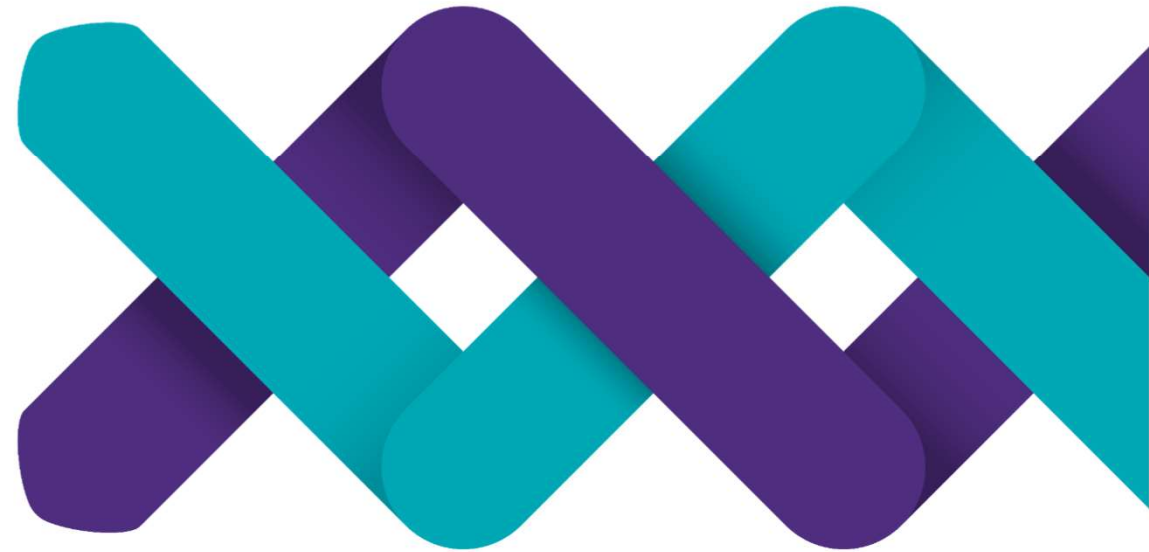


Highways Objections and Closure of 2015-16 and 2016-17 Audits

Warwickshire County Council
Year ending 31 March 2020

7 November 2019



Contents

Section	Page
Introduction	03
Background	04
Manhole Covers	05
Environmental Noise Regulations	06
Action Plan	09
Audit Fees	10

Introduction



Your key Grant Thornton team members are:

Grant Patterson

Engagement Lead

T: 0121 232 5296

E: grant.b.patterson@uk.gt.com

Jim McLarnon

Engagement Manager

T: 0121 232 5219

E: james.a.mclarnon@uk.gt.com

Lena Grant-Pearce

In-Charge Accountant

T: 0121 232 5397

E: ellena.grant-pearce@uk.gt.com

This paper provides the Audit & Standards Committee with a summary of the findings from our work on Highways related Objections and confirmation of the closure of the 2015-16 and 2016-17 audits.

We completed our consideration of two 2015-16 highways related objections earlier this year. Our detailed responses were shared with the objector and the Council in the form of our 'Decision and Explanations'. Legislation does not specify, and there is no relevant caselaw, whether or not a 'Decision and Explanation' is a public document so we have not put the full transcript of our responses into the public domain. However, we have summarised the key issues in this report for consideration by the Council's Audit & Standards Committee.

For both objections we concluded that we were not minded to make a report in the public interest but that there were areas of improvement upon which we would make recommendations to the Council as part of the normal course of our audit work. These recommendations are contained within this report and the associated Action Plan.

As a result of concluding the work on the objections we were able to certify the 2015-16 and 2016-17 audits closed. We completed this work and certified the audits closed on 23 August 2019. Our work on the objections is not covered by the statutory audit fee. We are seeking a fee variation of £9,847 to meet the costs of the work undertaken. The fee variation is subject to agreement with PSAA Ltd.

Background

Summary of Statutory Position

The Local Audit and Accountability Act 2014 (the Act) governs the work of auditors appointed to authorities and other local public bodies. The Act, the Accounts and Audit Regulations 2015 and the Local Audit (Public Access to Documents) Act 2017 also cover the duties, responsibilities and rights of local authorities, other organisations and the public concerning the accounts being audited.

A local resident or an interested person or journalist has the legal right to inspect an authority's accounts and related documents. Additionally, a local government elector for the area to which the accounts relate can also:

- ask questions about the accounts; and
- object to them.

In respect of an objection, a local government elector can ask the external auditor to apply to the High Court for a declaration that an item of account is unlawful, or to issue a report on matters which are in the public interest ('a public interest report').

The Objections

We received two objections in respect of the 2015-16 accounts:

- The first concerned the Council's approach to the installation and repairs and maintenance of manhole covers that the objector asserted had potentially led to poor value for money as the result of short-term costs savings leading to longer term total costs, and
- The second was in regard to the objector's view that the Council had failed to properly implement the requirements of the Environmental Noise Regulations in respect of a stretch of the A444 Trunk Road and whether the Council's overall arrangements in respect of highways maintenance ensured that its resources had been used efficiently and effectively.

In both cases the objector asked us to produce a 'report in the public interest' on these matters under section 24 and Schedule 7 of the Local Audit and Accountability Act 2014 ('the 2014 Act').

Manhole Covers

Summary

Our work identified that:

- To be able to demonstrate it has discharged its responsibilities as a Highway Authority the Council carries out highway safety inspections in accordance with their own policies and national guidance. As stated within the Council's Highway Maintenance Safety Inspections Manual (January 2015) the Council has set its own standards for the frequency of its highway safety inspections, taking into account the non-mandatory guidelines in the latest Code of Practice for Maintenance Management "Well Maintained Highways" (July 2005).
- When determining the type of manhole cover to install a statutory undertaker i.e. a water company (and the County Council if maintaining apparatus owned by it) follow the general requirements for chamber tops, as specified in the national Design Manual for Roads and Bridges. Paragraph 3.3 of the Advice Note for Chamber Tops and Gully Tops for Road Drainage and Services: Installation and Maintenance (HA 104/09, Volume 4, Section 2, Part 5) states that the minimum classification for all chamber tops and gully tops installed in areas of trunk roads and motorways that are likely to be subject to traffic and the Council ensures compliance with this.
- The objector also raised the issue about the depth of pot holes that the Council was required to attend to. Appendix B of the Code of Practice for Maintenance Management examples are given of the approach in other councils and UK jurisdictions, we also looked at the policies adopted by some other councils both locally and further afield in respect of the depth of pot-holes that would trigger investigation and/or repair within one day. The Council's locally determined categorisation of a 100mm pot hole requiring repair within 24 hours was towards the higher end of the range (20mm to over 100mm) we identified but we acknowledged that the information available to us did not represent a statistical sample and the Council's policy did not appear to be wholly unreasonable.

Conclusions

Our overall conclusion was that we did not intend to make a report in the public interest, because:

- the arrangements the Council have in place for inspecting and requiring repairs to be undertaken within specified standards are not unreasonable; and,
- the Council is indemnified against reasonable costs under the New Roads and Street Works Act 1991 and therefore there is unlikely to be any significant impact upon the Council's finances.

However, we confirmed that we would make a recommendation that the Council keeps its policies on the depth of pot holes requiring repair within 24 hours under review to ensure it is line with best practice.

Environmental Noise Regulations - 1

Summary

The objection asked two key questions. The questions and our summarised response are shown on the next three pages.

Q1. Has the Council met its Rights and Obligations under the Environmental Noise (England) Regulations 2006?

- When enacting the European Directive the government placed statutory responsibility with Department for Environment, Food & Rural Affairs (DEFRA) who then sought to discharge this through requiring authorities to incorporate any local requirements into their highways policies as appropriate. We accept the Council's argument that an authority is not by law obliged to implement a policy, in so much that a policy cannot be enforced in the courts in the way that a statutory duty can be enforced. However, our view is that the Council cannot demonstrate it has gone through a process to consider what further measures, if any, might require implementation in order to improve the management of noise in the context of Government policy and to form a view in respect of any resulting actions that might require to be recorded as a policy in a manner which would ensure that regard is had to it when planning relevant maintenance programmes. However, we accept the Council's argument that, as a matter of fact, as it has not identified actions that might be incorporated into a policy there would not be a requirement to report a departure from that policy to the Secretary of State under Regulation 21(2) of the 2006 Regulations.
- The weaknesses in corporate arrangements such that the Council cannot demonstrate it has undertaken the investigations envisaged by the *Noise Action Plan: Roads* can be counter balanced to a certain degree by evidence at the operational level that there was awareness at an operational level of:
 - the 2006 Regulations,
 - the Important Areas, and
 - noise reducing surface dressings.

Environmental Noise Regulations - 2

Q2. Has there been potentially unlawful control of the County Council's Highways budget and is there evidence that the Councils arrangement for ensuring economy, efficiency and effectiveness are not adequate?

- The Council is responsible for maintaining 3,831km of carriageways with an estimated Gross Replacement Cost of nearly £3.74bn. Capital (or renewals) funding for carriageways comes from capital settlements from the Department for Transport (grant formula and competitive element).
- The Council has developed a series of policies and strategies to determine the prioritisation of highways maintenance work within available resources.
- To be able to demonstrate it has discharged its responsibilities as a Highway Authority the County Council carries out highway safety inspections in accordance with their own policies and national guidance.
- The Council has assessed itself as Level 2 against a Department for Transport list of criteria - Can demonstrate that outputs have been produced that support the implementation of key areas that will lead towards improvement. This is consistent with the documentation we saw as part of our work and the Council recognises there are still improvements to be made in order for it achieve Level 3.
- The Council can demonstrate that it has gone through an appropriate budget setting process and there is no evidence to indicate it has acted unlawfully.
- The Council is a member of the National Highways and Transport (NHT) survey network and uses this data to compare user satisfaction levels with similar size highway authorities to enable it to identify areas of effective service delivery and focus priorities for improvement. Through the Council's website there are opportunities for customers to provide feedback on the highway service.

Through this work we have not identified any significant failings in the Council's governance arrangements that would indicate inadequate value for money arrangements.

Environmental Noise Regulations - 3

Conclusions

Our overall conclusion was that we did not intend to make a report in the public interest, because:

- there is no evidence to suggest the Council acted outside its legal powers;
- the arrangements the Council have in place for setting and controlling its highways budget are not unreasonable; and,
- the Council's arrangements enable it to comply with section 41 of the Highways Act 1980 (Duty to maintain highways at public expense) and that in the event of an action against it in respect of damage resulting from its failure to maintain a highway maintainable at the public expense it is a defence to prove that the County Council had taken such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous for traffic (section 58 of the Highways Act 1980 - defence against action for non-repair of Highway). Therefore, there is unlikely to be any significant impact upon council tax levels and value for money of the arrangements.




Recommendations

As part of normal audit process we recommend that the Council take action in response to the objection in the following areas:




- The Council formally document its views and policies in respect of the measures, if any, that might be taken in order to assist with the implementation of the Government's policy on noise in line with regulation 21 of the Environmental Noise Regulations 2006 and important areas identified in accordance with DEFRA's Noise Action Plan: Roads (Including Major Roads) and that arrangements ensure it can demonstrate how these findings, conclusions and any required actions will be integrated into the considerations as part of its annual highways maintenance programme.
- The Communities Overview and Scrutiny Committee be made aware of your objection and our findings so that it might consider whether this is an area it wishes to consider within its programme of work or to receive a Briefing Paper upon.

Action plan

We have identified 3 recommendations for the Council as a result of issues identified during the course of our work. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our work on the objections and that we have concluded are of sufficient importance to merit being reported to you in accordance with the Code of Audit Practice and auditing standards.

Assessment	Issue and risk	Recommendations
Manhole Covers		
1  Low	<ul style="list-style-type: none"> The Council's locally determined categorisation of a 100mm pot hole requiring repair within 24 hours was towards the higher end of the range (20mm to over 100mm) we identified but we acknowledge that the information available to us did not represent a statistical sample and the Council's policy did not appear to be wholly unreasonable. 	<ul style="list-style-type: none"> The Council should ensure arrangements are in place to keep its policies in respect of the depth of pot-holes requiring repair within 24 hours under review to ensure it is line with best practice. <p>Management response</p> <ul style="list-style-type: none"> Agreed.
Environmental Noise Regulations		
2  Medium	<ul style="list-style-type: none"> The Council was unable to demonstrate how it had gone through a process to consider what further measures, if any, might require implementation in order to improve the management of noise in the context of Government policy and to form a view in respect of any resulting actions that might require to be recorded as a policy in a manner which would ensure that regard is had to it when planning relevant maintenance programmes. 	<ul style="list-style-type: none"> The Council formally document its views and policies in respect of the measures, if any, that might be taken in order to assist with the implementation of the Government's policy on noise in line with regulation 21 of the Environmental Noise Regulations 2006 and important areas identified in accordance with DEFRA's Noise Action Plan: Roads (Including Major Roads) and that arrangements ensure it can demonstrate how these findings, conclusions and any required actions will be integrated into the considerations as part of its annual highways maintenance programme. <p>Management response</p> <ul style="list-style-type: none"> Agreed. The Service will implement the recommendation with advice from Legal (if necessary) as to what the ENR require.
3  Low	<ul style="list-style-type: none"> The Communities Overview and Scrutiny Committee has responsibility to review and/or scrutinise the provision of public services in Warwickshire relating to community safety, trading standards, transport and highways, economic development and environment, adult learning, heritage, tourism, flood risk management and emergency planning. There may be elements of our findings which it would wish to consider. 	<ul style="list-style-type: none"> The Communities Overview and Scrutiny Committee be made aware of the objection and our findings so that it might consider whether this is an area it wishes to consider within its programme of work or to receive a Briefing Paper upon. <p>Management response</p> <ul style="list-style-type: none"> Agreed. The recommendation will be raised at the next Communities Overview and Scrutiny Committee Chair and Spokes meeting for consideration.

Controls

-  High – Significant effect on control system
-  Medium – Effect on control system
-  Low – Best practice

Fees

Our work on objections is not covered by the statutory audit fee. We are seeking a fee variation of £9,847 to meet the costs of the work undertaken. The fee variation is subject to agreement with PSAA Ltd. This would bring the final fees charged in respect to 2015-16 to those shown in the table below:

Audit Fees

	Proposed fee	Final fee
Council Audit 2015-16	£94,539	£94,539.
Additional Fee for two Highways Objections	N/A	£9,847
Non-audit Fees – Non-audit services – CFO Insights	£10,000	£10,000
Non-audit Fees – Audit Related Services - Certification of Teachers' Pension return	£4,200	£4,200
Total audit fees (excluding VAT)	£108,739	£118,586

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect your business or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.



© 2019 Grant Thornton UK LLP. Confidential and information only.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton UK LLP is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions. This proposal is made by Grant Thornton UK LLP and is in all respects subject to the negotiation, agreement and signing of a specific contract/letter of engagement. The client names quoted within this proposal are disclosed on a confidential basis. All information in this proposal is released strictly for the purpose of this process and must not be disclosed to any other parties without express consent from Grant Thornton UK LLP.