section 114 Notice • -Approve response to Section114 Notice and Actions	9 January 2023

Cabinet Recommend Draft Budget and MTFS for 2022/23 – 2025/26	08 February 2023
Full Council Approve Budget for 2023/24 and MTFS for 2024/25 – 2026/27	22 February 2023

6.4 The Section 114 notice will cover the financial year 2022/23 and 2023/24. The Section 151 officer will monitor the Council's response to this notice to ensure that sufficient action is taken at pace to address the issues identified. If he is not satisfied that this is the case, there will be a need to issue a further notice under Section114.

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APPENDIX 2

Acting Chief Executive Response to Section 114 Notice
22 December 2022

Executive Summary

This report provides further comment by the Acting Chief Executive on the Section 114 Report issued by the Acting Director of Finance and Section 151 Officer. Specifically, it summarises work undertaken by officers and members in conjunction with Commissioners and Department of Levelling Up, Housing and Communities (DLUHC) over the past four months and provides comment on the implications of the Section 114 report and further action that will be required to support financial recovery moving forward. It highlights work already undertaken on producing a first draft of the council's Improvement and Recovery Plan (IRP) that will address financial, governance and organisational cultural failures that underpin the extremely serious situation that the council currently finds itself in. This IRP has been submitted to Commissioners and will need to be further iterated after the publication of the Best Value Inspection (BVI) report. The IRP will need to be jointly owned by officers and members and be the primary focus of the council moving forward in order to drive the transformational change required to support recovery.

The report highlights the need for members to agree and officers to deliver some difficult choices in the near future that will allow the council to operate under a substantially reduced revenue budget. The report outlines and discusses the levers available to the council to support recovery including council tax increases; asset disposals; debt reduction through divestment of the investment portfolio; savings through service rationalisation, reduction and transformation, including a review of the capital programme; growth; and support through exceptional financial support from government. The report also highlights that even after full use of these levers, it is likely that the council will require additional support from central government yet to be negotiated.

1. Recommendations

Council is recommended to:

1.1 Recognise the progress made by officers and members in conjunction with commissioners over the last four months as part of government intervention
1.2 Await the BVI report, which will now be provided to the Secretary of State by 17 February 2023
1.3 Acknowledge the progress made on the Improvement and Recovery Plan, its critical importance as the council's Corporate Plan for recovery, and await a final version, which will be submitted to both Cabinet and Full Council for approval once the BVI report has been published
1.4 Acknowledge and accept the scale of the challenge that the council faces and support the steps that it will need to take relating to council tax increases, asset disposals, savings, and growth to support recovery, appreciating these will be a prerequisite for negotiating government financial support.
1.5 Accept that current modelling suggests the council will require capitalisation direction from central government for at least the next five years along with further government financial support, yet to be negotiated, in order to achieve long-term financial sustainability
1.6 Approve the Expenditure Control Arrangements set out in section 5.8 and Appendix 4.

2. Introduction

2.1 The report of the Acting Director of Finance and S151 Officer that issues a Section 114 notice sets out the extremely serious financial situation that Thurrock Council finds itself in and confirms that the council does not have sufficient resources available to meet its expenditure commitments. The Acting Director of Finance and S151 Officer has concluded that the council has no prospect of setting a balanced budget in 2022/23 or 2023/24 without significant Extraordinary Financial Support from central government.

2.2 The issuing of a Section 114 report is an incredibly serious matter and urgent ongoing action is required to return the council to a path of financial sustainability. The failure of the council's investment strategy and wider financial and organisational governance has culminated in a requirement to write down £275m relating to council investments, an overall 2022/23 projected in year deficit of £452m and a predicted deficit in 2023/24 of £184m as set out in the Acting Director of Finance's S114 report.

2.3 The scale of the deficit faced by the council is unprecedented and will require both immediate and ongoing concerted action by officers and members over many years in order to return the council to a path of financial and operational sustainability and recovery. The scale of that challenge is enormous. Recovery will require a collective ownership of the problem, a laser like focus of the entire organisation on recovery, and some extremely difficult choices.

2.4 This report describes some high-level background and context to the Acting Director of Finance and Section S151 Officer's decision to issue a Section 114 notice and sets out action that the council has already taken over the last four months to attempt to understand the scale of problem, address some of the immediate challenges and mitigate risk. The report goes on to describe additional longer-term action required to support recovery and return the council to financial and operational sustainability.

3. Background

3.1. On Friday 2 September 2022, the Secretary of State for Levelling Up, Communities and Housing made Directions to Thurrock Council under section 15(5) and (6) of the Local Government Act 1999 because of:

- the scale of the financial and commercial risks potentially facing the council, compounded by the council's approach to financial management and the seriousness of allegations made by third parties about the processes that had been applied to the operation of the council's commercial strategy, and;

- the failure of the council to provide assurance to Ministers and the Department of Levelling Up, Housing and Communities (DLUHC) on the adequacy of the actions being taken to address the issues, taking account of the scale and pace of the response required.

3.2. The Secretary of State appointed Essex County Council as Commissioners and Best Value Inspectors to Thurrock Council.

3.3. The Secretary of State's Directions to Thurrock set out under the Act are provided in Appendix 3.

3.4. As Best Value Inspectors, Essex County Council commissioned a team to carry out the inspection of Thurrock Council. The team was directed by the Secretary of State to consider whether Thurrock Council, in carrying out specific functions, had effective arrangements in place for getting best value in its governance, audit (internal and external), risk management, and overview and scrutiny functions, and how they affect the provision of services.

4. Action Already Taken in Response to Government Intervention and the Council's Financial Situation

4.1. In response, officers and members have worked collaboratively and at pace with Commissioners, the Best Value Inspection Team, and DLUHC over the past four months. The primary focus of work has been to diagnose the extent of financial and wider governance and organisational cultural problems facing the council and to put in place robust action to mitigate the immediate financial and governance risks. The Acting Director of Finance and s151 Officer has set out the scope of the findings of this work to date in section 4.2 and 4.3 of his report.

4.2. A new governance structure has been set up to oversee the intervention and government directions. An Improvement and Recovery Board of Commissioners, senior/chief council officers and DLUHC with overall responsibility for oversight of all elements of the intervention and directions has been meeting monthly. A Finance Recovery Board of the same, with responsibility for oversight of the financial directions has been meeting fortnightly. A Strategic Investments Advisory Group with responsibility for oversight of the programme of work relating to the council's investments including procurement of specialist advice, mitigating financial loss and maximising financial recovery, and legal recourse has been meeting at least fortnightly.

4.3. An interim Directors' Board structure providing additional leadership capacity was agreed by General Services Committee in September 2022. New Interim Directors of Place, Legal and Governance, and Street Scene and Leisure are now in post. Work is still ongoing to recruit a new Chief Financial Officer after the preferred candidate withdrew shortly before his start date in December 2022.

4.4. A review of wider short-term staffing capacity and capability requirements to deliver recovery at all levels of the council has been completed and resource agreed. Recruitment to these posts is currently underway.

Financial Recovery

4.5. The council's Corporate Finance Team, the Portfolio Holder for Finance and Cabinet have worked closely with Commissioners to address the directions relating to finance. Existing short-term debt held by the council and borrowed from other public bodies has been refinanced through the Public Works Loan Board (PWLB) allowing the council to repay its existing creditors.

4.6 Informed by specialist advice procured from Camdor Global Advisors, Cabinet has agreed specific action to divest of the council's investments in order to reduce overall borrowing. Actions to mitigate further capital impairment on the three most significant problematic investments: Pure World Energy, Just Loans Group, and Toucan/Rockfire and ensure maximum financial recovery have been agreed and implemented. A review of all other investments held by the council as part of its investment strategy is currently underway. Actions taken to date in conjunction with a wider divestment strategy will contribute to the significant write down of the debt associated with the funding of the investment strategy. Further action has been taken to update the Minimum Revenue Provision (MRP) policy to ensure debt associated with capital investments is written down appropriately.

4.7 In parallel, the Capital, Treasury and Investment strategies of the council are in the process of being updated to support the actions taken to date and ensure they are aligned with the objectives of the intervention. This will include meeting the objectives of reducing debt and updating the MRP policy.

4.8 A draft MRP policy supporting the prudent write down of capital investments has been agreed with Commissioners. This has been shared with external audit and initial discussions support the implementation of the revised policy. A more detailed response will be provided in early 2022/23. The policy has been set based on a prudent write down of capital investments from the point of inception for each individual investment.

4.9 The new Interim Director of Place has commenced a review of all council assets in order to ascertain the scope of the opportunity to generate further capital receipts to offset capital impairment of some of the council's investments. Validation of the values of the first 13 high value sites is due to be reported by 31 January 2023, with reporting of a wider operational property review by end of March 2023.

4.10 A Delivery Risk Assessment on all 2022/23 savings proposals has been undertaken to provide assurance on delivery.

4.11 A 20-year MTFS (Medium Term Financial Strategy) model has been developed as a starting point for further discussions with DLUHC on Exceptional Financial Support and development of a medium-term action plan to return the council to financial sustainability.

Best Value Inspection

4.12 On 14 December 2022, it was agreed that the Best Value Inspection Team will be provided with more time to complete their report. Essex County Council will now provide their report to the Secretary of State by 17 February 2023. In light of the extended timescale, the BVI team will issue interim headline findings and recommendations to DLUHC.

4.13 Throughout the course of the inspection, council officers and members have worked collaboratively, openly and transparently with the inspectors in order to support their work and to provide a report which is truthful, accurate and can be used to support the recovery of the council. This inspection is ongoing, and the council will consider and respond fully to its findings and recommendations when published.

4.14 It is expected that the Best Value Inspection report will be critical of both the financial and governance arrangements that have led to the current dire state of the council's finances, but also find broader failings in some wider aspects of its historic corporate organisational culture.

Improvement and Recovery Plan (IRP)

4.15 In line with the Secretary of State's Directions, the council has developed at pace an Improvement and Recovery Plan. As a starting point, the IRP has focussed on the existing directions, recommendations made by other independent reviews such as the Corporate Peer Challenge, and the views of both officers and members as to areas where the council needs to transform.

4.16 The plan has been developed jointly through extensive consultation with officers at all levels of the council and through consultation between officers and members. The plan focuses on 13 workstreams centred around five key themes shown below:

Financial Sustainability	Governance & Scrutiny	Strategic Direction	Place Leadership & Growth	Leadership & Culture
• Capital & Treasury Group • MTFS, Saving Programme & Budget Setting • Strategic Investment Advisory Group	• Strengthening governance & financial delegations • Collective Decision Making	• Strategic Direction • New Operating Model	• Place Leadership • Growth	• Culture Change • Building a fit for purpose organisation • Building organisational capability • Communication and Engagement

4.17 It is tempting, in the context of the Section 114 notice and the scale of the financial deficit reported by the Acting Director of Finance and s151 Officer, to focus only on the failure of the council's Investment Strategy and the poor financial decisions taken by a few individuals as explanation of the cause of council's current problems. However, if the decisions of the few leads to the financial collapse of an entire organisation, this speaks to a wider organisational and systemic failure of governance and scrutiny, which in itself suggests fundamental historical problems of organisational culture. The BVI report will undoubtedly provide detailed comment on these issues shortly, but the process of developing the IRP has already given the organisation the opportunity to reflect and have an open and honest conversation about where it needs to change fundamentally in order to improve and to recover. It has allowed both officers and members to articulate and begin to drive forward the change needed through the development and delivery of the plan.

4.18 The Leader and I have both signalled our joint intention to create a new open, transparent and collaborative organisational culture and begun to make changes. Cabinet and Directors' Board now meet regularly and are working in a positive and constructive way, and Directors and I have undertaken additional engagement sessions at individual political group meetings. We have sought to improve relationships with the media including the reinstatement of media briefings attended by the Leader, relevant Directors and me to answer media questions on Cabinet papers prior to each Cabinet meeting. I have taken steps to significantly improve staff engagement at all levels of the organisation including fortnightly Leadership Groups (also attended by the Leader), fortnightly 'all staff' MS Teams conversations with Directors' Board, and regular Managers' Conferences. A new staff Communication and Engagement strategy has been developed and is embedded within the Improvement and Recovery Plan.

4.19 However, as a council, we should recognise that we are still in a 'diagnosis' phase, which means while issues are being identified, rapidly assessed and tackled, there are more challenges to be discovered and understood. We are still in the process of fully quantifying the financial and organisational issues we will need to address in the coming years, but it is imperative that we work to do so at pace.

4.20 The first version of the IRP has been submitted to Commissioners. Once the BVI report is published, the council will need to iterate the plan to encompass any new findings.

4.21 Delivery of the plan will need to be the primary focus of the entire organisation moving forward to ensure that we drive the fundamental organisational, financial, governance and cultural change required to deliver recovery. A governance structure around each theme is being set up and resources aligned to the programmes that sit within the themes with named DB and Cabinet sponsors and Senior Responsible Officers for each programme. A strengthened Corporate Transformation Team will take responsibility for delivery assurance and monitoring of progress.

4.22 A final version of the Improvement and Recovery Plan will be brought to both Cabinet and Full Council for approval in the last quarter of 2022/23 after the BVI report is published. The final version of the IRP will act as the council's Corporate Strategy moving forward.

5. **Action the Council Must Take to Continue to Support Financial Recovery**

5.1. There are essentially only five mechanisms available to the council to support financial recovery:

- Council tax
- Asset disposals
- Revenue savings through service rationalisation and transformation
- Growth
- Exceptional financial support from government

Council Tax

5.2. Thurrock's council tax benchmarks 53rd lowest out of 56 Unitary Authorities (7th centile) and is also the lowest within its CIPFA (Chartered Institute of Public Finance and Accountancy) group of comparable local authorities. Successive past administrations have chosen not to increase council tax at the same rate as comparable local authorities. This has led to a lower council tax revenue base and consequent lower overall increase in council tax revenue even where council tax has been increased at the maximum allowable rate in recent years. Historically, this deficit has been ameliorated by income generated from investments, but this is clearly no-longer a feasible strategy. To support financial recovery, members will need to support increases in council tax including a request to DLUHC for dispensation to raise council tax at a rate that exceeds the national referendum limit. It is likely that future government financial support will be contingent on an agreement to increase council tax.

Asset Disposal

5.3. As set out in 4.9, the new Interim Director of Place is leading a workstream on Asset Disposals, overseen by the Financial Recovery Board. The council owns a large number of property assets that sit in either the General Fund, Housing Revenue Account, or are owned by Thurrock Regeneration Limited. The Council already has an assets approach called 'Retain, Reuse, Release' that promotes the rationalisation of operational property and the reuse or release (disposal) of surplus assets. However, this approach lacked clear policies and criteria to ensure best value was achieved and operational needs continued to be met.

5.4. In addition to raising capital to offset the impairment from financial investments, an expanded and accelerated disposals programme offers an opportunity to accelerate the rationalisation of the council's operational estate and relinquish properties from the wider portfolio that either carry revenue liabilities or generate a low net return.

5.5. Cabinet has already approved disposal of assets valued at circa £92m. Initial findings from the Assets Disposal workstream has identified further short-term (2022/23-2024/2) opportunity and longer-term (2024/25+) of circa £65m. A detailed analysis of the remaining portfolio is underway to ascertain value, potential for capital receipts and impacts of disposal. A review of the property assets held in the Housing Revenue Account suggests limited scope for capital receipts through an HRA stock transfer.

5.6. Proposals on further asset disposals will be brought forward for agreement by Cabinet via Overview and Scrutiny in 2023. A Commercial Strategy will also be developed to ensure that where assets are retained, that they provide market level rental yields unless there is a strong business case not to do so.

Revenue savings through cost control, service rationalisation and transformation

5.7. In order to access Exceptional Financial Support and other future financial flexibilities or dispensation from DLUHC, the council must first demonstrate that it has done everything possible to reduce revenue spend.

5.8. In line with the requirements of the S114 notice, from 19 December 2022, the Acting Director of Finance and S151 Officer has put in place mechanisms to control all non-essential spend. These controls will ensure maximum value for money from every pound spent. Full details of the arrangements are provided in Appendix 4 of this report. In summary, all new spend over £500 will be subject to additional approval checks to ensure that it is classed as 'essential' including a mini business case. All spend over £25,000 will require a full business case. Three levels of spending control are in place for reviewing and approving new spend:

- **Directorate Spending Control** will require approval of all new spend over £500 from the relevant Director, a service representative and finance representative
- **An Expenditure Control Panel (ECP)** will meet three times a week and will chaired by a senior officer from the Corporate Finance Team plus an officer from the Commercial Services Team and Internal Audit will review and approve/reject all business cases
- **A Strategic Approval Panel (SAP)** comprising of the Acting Chief Executive, Acting Director of Finance and S151 Officer, and Interim Director of Legal and Governance together with the Finance Officer from the ECP will meet twice weekly to review any business case escalations from the ECP and any areas of concern raised by the ECP relating to wider corporate spending patterns.

5.9. As part of budget setting for the 2022/23 financial year, the MTFS for 2022/23 and 2023/24 already contained £14.2m and £3.69m proposals for savings through service rationalisation, efficiencies, and wider transformation, respectively. Throughout 2022/23, the operating deficit of the council has worsened as a result of inflationary and demand led pressures relating mostly to adult and children's social care placements. This has been managed through the use of one-off reserves which has balanced the operating budget in 2022/23. These reserves do not provide ongoing support for the budget and hence the pressures need to be managed in 2023/24. A programme of further savings is being finalised and will be confirmed in January 2023. The current operational gap is £16.4m which includes £10.9m of savings.

5.10. A programme to identify further substantial savings proposals has been developed through Directors' Board in consultation with Directorate Management Teams and Leadership Group. This will be brought to Informal Cabinet for further member engagement and through Overview and Scrutiny to Cabinet in February 2023 for approval as part of the council's budget setting process for 2023/24.

5.11. However, members should not underestimate the scale of the savings that the council will be required to make by government over the medium term as part of any agreement to access continued financial support. The scenarios presented in the 20-year MTFS model being discussed with DLUHC assume a year-on-year savings target of at least 5% until 2028/29. To put this in context, these levels of savings will increase the proportion of the General Fund spent on Adult and Children's Social Care externally commissioned placements from 28.6% in 2023/24 to 52.4% by 2028/29.

5.12. In order to deliver the scale of savings required, the council will need to undertake a programme of radical service reform and transformation. It will simply not be possible to deliver the scale of savings required through 'salami slicing' existing budgets. Whilst there have been some services within the council that have embraced a learning and transformative approach to improving services and driving efficiencies, there are parts of the organisation and cross-cutting activities that require urgent reform. We have already started this work by undertaking a comprehensive analysis to benchmark the cost of spending on all services against other unitary authorities and CIPFA comparator local authorities. Though many services have low comparative spend, some services, particularly in Environment and Waste benchmark comparatively highly.

5.13. Members will need to agree, and officers will need to deliver a savings and transformation programme that:

- Recognises that we will no-longer be able to afford to deliver the current range of services or maintain some services at existing levels and that significantly rationalises the current service offer to live within a substantially reduced financial envelope.
- Reduces the staffing establishment of the council in the context of the above.
- Prioritises services that deliver our statutory obligations to protect the most vulnerable residents.
- Transforms remaining services to ensure that they are as efficient and cost effective as possible, continuously benchmarking cost against our peers.
- Provides new integrated and preventative operating models that address silo working, rationalising the number of different service 'front doors' with fewer roles upskilled to undertake more functions to reduce failure demand and associated cost.
- Prioritises actions that reduce spend on social care placements including further market development, timely placement review and prevention/early intervention in conjunction with NHS and third sector partners.
- Maximises and leverages the resources within the community and of our partners including the private and third sector. In short, we need to 'deliver less and facilitate more'.

5.14. Historically, responsibility for both delivery of service transformation and for monitoring of wider savings has sat within different directorates. Alongside this, a small Corporate Transformation team has focussed on delivering specific individual projects. The approach has resulted in siloed working with an inconsistent approach to savings and transformation delivery and monitoring. To address this and ensure stronger delivery grip, an enhanced Corporate Transformation and PMO (Programme Management Office) is being created with responsibility for providing effective project management support, delivery risk assurance, and monitoring/reporting of a single corporate transformation and savings approach.

Growth

5.15. Thurrock remains a borough of huge economic growth opportunities. The Thames Freeport represents an opportunity for the creation of over 25,000 new jobs with an additional 30,000 jobs indirectly through supply chains, significant investment in training and skills, targeted interventions to tackle deprivation and disadvantage in communities funded through retained business rates, and over £4.5 billion in new public and private investment. Overall, it is anticipated that the Thames Freeport will contribute £5.1 billion of Gross Value Added to regional economy.

5.16. Over the medium term, economic growth within the borough represents an enormous opportunity for increased prosperity and wellbeing for residents. The council must work with partners and the private sector to secure this ‘growth dividend’; both increases to council revenues through business rate growth, and a reduction in demand-led services associated with the reduction in inequality and deprivation that increased economic prosperity will bring.

Exceptional financial support from government

5.17. The Section 114 notice confirms that exceptional financial support is required from government. Initial discussions have not confirmed the form of that support, but this is likely to be in the form of a capitalisation direction initially.

5.18. A capitalisation direction from government gives local authorities special dispensation to use capital funding to resource revenue spending commitments. Capital funding can be in the form of both capital receipts from, for example, the sale of assets, or through borrowing. Given the scale of deficit that the council is facing, the 20-year MTFS model confirms that a capitalisation direction will be required in the form of additional borrowing to close revenue deficits every year over the medium term.

5.19. Longer term reliance on capitalisation directions funded solely through borrowing clearly will not return the council to financial sustainability. Unless borrowing to fund short-term revenue deficits can be repaid, overall debt rises over time placing increased pressure on revenue budgets from additional interest and MRP charges, and the requirement for further short-term borrowing the following year; in short, a negatively reinforcing cycle of borrowing and debt.

5.20. The 20-year MTFS model shows a falling budget deficit from £187M in 2024/25 to £89.7M in 2028/29 assuming council tax rises, delivery of year-on-year savings targets, and repayment of debt through investment divesting and further asset sales. However, this ongoing budget deficit will also require capitalisation directions each year to close that year's budget deficit and set a balanced budget. From 2029/30, the model suggests that the budget deficit will rise steadily each year as the council enters a downward debt spiral, having exhausted all other mechanisms to address its deficit.

5.21. As such, the current model clearly shows that the council will not be able to reach financial and operational sustainability without further government assistance over a longer time period. Negotiations with DLUHC as to the nature and scope of this assistance are at an early stage and remain on-going.

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DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999

1. The Secretary of State for Levelling Up, Housing and Communities ("the Secretary of State") has carefully considered the following in respect of Thurrock Council ("the Authority"):

   i. The Authority's exceptional level of external borrowing and approach to managing this borrowing and the Authority's finances more widely.
   ii. The feedback report of the Local Government Association (LGA) Corporate Peer Challenge of Thurrock Council (10 to 13 January 2022).
   iii. Discussions between Ministers and Officials of the Department for Levelling Up, Housing and Communities and Members and Officers of Thurrock Council.

2. The Secretary of State is satisfied that the Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 ("the 1999 Act").

3. The Secretary of State considers the matter sufficiently urgent to forego the period of representation in section 15(9) of the 1999 Act. He considers it necessary and expedient, in accordance with his powers under section 15(5) and (6) of the 1999 Act, to immediately direct the Authority as set out below in order to secure the Authority's compliance with the requirements of Part I of the 1999 Act, in particular:

   - To deliver financial sustainability by closing any short- or long-term budget gaps and reducing the Authority's exceptionally high level of external borrowing;
   - To ensure compliance with all relevant rules and guidelines relating to the financial management of the Authority;
   - To ensure that a strategic and systematic approach to risk management, with appropriate scrutiny and governance of the decision-making processes and procedures, is adopted and embedded across the Authority;
   - To address the culture of poor financial management and governance of its commercial portfolio.

4. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs:

   i. the Authority to take the actions set out in Annex A to these Directions;

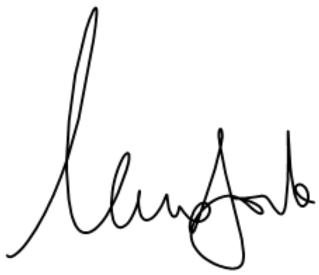
   ii. that the functions of the Authority specified in Annex B to these Directions shall be exercised from the date of these Directions by the

Commissioners acting jointly or severally; the Commissioners being persons nominated by the Secretary of State for the purposes of these Directions as long as those nominations are in force;

iii. that, from the date of these Directions, the Authority shall comply with any instructions of the Commissioners in relation to the exercise of the functions specified in Annex B, and shall provide such information and assistance as the Commissioners may require for the purpose of exercising the functions specified in Annex B.

5. These Directions shall remain in force until 1 September 2025 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Signed on behalf of the Secretary of State for Levelling Up, Housing and Communities.



Maxwell Soule
Senior Civil Servant in the Department for Levelling Up, Housing and Communities

Date: 2 September 2022

ANNEX A

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings –

> “the Authority” includes the Leader of the Council, Cabinet Members, any committee or sub-committee; and any other person who has responsibility for the matter in question.

The actions to be taken by the Authority are:

1. Prepare and agree an Improvement Plan to the satisfaction of the Commissioner (which may include or draw upon improvement or action plans prepared before the date of these Directions), within 3 months, with resource allocated accordingly, to include at a minimum:

    a. An action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;

    b. An action plan to ensure the Authority’s capital, investment and treasury management strategies are sustainable and affordable;

    c. A strict debt reduction plan, and an updated minimum revenue provision (MRP) policy in line with all relevant rules and guidelines;

    d. An action plan to ensure the Authority is complying with all relevant rules and guidelines relating to the financial management of the Authority; and

    e. A suitable scheme of delegations for financial decision-making.

2. To report to the Commissioner on the delivery of the Improvement Plan at 6 monthly intervals, or at such intervals as Commissioner may direct.

3. To undertake in the exercise of any of its functions any action that the Commissioner may reasonably require to avoid so far as practicable incidents of poor financial governance or financial mismanagement that would, in the reasonable opinion of the Commissioner, give rise to the risk of further failures by the Authority to comply with the best value duty.

4. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:

    a. to any premises of the Authority;
    b. to any document relating to the Authority; and
    c. to any employee or member of the Authority.

5. To provide the Commissioner, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions;

6. To pay the Commissioner reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.

7. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.

8. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

ANNEX B

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONER

In this Annex –

“the Authority” includes the Leader, Cabinet Members, any committee or subcommittee; and any other person who has responsibility for the matter in question.

The Commissioner shall exercise:

1. All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority;

2. The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority’s financial affairs, and all functions associated with the strategic financial management of the Authority, to include:

    a. providing advice and challenge to the Authority on the preparation and implementation of a detailed action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;

    b. providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy (MTFS) for the Authority, strictly limiting future borrowing and capital spending;

    c. scrutiny of all in-year amendments to annual budgets;

    d. the power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority’s ability to fulfil its best value duty;

    e. providing advice and challenge to the Authority on the preparation of sustainable and affordable capital, investment and treasury management strategies; a strict debt reduction plan; and a revised minimum revenue provision (MRP) policy;

    f. providing advice and challenge to the Authority on a suitable scheme of delegations for financial decision-making;

    g. ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.

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Expenditure Control Process

Following the issue of a Section 114 notice on 19 December 2022, the council has introduced an enhanced approval process relating to expenditure and procurement.

All new spending **over £500** is subject to additional approval checks and approvals. To manage this, we have set-up 3 additional levels of spending control for reviewing and approving new spend. **Only essential spending will be approved**.

Before you raise any request, it is important that you challenge the spend against the following:

- do we have to incur this expenditure?
- can we manage without this expenditure?
- does the spend prevent the financial situation from getting worse?
- does the spend improve the financial situation?
- will the spend prevent the financial situation from recurring?

For full documentation on the new process, go to **Expenditure Control Process (EDRMS link)**.

Additional levels of expenditure control

The 3 additional levels of expenditure control are as follows.

Directorate Spending Control

This will be managed using workflow approval within 4Me as outlined in the process below. Approval will be required from:

- your director
- 1 confirmed service representatives
- a finance representative

If any representative rejects the request, the agreed approvers should discuss this. Directors will agree processes within their own directorates to support the corporate approval process.

Due to system setup the structure for approvals is aligned to the following directorate names and does not reflect the interim directorate arrangements:

- Adults, Housing and Health
- Children’s Service
- HR, OD and Transformation
- Public Realm
- Resource and Place Deliver
- Strategy, Comms and Engagement

Expenditure Control Panel (ECP)

This panel will be chaired by a senior member of the finance team, plus a representative from the commercial services team and internal audit.

Additional board members representing individual directorates may rotate on to the panel as necessary.

Strategic Approval Panel (SAP)

SAP is comprised of:

- Ian Wake, Acting Chief Executive
- Jonathan Wilson, Acting Director of Finance and s151 Officer
- John Jones, Director of Legal
- the finance representative that attends the ECP meeting

Exclusions

The new Expenditure Control Process applies only to new expenditure. Spending can proceed in line with existing processes if it is below £500 and relates to:

- existing staff payroll and pension costs
- expenditure on goods and services that have already received, and for which purchase orders had already been approved
- expenditure required to provide of statutory services at a minimum possible level
- urgent expenditure required to safeguard vulnerable citizens
- expenditure required through existing legal agreements and contracts
- expenditure funded through ring-fenced grants
- expenditure necessary to achieve value for money or mitigate additional in-year cost

In addition, because the following activities are already subject to board scrutiny, the new process does not apply to:

- adult and children's care placements
- recruitment requests – permanent, contractors and agency

Expenditure Control Process stages

The process operates between Oracle and 4Me. All requests for new spend must continue to be initiated in Oracle. You will then be directed through the systems accordingly.

In summary:

- **Oracle** – all new expenditure must have a requisition order raised and be approved in Oracle in advance of contacting a supplier
- spend below £500 will follow existing processes but will be monitored for compliance
- **Directorate Spending Control** – all new expenditure requests over £500 but below £25k will require the completion of a mini business case with additional approval required by your Director, directorate representative and finance:
    - if approved, the request will pass on to ECP for review
    - if rejected, you will need to discuss it with your manager or the directorate approval group and submit a new updated request if you still believe the spend is essential
- **Expenditure Control Panel** – ECP will monitor all spend in line with its terms of reference including new expenditure requests:
    - if approved, you will be notified and can proceed to the next step in Oracle
    - if rejected, the requestor will have one opportunity to resubmit the request but only if further information can be provided – the same request must not be resubmitted

- **Oracle** – for requests over £25k, a requisition must be raised in Oracle with a full business case included:
    - if approved, you will be notified and can proceed to the next step in Oracle
    - if rejected, you do not have approval to spend
- **Rejections** – following rejection from ECP or SAP, funds may be vired from budgets to allow savings to be delivered
- **Approvals** – all purchase orders over £500 raised must include the 4Me reference number allocated, and all new suppliers where expenditure is over £500 must also include the ECP approval reference number, otherwise they will be rejected automatically

These instructions also apply to purchase card use. A maximum £500 spend limit has been applied to all users. There will be a further review of purchase card allocation.

More detail on each stage of the process is provided below.

Raising a requisition

For all new spend values you will follow the current Oracle process and raise a requisition. Once raised, the system (digital worker) will check the spend value and take you through the process accordingly.

Spending under £500

If the new spend is less than £500, the existing process will continue and will require budget holder approval within Oracle.

Spending from £500 to £25k

A request will be raised for you within the 4Me system and will prompt you to complete a mini business case. This will require approval from an agreed list of approvers within your service, including your director and a representative from Finance.

If approved, your request will be submitted to the Expenditure Control Panel (ECP) for review. All spend over £500 must be approved via this panel before you are able to proceed with the purchase.

If rejected, the spend has been declined by your directorate representatives and will not proceed.

Spending more than £25k

Where the spend is over the value of £25k, the 4Me form must be completed and you will be required to attach a full business case.

Submissions without a business case will be rejected by the Strategic Approval Panel (SAP).

Expenditure Control Panel (ECP)

ECP will meet on Mondays, Wednesdays and Fridays each week to review business cases. If they are uncertain of any business cases and are unable to provide a decision, these will be escalated to the Strategic Approval Panel for review.

Additionally, the panel will review overall corporate spend to determine whether either:

- any expenditure is bypassing controls
- any expenditure is being incurred unnecessarily

This will include but is not limited to the following:

- spending on purchase cards
- expenses spend via Oracle
- low value transactions
- fleet and stores purchases

Strategic Approval Panel (SAP)

SAP will meet on Tuesdays and Thursdays each week to review escalations from the expenditure control panel, along with business cases for spend over £25k. They will also review any areas of concern raised by ECP about corporate spending patterns in relation to purchase cards, expenses, low value transactions and fleet purchases.

Procurement – new contracts and contract extensions

Any proposed contractual arrangement must be considered carefully and assessed whether necessary before it commits the council to new expenditure.

There will be further review of the procurement processes with updates provided in due course.