

## Appendix A: Summary of Circumstances Cited for Local Authorities Issuing Section 114 Notices

### Northamptonshire County Council (2018)

- Insufficient financial management and budgetary control arrangements, repeated service overspend and failure to deliver savings.
- Organisational culture where overspending is acceptable; with no sanctions in place for overspending.
- Ineffective transformation programme ('programme in name only').
- Adult Social Care pressure – overspend known by middle of 2017/18 but delays in reporting to Cabinet and full position not reported to Cabinet which inhibited proper scrutiny.
- Children's Social Care - £7.7m pressure in 2018/19 (£7.1m of which was identified in May 2017, less than 3 months after the Budget was agreed).
- Key areas of concern:
  - Flexible use of capital receipts
  - Reliance on one-off use of resources
  - Failure to deliver savings plans
  - Ensuring sustainable financial decisions are taken
- *Northamptonshire County Council was abolished because of its failings in 2021 and replaced by North Northamptonshire and West Northamptonshire*

### Croydon Borough Council (2020)

- Forecast General Fund overspend in excess of £30m in 2020/21 with further risks likely to arise of circa £36m in that financial year (totalling £66m) as a result of undeliverable income in the form of dividends and interest payable from Brick by Brick (Council-owned Housing Company); also potential risks the treatment of 2019/20 costs arising from the ongoing external audit of the accounts.
- Some savings were delivered but not of the magnitude required and emergency plans were not delivering at sufficient quantity or pace.
- Second Section 114 notice issued in December 2020, as a continuation from the one issued in November 2020.

### Slough Borough Council (2021)

- Incorrectly calculating Minimum Revenue Provision since 2016/17, overstating asset lives, incorrectly using capital receipts and omitting some expenditure from the calculation.
- Borrowing quadrupled from circa £180m (2016/17) to £760m (2021/22) with a consequential revenue impact.
- Range of financial pressures and issues.
- Effectively no unallocated general reserves.
- Incorrectly charging some revenue costs to capital.
- Estimated negative General Fund balance as at 31 March 2021 of £56m; additional in-year deficit for 2021/22 estimated at £40m (on the assumption that £15m existing capitalisation direction agreed).

- If no further action taken, estimated negative General Fund balance of £159m as at 31 March 2025.

#### Nottingham City Council (2021)

- £16m of funding from HRA was wrongly credited to the General Fund over a period of 6 years, which is a breach of local government financial law and therefore required a Section 114 notice to be issued (alongside a Section 5 notice – a formal acknowledgement that the authority had acted unlawfully).
- No further spending controls required, but this error did intensify the authority's financial and governance crisis following the collapse of Council-owned Robin Hood Energy (which had already seen the announcement of £100m asset disposals and 500 job losses).
- The error put pressure on General Fund reserves, due to the required refund from the General Fund to the HRA by the full amount.

#### Northumberland Council

- The Council, alongside Northumbria Healthcare NHS Foundation Trust, launched an international consultancy for a commercial purpose – Northumbria International Alliance.
- Northumbria International Alliance traded from 2018-21 but was not set up as a trading company and its income and expenditure appeared on the Council's accounts; legal advice sought by the Council revealed that this was unlawful.
- The Council was also paying its Chief Executive £40k per year in addition to salary, for which the Section 151 Officer said there was no proper authorisation and it was in contravention of the Council's Pay Policy Statements.
- Failure of governance and lack of transparency.
- However no concern about balancing the budget – this Section 114 related to unlawful spending.

#### Croydon Borough Council (2022)

- The previous Section 151 Officer would not have been aware of these issues at the time of the previous Section 114s in 2020).
- The Section 114 was despite new issues emerging from the 'Opening the Books' project around historic capital charges which were understated in the Council's accounts and of charges made to the Capital Programme and HRA which should have been charged to revenue.
- Had been producing monthly financial performance reports since May 2022 and was projected to be within budget for 2022/23.
- There was an unresolved issue in relation to capital receipts from Croydon Affordable Homes/Croydon Affordable Tenures that had been applied to £70m in revenue transformation costs under the Government's flexible use of capital receipts rules in 2019/20 financial accounts which required a new Capitalisation Direction from Government.
- Toxic debt burden of negative equity from historic uncontrolled borrowing and national/global issues in the local government sector undermined progress on financial recovery.
- Forecast General Fund deficit for 2023/24 of £77m (assuming a Council Tax increase of 5% in 2023/24 was set by Government).

- Risks in treatment of 2019/20, 2020/21 and 2021/22 costs arising from ongoing external audit of accounts.

#### Thurrock Borough Council (2022)

- Provisional deficit for 2023/24 of £452m against a budget of £153m. the deficit is after applying revenue reserves and capital receipts of £17m to offset the gross £469m deficit.
- Very limited unrestricted and General Fund reserves.
- Key areas of concern:
  - 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.
  - Underfunded financial pressures linked to demand levels and inflationary impacts

#### Woking Borough Council (2023)

- Council investment strategy over a long period of time – unaffordable borrowing, inadequate steps to repay that borrowing and high values of irrecoverable loans.
- Section 114 followed a financial review where a number of issues came to light:
  - Long-term business model which incorporated a 50 year payback period and used assumptions that companies used for asset construction and ownership would return accounting losses over a long period of time; Council had insufficient revenue to fund operating losses and so chose to fund them by advancing monies sourced from loans from the Public Works Loan Board (PWLB) – these monies were advanced for capital purposes but used (unlawfully) for revenue purposes.
  - Insufficient funds set aside for debt repayment – debt portfolio as at 31 March 2023 was £1.8bn and Minimum Revenue Provision to repay debt had been undercalculated since 2007/08, leading to additional charges to the revenue account in the region of £95m in 2023/24 and an average of around £75m in each year moving forward.
  - Undercalculation of Minimum Revenue Provision meaning that the opening balances in final accounts from 01 April 2018 need to be restated by circa £80m and prior period adjustments totalling £220m made to financial accounts from 2018/19 to 2022/23 (under provision for debt repayment also affects the Medium Term Financial Plan which will face additional charges in each year going forward).
  - Majority of loans from PWLB to Council companies (£1.3bn in total) were applied for capital purposes, but a significant portion (up to £160m) is likely to have (unlawfully) been used to fund revenue expenses.

- Majority of assets created by Investment Programme lie in Council company accounts, some of which are jointly owned with commercial parties; revaluation shows asset values have diminished substantially over time.
- Core funding from Council Tax, Business Rates and Government grants for 2023/24 is £16m which is out of step with debt portfolio of £1.8bn.
- Economic factors, including a 'business as usual' shortfall of £9m in 2024/25 and thereafter.
- Estimated negative General Fund balance of circa £350m as at 31 March 2023; forecast to more than triple to £1.2bn by 31 March 2024.

#### Birmingham City Council (2023)

- Backdated Equal Pay claims up to an anticipated value of between £650m and £760m which the Council does not have sufficient resources to cover.
- Forecasted overspend of £87m for 2023/24.