

### Consideration, and response to, CIPFAs report ‘Learning lessons: what Section 114s can teach us’.

At the January 2024 meeting of the Governance and Audit Committee during discussions around the processes for setting balanced budgets a request was made to stress test the Council’s budget processes.

In particular, reference was made to a report written by CIPFA (Chartered institute of public finance and accountancy) dating to September 2022

<https://www.cipfa.org/cipfa-thinks/insight/learning-lessons-what-section-114-can-teach-us>

#### **Background**

The term ‘Section 114’ refers to this section of the Local Government Finance Act 1988, part (3) of which sets out the duty of the chief finance officer (CFO) to

*“make a report under this section if it appears to him that the expenditure of the authority incurred (including expenses it proposes to occur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure”.*

Issuing the notice under Section 114(3) immediately suspends all financial activity apart from that which is necessary to maintain statutory duties; it also initiates a 21-day period for full council to consider the report and agree urgent action to start to remedy the situation. The authority’s external auditors and in Wales the Welsh Government would also be notified and could step in to provide advice and support.

CIPFA notes in its report, ‘It is unlikely that a Section 114 notice would be issued out of the blue – warnings may have been raised by the CFO, auditors or others before the point at which a notice becomes unavoidable. To issue a notice is a public admission that the authority cannot balance the books, and therefore indicates that warnings regarding the seriousness of the financial situation have been ignored. The severity of the position may not have been appreciated by those in leadership until it is too late, while the problems only become more severe the longer they are neglected.

Since 2018 eight English authorities have issued section 114 notices. Each notice has its own unique set of circumstances however the context in which this has occurred is important. English authorities were responding to a reduction in funding from central government in real terms of 10.2% from 2009/10 to 2021/22 (source institute for government). At the same time demands for services, particularly children’s and adult social care has increased substantially, whilst more recently the cost of providing services has risen due to high levels of inflation not experienced for decades. In response, a number of English local authorities have looked to source income from elsewhere. Some have borrowed to invest to generate income in commercial property. The pandemic, changing societal patterns and rising interest

rates have all combined to make it more difficult for local authorities to service their debt, contributing to lower financial resilience.

According to a Local Government Association survey carried out in December 2023, (albeit before modest amounts of additional money were announced), one in five council leaders and chief executives in England think it is very or fairly likely their Chief Finance Officer will need to issue a Section 114 notice in 2023/24 or 2024/25. Half are not confident they will have enough funding to fulfil their legal duties in 2024/25. This includes the delivery of statutory services.

It is important to explain that there are clear differences in funding that exist between funding of councils in England and Wales. Welsh councils are funded from Welsh Government and have not seen the same levels of reductions in funding that English councils have faced.

Welsh councils do however face similar pressures from increased costs in delivering services to their English counterparts, and Welsh councils are more reliant on funding from Welsh Government than English council's are on the UK Government.

To date no Welsh council has issued a Section 114 notice.

### **Denbighshire's Self-Assessment**

As requested by the Committee what follows in this appendix is an assessment of the Council's position against common themes and issues identified by CIPFA in reviews of English council's that have issued S114 notices from their learning lessons report and subsequent work. This assessment has been completed by the Statutory Officers (the Section 151 Officer, the Monitoring Officer and Chief Executive Officer).

Common Symptoms Identified	Consideration / Response
<p data-bbox="204 371 576 658"><b>Over-ambitious savings</b> - over-ambitious savings targets that are not well evidenced. This is particularly concerning when historically records show savings have not been achieved.</p> <p data-bbox="204 696 560 1133">CIPFA advice - The savings process should be effective and engaging, with budget holders actively involved in identifying and delivering savings. Savings need to be identified by budget holders, who can then commit to delivering them.</p>	<ul data-bbox="655 371 1385 2027" style="list-style-type: none"> <li>• Council has a good track record of achieving savings required as evidenced prior to the pandemic. Admittedly since the pandemic the test has been somewhat limited. Savings required in 2023/24 were in the main found through corporate initiatives.</li> <li>• The budget setting report to Council is clear the increased risk that the 2024/25 budget contains which requires £10.4m of savings to be realised. Reserves provide a level of mitigation should savings not be deliverable in year, and therefore the strategy in balancing the budget therefore is to protect the reserves available as far as possible.</li> <li>• Steps are being taken to strengthen financial management across the Council. Members workshops have been held to review progress on delivery of savings for each service (including the £3m target savings included in the 2024/25 budget setting report). Achievement of savings will be tracked regularly in the finance report to Cabinet. Performance indicators specifically related to budget will be set and monitored in every service plan.</li> <li>• To improve processes and consistency across services it is planned to introduce statements in support of all pressures and savings included in the MTFP to document the calculations and any assumptions made.</li> <li>• The approach adopted by the Council is that Heads of Service propose and take responsibility for savings in conjunction with their Lead Member to ensure the savings process is effective and engaging. Furthermore, through management/leadership processes including regular 1-2-1 meetings taking place, delivery of identified savings are part of these discussions and processes. This will take place at Chief Executive and Corporate Director level, Corporate Director and Head of Service level, and Head of Service and with their Managers.</li> <li>• Corporate Executive Team (CET) meets weekly and considers savings updates regularly.</li> </ul>

<p><b>Lack of a MTFP</b> - even with the current fluid financial landscape, medium-term planning indicates an understanding and assurance that support financial sustainability.</p>	<ul style="list-style-type: none"> <li>• Council has an MTFP in place covering 3 years. This is discussed regularly at Cabinet and at informal meeting including monthly Cabinet Briefing, weekly CET, fortnightly at Senior Leadership Team (SLT) and at the fortnightly Cabinet / CET budget meetings.</li> <li>• Council has a MTFS and updates on budget process is reported regularly to Governance and Audit Committee. See covering report and other appendices to this report which includes developments to enhance both the MTFP and MTFS this year.</li> </ul>
<p><b>Leadership</b> - as financial sustainability becomes increasingly challenging it is essential for the leadership team to work together. Increasingly organisations that have been subject to intervention have experienced change at senior level</p>	<ul style="list-style-type: none"> <li>• There must be recognition that some Senior Officers and the Cabinet are relatively new to their roles, and this represents an element of risk in the Council's ability to set future balanced budgets.</li> <li>• Leadership and Culture important aspects for CEO. CET + Section 151 Officer work very closely as do SLT and Cabinet. This is reflected in our Well Run Council Theme in the Corporate Plan.</li> <li>• CET meets weekly, SLT fortnightly, CET Cabinet meeting fortnightly to discuss budget since Summer and will continue to do so.</li> <li>• Result is a committed and dedicated Leadership team balanced with some individuals that have worked for the Council for some years and have the history, knowledge and experience of the organisation, and other individuals who bring knowledge and experience from having worked elsewhere.</li> <li>• Leadership team constantly striving towards our shared vision to create 'One Council' culture with strong visible leadership and effective management.</li> </ul>
<p><b>Inadequate governance</b> – the depth of financial problems indicates a serious lack of oversight, with audit and governance committees not exercising their function and roles not understood.</p>	<ul style="list-style-type: none"> <li>• The Councils Governance arrangements are considered appropriate. Good Governance goes hand in hand with strong Leadership.</li> <li>• As a learning authority (part of our culture) we are always reflecting on how we can do things better.</li> <li>• Our shared vision is underpinned by 4 core values which include respect and integrity, and our 5 principles which includes Member and Officer relations.</li> </ul>

<p>CIPFA Advice - Governance arrangements should be strengthened and include the ability to speak truth to power.</p>	<ul style="list-style-type: none"> <li>• All Officers are empowered by the CEO to discuss improvements and to challenge appropriately the way things are done. Similar relationship with Members – our culture is very much of openness and the ability to speak truth to power.</li> <li>• Comprehensive discussions are ongoing regards the role of the Governance and Audit Committee, and the Terms of Reference for the audit committee is being reviewed.</li> <li>• Currently reviewing role of Scrutiny in budget setting process for both Revenue and Capital</li> <li>• As required the Council produces and Annual Governance Statement.</li> <li>• Section 151 officer, Monitoring Officer and Head of Internal Audit all have direct access to Chief Executive Officer and to the Governance and Audit Committee.</li> <li>• All Members are able to attend Cabinet and raise questions on each agenda item before Cabinet makes decisions.</li> <li>• Lead Member for Finance, Performance and Strategic Assets regularly attends Governance and Audit Committee.</li> </ul>
<p><b>Weak financial management</b> – the importance of good financial management in relation to reporting and monitoring provides assurance and evidence for effective budgetary decision making.</p> <p>CIPFA Advice - The quality of financial management should be assessed. Understand where your financial management strengths and weaknesses are. The CIPFA FM (Financial Management) Code is a good place to start.</p>	<ul style="list-style-type: none"> <li>• This is about doing the basics of financial management well which the Council has always done.</li> <li>• During the year a detailed monthly finance report covering revenue, capital, Housing Revenue Account, Schools, and the treasury (investments and borrowing) position is reported to Cabinet.</li> <li>• Each service is allocated dedicated support from the Finance Team who they work in partnership with on all aspects of financial management. Relationships have been developed into business partners which offer support and guidance but also offer appropriate challenge.</li> <li>• See earlier comments regarding regular discussions at 1-2-1s regards savings etc which filters from CEO and Corporate Directors throughout the organisation – this is part of strong financial management as finance/savings important part of such discussions.</li> </ul>

<p>Elected members must receive training on financial matters, improving their understanding of complex issues. Ensure that members understand enough about financial matters to realise the seriousness and implications of the decision they are making.</p>	<ul style="list-style-type: none"> <li>• Overspends in 2023/24 and 2022/23 were identified quickly with actions to mitigate put in place to reduce the level of overspend in year.</li> <li>• See earlier comments regarding steps being taken to strengthen financial management tracking savings, budget performance indicators included in service plans. We will also introduce additional reporting in 2024/25 when a service reaches a certain trigger of overspend in the next monthly finance report.</li> <li>• The CIPFA FM Code is reviewed annually with the results reported in the Annual Governance Statement.</li> <li>• Positive and supportive professional networks in Wales at all levels (Section 151 Officers, CEOs, Monitoring Officers, etc). Particularly in North Wales therefore mutual support / shared experiences.</li> <li>• Elected Members have received training, more could be arranged if necessary. Democratic Services committee recently agreed to recommend that Local Govt Finance and Budget Setting be mandatory training for all Members. Report to Council in May.</li> <li>• Consider elected Members were engaged in the 2024/25 budget process and understood the implications of decisions made. Informal meetings were held to discuss each Major Savings proposal alongside wellbeing impact assessments which continue to be updated. As a learning organisation always willing to receive feedback from all Members. CEO and Section 151 Officer have held informal sessions with all groups to reflect on 2024/25 budget setting.</li> </ul>
<p><b>Lack of reserves</b> – while the economic climate continues to be difficult, organisations that have little to no reserves face significantly higher risks</p>	<ul style="list-style-type: none"> <li>• Council has a modest amount of revenue reserves available, though the trend in recent years is negative as the council has had to use reserves to cover in year unplanned overspends.</li> <li>• See budget report in January for reserves section.</li> <li>• See MTFs review of reserves and of reserves policy planned.</li> <li>• Difficult to compare reserves across councils and draw meaningful conclusions as each council is different.</li> </ul>

<p>CIPFA Advice - Commercialism. The risks around commercial activities must be clearly understood, with effective oversight of council-owned companies. Make sure the risks are understood and there is effective oversight.</p>	<ul style="list-style-type: none"> <li>• The Council has undertaken some commercial activity with the setting up of Denbighshire Leisure Limited. Effective governance arrangements are in place to manage the contract, risk and oversight which are working well. A strategic governance board consisting of CEO, Monitoring Officer, Section 151 Officer, Leader, Lead Member for Finance, Chair of Governance and Audit Committee and a Scrutiny Chair.</li> <li>• Any future proposals would need careful consideration by the Council.</li> </ul>
<p>CIPFA Advice - Internal audit should review the effectiveness of financial rules and processes, and knowledge of and compliance with financial regulations. Review your financial regulations.</p>	<ul style="list-style-type: none"> <li>• The Internal Audit plan for 2024/25 is in the final stages of development. Audits will include review budget setting process in 2023/24, process for tracking savings, and reviews within services for assurance that savings have been achieved in line with service expectations and to measuring impact on performance.</li> <li>• Internal audits would always consider compliance with financial and procurement laws and regulations.</li> <li>• Admittedly the regular review and update of Financial Regulations by Finance has not been completed recently. A new finance system is being implemented during April which replaces all our financial IT systems. IA have been involved in the project as a critical friend to advise on risks in changing systems and processes. Additional audit work will be carried out in 2024/25 for assurance purposes because of the change in systems. The aim would be to review and update financial procedures in 2025/26 post implementation of new financial systems. Capacity within the Finance Team is unlikely to allow the review to take place in 2024/25.</li> </ul>
<p>CIPFA Advice - A financial resilience review may be obtained</p>	<ul style="list-style-type: none"> <li>• Audit Wales undertaking review locally and nationally across Welsh local government on financial sustainability. The results of which will be available in July 2024</li> <li>• Panel Performance Assessment as part LG and Elections (Wales) Act later this year. The Act places a duty on councils to arrange for a panel to undertake and respond to a corporate, organisational level assessment, of the extent</li> </ul>

	<p>to which the council is meeting its performance requirements.</p> <ul style="list-style-type: none"><li>• Consideration could be given to obtaining an external independent review of financial resilience in totality or for a specific service. This could be completed by WLGA, CIPFA etc.</li></ul>
--	--