



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL

22 February 2021

Agenda Status: PUBLIC

Directorate: Management Board

Report Title	Report in the Public Interest regarding the Council's loans to Northampton Town Football Club (accounts for the year ended 31 March 2016) and Action Plan in response.
---------------------	---

1. Summary

1.1 On 27 January 2021, the Council's previous external auditor (KPMG) issued a Report in the Public Interest ("the Report") (Appendix 1) regarding the Council's loans to Northampton Town Football Club (NTFC) (accounts for the year ended 31 March 2016). The Report is issued under the provisions of the Local Audit and Accountability Act 2014 ("the Act"). The Council must comply with the requirements of the Act in responding to the Report. At the time of writing this report, all of the relevant requirements of the Act have been fully complied with.

1.2 In particular, The Report states that:

- There were worrying gaps in the Council's knowledge at the time of making the decision in principle, with no formal business case submitted by NTFC prior to the decision being made;
- The inclusion of land sales to offset debt, ran a risk of being unlawful State Aid to NTFC;
- Insufficient time had been made available to address material matters;
- There was inappropriate use of Officer delegations to increase the loan value, without reference back to Cabinet;
- There was a lack of competitive process in respect of proposed land/asset disposals to County Developments Northampton Limited(CDNL);
- There was a failure to fully comply with the conditions associated with exercising the delegations.

1.3 The Report's recommendations will be responded to by way of a detailed Action Plan, currently in draft at Appendix 2 of this report.

1.4 Accountability for the delivery of the Action Plan will initially rest with the Leader of the Council and the Chief Executive Officer. However under Schedule 7 of the Act, Northampton Borough Council (NBC) is consulting with the West Northamptonshire

Shadow Authority as West Northamptonshire Council (WNC) will be responsible for the Action Plan from 1 April 2021.

1.5 Prior to 1 April 2021, NBC's Leader of the Council and the Chief Executive Officer will work closely with the Cabinet, the Overview and Scrutiny Committee, the Audit Committee, Chief Officers and any Members and/or officers nominated by West Northamptonshire Shadow Authority.

2. Recommendations

2.1 That Council approves the following recommendations:

- a) Accepts the findings of the Report in the Public Interest (Appendix 1) and the external auditor's recommendations (R1 to R10);
- b) Notes the draft Action Plan at Appendix 2, on which West Northamptonshire Shadow Authority will be consulted;
- c) Notes that the draft Action Plan includes a response to each of the auditor's recommendations;
- d) The Council requests that Cabinet receives a report on the draft Action Plan at its meeting on 24 March 2021 which will reflect the consultation undertaken with West Northamptonshire Shadow Authority;
- e) The Council notes that ordinarily a report would be brought back to full Council to update Members, but as a result of Local Government Reorganisation, future reports will be dealt with through WNC's governance arrangements;
- f) The Council commits to a regular and open dialogue with the external auditors, past and present to keep them apprised of the Council's progress in implementing the Action Plan up to 31 March 2021.
- g) The Council in discussions with West Northamptonshire Shadow Authority has agreed that any unresolved actions remaining at 31 March 2021 will be progressed by WNC as it sees fit.

3. Issues and choices

3.1 Report background

- 3.1.1 NBC fully recognises the serious nature of The Report issued. It accepts the findings, conclusions and recommendations of the external auditor's report into the governance arrangements in respect of the loan to NTFC.
- 3.1.2 The Council is required under Section 24 and Schedule 7 of the Local Audit and Accountability Act 2014 to consider the recommendations of The Report and decide what action to take in response. It is also essential that all decisions made by the Council with regard to its governance arrangements are taken in full cognisance of the report's findings and recommendations.
- 3.1.3 In the course of 2015/16 Northampton Town Football Club (NTFC) defaulted on loans made to it by NBC in 2013 and 2014. In light of this, NBC's Audit Committee asked its own Internal Auditors (PWC) to conduct a review into the provision of the loans to NTFC. The review's

focus was to provide the Audit Committee with an assessment as to whether the relevant Council policies and procedures to support the loans were adequate and whether the policies were followed in these transactions.

- 3.1.4 The findings of the Internal Audit review were fully acknowledged and accepted by officers at the time and a Governance Action Plan (attached as Appendix 3) was developed and implemented to address the specific issues raised in the Internal Audit report. Updates were also reported regularly to the Audit Committee.
- 3.1.5 Since the completion of the Governance Action Plan, NBC has continued to improve its policies and procedures and indeed address a number of the issues that are highlighted in the external auditor's report. These actions include:
- The creation of a new post and employment of Governance and Risk Manager;
 - Repatriating the role of Section 151 Officer back into the Council from LGSS and appointing a new Section 151 Officer (Chief Finance Officer);
 - Introduction of Group Leader Briefings;
 - Establishment of the Executive Programme Board (Comprising of Cabinet Members and the Corporate Management Board);
 - Review and revision of the Constitution.
- 3.1.6 NBC received this Report in the Public Interest on 27 January 2021 less than 3 months before it will cease to exist due to Local Government Re-organisation. Therefore, whilst NBC takes this matter very seriously there is a limit to the extent that it can respond. NBC has however and therefore taken the key step that it is required to take - to share the Report and the auditor's concerns with West Northamptonshire Shadow Authority.
- 3.1.7 The Action Plan contains recommended actions which NBC is consulting with West Northamptonshire Shadow Authority on through its officers and Executive Members. This includes actions identified as a result of the original PWC Report in 2016.
- 3.1.8 It is recommended that the finalised Action Plan will be agreed through a separate report at its meeting on 24 March 2021 which will reflect the consultation undertaken with West Northamptonshire Shadow Authority.

3.2 Addressing the recommendations

- 3.2.1 Accountability for the delivery of the report will until 31 March 2021 be with the Leader of the Council and the Chief Executive Officer. From 1 April 2021 responsibility for the Action Plan will rest with WNC and it will determine how this is managed and reported on through its governance processes, including the engagement of external auditors, both past and present.

3.3 Other options considered in making recommendations

- 3.3.1 In accordance with the 2014 Act, the Council has reviewed the recommendations. These have also been reviewed in light of the Nolan principles incorporated as part of NBC's constitution.
- 3.3.2 In reviewing the recommendations, the Council is recommended to accept them. Therefore, there are no other relevant options other than to accept the external auditor's report and its recommendations.

- 3.3.3 The Report focusses on improving the governance of the Council. This is entirely aligned with the Council's own Constitution and with its statutory duty of best value and continuous improvement.
- 3.3.4 The Council notes the circumstances and timing of the Report and the progress in addressing the recommendations by NBC will be limited by Local Government Re-organisation. Therefore, in discussions with West Northamptonshire Shadow Authority it will leave consideration of future actions to the future WNC to determine.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 There are no immediate changes to Policy arising from this report. Any changes required to address the recommendations, resulting from the agreed Action Plan will be taken by WNC through its governance arrangements.

4.2 Resources and risk

- 4.2.1 The recommendations may prove useful to WNC as a check of its governance arrangements.
- 4.2.2 There may be costs for WNC with implementing the recommendations. At the time of publishing this report these costs are unknown. Any update regarding any associated costs will be brought to Cabinet, or WNC as successor, for consideration and approval.
- 4.2.3 The costs associated with this objection to the accounts of NBC and subsequent report are currently £201,970 in respect of the Auditor Fees and legal advice.

4.3 Legal

- 4.3.1 Under the provisions of the Act, NBC is required to publish the report as soon as practicable, consider it at a meeting within one month, decide what action it will take in response and publish a summary of that decision.
- 4.3.2 The Council must decide whether the Report is accepted along with the recommendations. It must also decide what action to take in response to the Report and its recommendations. The recommendations and proposed actions by the Council are set out in the body of this report and accompanying appendices.
- 4.3.3 After considering the Report and its response to it, the Council must notify the external auditor of its decisions, and publish a notice containing a summary of those decisions which has been approved by the external auditor.
- 4.3.4 Under Schedule 7 of the Act, NBC is consulting with West Northamptonshire Shadow Authority as WNC will be responsible for the Action Plan from 1 April 2021.

4.4 Equality

- 4.4.1 There has not been an equality impact assessment of this initial response to the external auditor's report. However, each of the individual actions included in the draft Action Plan will be considered as to whether an equalities impact assessment needs to be produced.

4.5 Consultees (internal and external)

4.5.1 Internally - Corporate Management Board and Cabinet Members.

4.5.2 Externally - West Northamptonshire Shadow Authority.

5. Background Papers

5.5.1 Northampton Borough press release.

5.5.2 Northampton Borough Council Constitution.

5.5.3 Section 24 and Schedule 7 of the Local Audit and Accountability Act 2014.

5.5.4 PWC Internal Audit Report – November 2016

George Candler, Chief Executive

Appendices

Appendix 1 - Northampton Borough Council: Report in the public interest regarding the Council's loans to Northampton Town Football Club (accounts for the year ended 31 March 2016)

Appendix 2 – Draft Action Plan

Appendix 3 – Governance Action Plan 2016