

October 22nd, 2024

Notice Of Meeting

You are requested to attend the meeting to be held on **Wednesday, 23rd October 2024** at **7:00 pm** in **Hybrid Meeting - Church Street, Newtownards & Zoom.**

Agenda

Agenda

[AC 23.10.2024 Agenda.pdf](#)

Page 1

1. Apologies

2. Declarations of Interest

3. Minutes of the previous Audit Committee dated 23 September 2024

Copy attached

[AC 23.09.2024 Minutes.pdf](#)

Not included

[AC 23.09.24 Minutes PM.pdf](#)

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Reports for Noting

4. Matters arising from previous Audit Committee: Leisure services contractual arrangements

Report attached

[Item 4 NCLT report FINAL.pdf](#)

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5. Management Response to the Report to those Charged with Governance

Report attached

[Item 5 Mgt Responses.pdf](#)

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[5 Appendix Draft Report.pdf](#)

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6. Any Other Notified Business

ARDS AND NORTH DOWN BOROUGH COUNCIL

17 October 2024

Dear Sir/Madam

You are hereby invited to attend a special meeting of the Audit Committee of Ards and North Down Borough Council which will be a hybrid meeting via Zoom and in person held at the Council Offices, 2 Church Street, Newtownards on **Wednesday, 23 October 2024** commencing at **7.00pm**.

Yours faithfully

Susie McCullough

Chief Executive
Ards and North Down Borough Council

A G E N D A

1. Apologies
2. Declarations of Interest
3. Minutes of the previous Audit Committee dated 23 September 2024 (Copy attached)

Reports for Noting:

4. Matters arising from previous Audit Committee: Leisure services contractual arrangements (Report attached)
5. Management Response to the Report to those Charged with Governance (Report Attached)
6. Any Other Notified Business

MEMBERSHIP OF AUDIT COMMITTEE (11 MEMBERS)

Alderman Armstrong-Cotter	Councillor McCollum (Vice Chair)
Councillor Harbinson	Councillor McKee
Councillor Ashe	Councillor McLaren
Councillor Cochrane	Councillor Thompson
Councillor Hollywood (Chair)	Councillor Wray
Mr P Cummings	

ARDS AND NORTH DOWN BOROUGH COUNCIL

A hybrid meeting (in person and via Zoom) of the Audit Committee was held at the Council Chamber, Church Street, Newtownards, on Monday 23 September 2024 at 7.00pm.

PRESENT: -

In the Chair: Councillor Hollywood

Councillors: Harbinson
Ashe 7.01pm (Zoom) McLaren
Cochrane (Zoom) Thompson 7.41pm (Zoom)
McCollum Wray

Independent Member: P Cummings

In Attendance: NIAO – Brian O’Neill
NIAO – Richard Ross 7.09pm (Zoom)
Deloitte – Camille McDermott

Officers: Chief Executive (S McCullough), Director of Corporate Services (M Steele), Head of Finance (S Grieve) and Democratic Services Officer (P Foster)

1. APOLOGIES

The Chairman (Councillor Hollywood) sought apologies at this stage.

Apologies had been received from Councillor McKee.

NOTED.

(Councillor Ashe joined the meeting at this stage via Zoom – 7.01pm)

2. DECLARATIONS OF INTEREST

The Chairman sought Declarations of Interest at this stage.

No Declarations of Interest were declared. Members were reminded that they could declare throughout the meeting.

NOTED.

3. MATTERS ARISING FROM PREVIOUS MEETINGS

(a) Audit Committee Minutes from 24 June 2024

PREVIOUSLY CIRCULATED:- Copy of the above minutes.

AGREED TO RECOMMEND, on the proposal of Councillor McLaren, seconded by Councillor McCollum, that the minutes be noted.

(b) Follow-Up Actions

(File ref: AUD02)

PREVIOUSLY CIRCULATED:- Report from the Director of Corporate Services stating that in line with best practice, the purpose of this report was to make the Audit Committee aware of the status of outstanding recommendations or any outstanding actions from the previous Audit Committee meetings.

Item	Title	Action	Officer	Status
September 2023				
6b	Report to those charged with governance	<ul style="list-style-type: none"> Update on progress in respect of compensation for the vesting of William Street site 	Director of Corporate Services	Verbal update at Committee
December 2023				
6b	Audit and Assessment Report	<ul style="list-style-type: none"> Drafting of formal communications strategy 	Head of Communications and Marketing	Due December 2024
June 2024				
11	Draft Financial Statements	<ul style="list-style-type: none"> Review of Scheme of Allowances to remove the need for Members to claim SRA. 	Head of Finance	In progress
12	Private Meeting with Auditors	<ul style="list-style-type: none"> Need for progress with regard to Governance and Internal Audit issues 	Director of Corporate Services	In progress – see item 6a
		<ul style="list-style-type: none"> Members requested earlier release date of draft financial statements 	Head of Finance	Due June 2025
		<ul style="list-style-type: none"> Need for additional meeting to be considered during Annual Meeting 	Director of Corporate Services	June 2025

RECOMMENDED that Committee notes the report.

The Head of Finance provided members with a brief overview of the report highlighting the salient points within it.

AGREED TO RECOMMEND, on the proposal of Councillor McCollum, seconded by Councillor Harbinson, that the recommendation be adopted.

4. CORPORATE GOVERNANCE

(A)Policy Register Status

PREVIOUSLY CIRCULATED: - Report from the Director of Corporate Services which explained that as members would be aware, the Council operated in compliance with many internal/external facing policies which had been developed by officers.

A register of all live policies had now been established to ensure that all policies could be located with ease and to ensure that the correct version was being used. The register could be found on ANDi (Publications/Policies) and contained the following details for each policy:

- Policy / Decision / Strategy / Plan
- Screening Number
- Policy name
- Description
- Relevant Service
- Current Status
- Date of issue
- Latest version
- Date of review
- Owner/Job Title
- Policy format
- Link
- Notes (if applicable)

The ANDi site also contained the Policy Development Process which was a step-by-step guide for creating a policy. To ensure consistency there was also a template front page for each policy going forward.

This would be communicated to all HOST and SUMs through the Governance Briefings (The Role of Heads of Service and Service Unit Managers) that were taking place in September and October 2024.

RECOMMENDED that Council note this report.

AC.23.09.2024PM

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AGREED TO RECOMMEND, on the proposal of Councillor Wray, seconded by Councillor McCollum, that the recommendation be adopted.

5. EXTERNAL AUDIT

(a) Draft Report to those Charged with Governance

PREVIOUSLY CIRCULATED: - Copy of the above report from Northern Ireland Audit Office (NIAO).

RECOMMENDED that the report be noted.

At this stage the Chairman welcomed Mr Brian O'Neill to the meeting and invited him to make comment on the report.

Mr O'Neill guided members through the Draft Report to those charged with Governance, highlighting the salient points within it, noting that the Local Government Auditor had reported on the 2023-24 financial statements with an unqualified audit opinion, without modification.

(Richard Ross, NIAO joined the meeting at this stage via Zoom – 7.09pm)

Councillor McCollum proposed, seconded by Councillor Wray, to note the report.

Councillor McCollum welcomed the report tabled before them from the NIAO commenting that it was well laid out and user friendly. Referring to Finding 1 – Energy Costs pertaining to the Serco Contract on Page 11, Councillor McCollum noted that £600,000 was a significant amount of money and as such she asked at what stage that could have been brought to the attention of elected members. She also asked if it was likely that a similar situation could arise again.

In response, the Head of Finance advised that at the outset the contract was made available to all perspective bidders and that detail had been included as part of the overall procurement process. He stated that a variation had been put in place during the 2023-24 year adding that the overall contract itself was over 200 pages. The Head of Finance stated that he believed the Council had received value for money on this occasion due to the competitive process that had been run in 2012.

In relation to the recommendation that incentives had capped limits put onto them, Councillor McCollum asked if that had of been in place in this case was that something which would have reduced the amount of windfall payable to Serco.

The Head of Finance indicated that it was difficult to know as the limits set on it would need to have been known. He advised that while he had been involved with the management of the Contract over the past ten years he had not been part of the initial procurement panel and as such he was unsure what other way the contract could have been constructed.

In relation to Finding 2 – Procurement of Bangor Art Regeneration Project, Councillor McCollum noted that the NIAO had endorsed the approach adding that she was aware of the amount of work which had been undertaken during the summer by the Chief Executive along with Council officers. As such she hoped the general public would be reassured by this. Continuing Councillor McCollum then referred to Page 29, Recommendation 1 – Disposal of Ards Leisure Centre and the outstanding compensation of £1.8M. She asked if that valuation still remained current and sought an overall update on the matter.

The Director of Corporate Services confirmed that the Council had provided the DSO with two additional Supplementary Statutory Declarations and the Council's solicitor was feeling more confident about bringing the matter to a conclusion. He added that the matter was now at the discretion of the DSO noting that both Dfl and Translink were to progress the matter.

Referring to the Finding 1 – Energy Costs pertaining to the Serco Contract on page 11, Councillor Wray voiced major concern with this matter. He noted that Serco had been given the £600,000 for the period between 2014 to 2023, adding that he was amazed by that figure. He expressed the view that a contract drawn up in that manner was disingenuous and added that this was ultimately ratepayers money. Continuing he noted that the Auditor had indicated that should not have taken place and recommended that it did not happen again and as such he did not believe that did represent good value for money. Finally he acknowledged that while the matter was complex it was half a million pounds which could have been invested in the Borough.

The Head of Finance indicated that he understood members concern particularly as £600,000 was a large amount of money. This was a recommendation based upon one element of the entire Management Fee and when the contract was taken as a whole what was being focused on was five to six pages of the overall 200 page document. He reiterated that it was believed that Council had received value for money based on the process followed at the outset.

Councillor Wray referred to the target which had been set by the Council and asked if Council believed at the time that this would happen.

The Director of Corporate Services confirmed that Council would have gone out with a Tender for which there would have been many bidders and within that a number of assumptions would have been made. One of those assumptions would have been around energy consumption being fixed and bidders would have responded on the basis. If they were of the view that they could do better than that, it would have been reflected in the totality of the price which they were willing to offer as part of a competitive process. If the energy responsibilities had been set up differently it was officers view that the Council would not necessarily be any better off as a result of this.

At this stage Councillor Wray asked if there was an issue which elected members had a concern about what the process was to bring it to the attention of the Audit Committee. Also in terms of matters such as this he asked if it was possible for members to receive the totality of such issues.

Members were advised of the procedures and Standing Order around matters of Any Other Notified Business. The Director of Corporate Services reminded members that the report before them had been produced by the NIAO within which it had articulated its findings and recommendations. Management responses were sought as part of the report and as the report was only received by Council last Thursday, management had not yet had the opportunity to make those responses. As such those responses would be brought to the next meeting of the Audit Committee and would largely be based upon the comments made by both him and the Head of Finance.

At this stage Councillor McLaren commented that the sum of half a million pounds was quite eye watering and she asked if it was normal practice.

In response the Head of Finance stated that he had not been involved in the procurement of this contract which had been undertaken by the legacy Council. However he indicated that he was aware through a level of understanding of such matters that this was a model contract which had been supplied by legal advisers at that time. He added that as far as he was aware it had been based upon similar contracts in use throughout Great Britain.

Councillor McLaren asked if the Council had any contracts currently in place which were similar to this one.

The Head of Finance advised that as far as he was aware this was unique for Council largely due to the size of the facility and the contract.

Continuing Councillor McLaren asked if the figure of £600,000 had been given out as a lump sum or a yearly sum in addition to their management fees.

In response the Head of Finance confirmed that this was not in addition to the management fee but instead was part of the overall price paid and was dependent upon consumption and the price, therefore the sums varied from year to year.

From an outsider perspective Councillor McLaren commented that this did not look good and as such she questioned why the Serco contract had not been provided in its totality.

The Head of Finance indicated that was the way the contract had been constructed and why the recommendation had focused on just one element of the management fee was really a question for the Auditor.

At this stage Councillor Harbinson noted the Auditor's comments at the bottom of Page 11 which detailed that:

"We do however note that a contract variation was put in place in the 2023-24 year and the Council now pay the actual energy costs on behalf of Serco".

As such he asked if the Council would see a slight revision downwards in respect of the Management Fee in that case.

In response the Head of Finance advised that another element of the management fee was a surplus in the Council's favour and the Council had always benefited from that. As such he stated that this underlined the importance of looking at the payment mechanism in its entirety.

At this stage Mr Cummings indicated that he was not as concerned as many of the elected members were as he was aware of how complex and difficult contracts of this nature were to understand and administer. He expressed the view that everyone would greatly benefit from understanding the entire contract, as one little bit of the contract had been extracted for consideration where it was clear profit was being made. As such he believed that to be an unfair way to look at the contract and instead what needed to be considered was how it had been set up at the outset. He asked officers to bring back a wider paper which would allow elected members to consider it in its entirety. He added that it would appear to be the case that Management's response would take a different view from the Auditor and the Committee would be asked if it was content with the Management response or not.

The Head of Finance indicated that he would be able to provide that.

Thanking Mr Cummings for his comments, Councillor McCollum indicated that she felt more assured adding that members of the Audit Committee needed to have a greater understanding of what was included in contracts such as this. She also added that when the papers had initially been circulated to members of the Committee the report from the NIAO had not been included. As such she presumed that it had come in late and management had not had the opportunity to formulate its response.

The Director confirmed that the report had been finalised last Thursday evening and in order to get it to members in a timely manner it had been circulated without a management response.

Councillor McCollum indicated that it would be very beneficial for members to have sight of such weighty documents as soon as possible in advance of any meeting.

At this stage Mr O'Neill welcomed the comments which had been made and informed the Committee that the Audit remained ongoing and was a time consuming process. He added that it was not unusual for a draft report to be circulated without management comments and continuing he stated that it was a tight timeframe for the Audit Office and as such he asked members to bear with them every year.

(Councillor Thompson joined the meeting at this stage via Zoom – 7.41pm)

Mr Cummings asked about process at this stage noting that management responses would be brought to the next meeting of the Committee, thereby meaning it would be six months before the Council received the Final Report to those charged with Governance.

The Head of Finance confirmed that it would be the December meeting of the Audit Committee.

Mr Cummings questioned how a final report could be agreed without the Committee having agreed the management response.

At this stage Mr O'Neill reminded members that the Final report would be between the NIAO and Council officers. Additionally an Annual Audit Letter would be produced by the end of November and there could be a knock on effect on that if there were delays to finalising the report to those charged with governance.

A discussion ensued on the best way forward and a single item agenda meeting was suggested.

Councillor Wray proposed, seconded by Councillor McCollum, that a further meeting of the Audit Committee with a Single Item Agenda was held in advance of the next scheduled meeting in December 2024.

AGREED TO RECOMMEND, on the proposal of Councillor Wray, seconded by Councillor McCollum, that a further meeting of the Audit Committee with a Single Item Agenda was held in advance of the next scheduled meeting in December 2024.

6. INTERNAL AUDIT

(a) Progress Report 2024/25 Deloitte

- i. Park and Cemeteries Service Review**
- ii. Economic Development Service Review**

PREVIOUSLY CIRCULATED: - Copy of the above reports from Deloitte.

The Chairman invited Camille McDermott, Deloitte to present her report.

Ms McDermott advised that this was a quarterly progress report for the conclusion of the first quarter of 2024/25. Two reports had been completed and brought to the Committee for consideration and field work had also been completed on a further two service areas. Members were advised that Service Reviews took into consideration Service Planning, Budgetary Control, Risk Management and Performance Monitoring and Reporting, in essence a more strategic approach was adopted.

The first report was the Parks and Cemeteries Review which received a Satisfactory Assurance with no Priority 1 Findings, 1 Priority 2 Finding and 1 Priority 3 Finding.

The second report was the Economic Development Service Review which received a Satisfactory Assurance with no Priority 1 or 2 Findings and 2 Priority 3 Findings.

For both reports Ms McDermott commented that while they were pleased to see fewer recommendations coming through the consistent which was coming through across all of the Service Reviews had been how those services were looking at their

Risk Registers, how they were discussing Risk and how they proposed to make it more than just a once a year exercise.

Questions were sought from members of the Committee at this stage.

Thanking Ms McDermott for the very helpful reports which had been circulated, Councillor McCollum expressed the view that it was preferable that Risk was a standing item of consideration by all services and she could not understand why that was not already embedded and in place. Continuing she specifically referred to the Economic Development report where risk was looked at bi-annually and quarterly and in her opinion quarterly would be the preferred option to provide a more fluid and regular update.

Ms McDermott indicated that while Services were managing Risk currently, they would like to see a more strategic view of Risk being undertaken by them. It was also noted that further recommendations had been made in relation to updating the Risk Strategy including training.

At this stage the Head of Finance advised that as part of the Budget Setting Process this year the Finance Team were working with Strategic Transformation and Performance to encourage teams to consider actions from their risk registers to assist in informing the budget setting considerations. He added that they needed to be considered as tools to assist officers to run their business rather than administrative exercises. It was further noted that Governance Workshops were being held for Heads of Service and Service Unit Managers to illustrate how those interact with each other and how they could assist them to carry out their role.

Councillor McCollum proposed, seconded by Councillor McLaren that the reports be noted.

Ms McDermott drew members attention to Appendix 2 of the Progress Report which detailed Outstanding Recommendations highlighting that at the last Audit Committee meeting there were 50 Recommendations outstanding. Since then a number of those had been closed and that figure had subsequently reduced to 42, with six of those not yet due. The team would encourage the Council to continue to progress through those issues and they were hopeful that figure would continue to reduce.

Councillor McCollum referred to Page 14 of the Progress Report which detailed the Outstanding Recommendations welcoming that eight had been closed off but also asked if members should be concerned that 42 still remained outstanding.

In response Ms McDermott noted that some had been outstanding for a while now however she was aware that Council was actively working through them. She suggested that the focus should be those Priority 1 Recommendations of which there were two and from a Committee perspective she believed that the focus should be on those Priority 1 and 2 Recommendations.

Continuing Councillor McCollum referred to Page 22 noting that particular recommendation in relation to Overtime, Flexi and TOIL had been ongoing now for quite some time, with a fifth target date now being worked towards. Similarly targets

for Procurement had been ongoing since April 2022 along with Absence Management. She believed that this one was vague and could be tightened up in a number of ways.

To highlight the point noted on Page 22 by Councillor McCollum, Ms McDermott suggested that where there had been a number of different target dates it may have been the case that for some of those recommendations the planned management action may not proceed due to cost implications. As such the Auditors would encourage the Council to consider what alternative measures could be considered to deal with that risk.

At this stage the Head of Finance referred to Page 22 and the cost of £5,000 associated with the implementation adding that it had been hoped to recruit an officer to carry out that work as was the case with the implementation of the recommendation on Page 32. Unfortunately recruitment exercises had been unsuccessful and as such considerations remained ongoing with HR colleagues to see if that was something which could be taken forward internally. In respect of the outstanding recommendation for Procurement he advised that similarly there were recruitment issues and as such other options were being considered at this stage. He added that undoubtedly the organisation as a whole was currently experiencing difficulties with recruitment.

AGREED TO RECOMMEND, on the proposal of Councillor McCollum, seconded by Councillor McLaren, that the reports be noted.

7. ANY OTHER NOTIFIED BUSINESS

The Chairman advised that there were no items of Any Other Notified Business.

NOTED.

EXCLUSION OF PUBLIC/PRESS

AGREED TO RECOMMEND, on the proposal of Councillor McCollum, seconded by Councillor Harbinson, that the public/press be excluded during the discussion of the undernoted items of confidential business.

8. SINGLE TENDER ACTIONS UPDATE

(File Ref: 231329)

*****IN CONFIDENCE*****

Item 8 – Single Tender Action Update

3. Exemption: relating to the financial or business affairs of any particular person

The Committee were asked to consider a report detailing an update on single tender actions since the last update was provided in June 2024.

The recommendation was adopted.

9. FRAUD, WHISTLEBLOWING AND DATA PROTECTION MATTERS

*****IN COMMITTEE*****

NOT FOR PUBLICATION SCHEDULE 6:3- INFORMATION RELATING TO THE FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON (INCLUDING THE COUNCIL HOLDNG THAT INFORMATION)

10. MEETING WITH NI AUDIT OFFICE AND INTERNAL AUDIT OFFICE IN THE ABSENCE OF MANAGEMENT

*****IN CONFIDENCE*****

NOT FOR PUBLICATION SCHEDULE 6 – INFORMATION RELATING TO THE FINANCIAL OR BUSINESS AFFAIRS OF ANY PARTICULAR PERSON (INCLUDING THE COUNCIL HOLDNG THAT INFORMATION)

RE-ADMITTANCE OF PUBLIC AND PRESS

AGREED TO RECOMMEND, on the proposal of Councillor McLaren, seconded by Councillor Harbinson, that the public/press be re-admitted to the meeting.

TERMINATION OF MEETING

The meeting terminated at 8.52pm.

Unclassified

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ITEM 4**Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Audit Committee
Date of Meeting	23 October 2024
Responsible Director	Director of Corporate Services
Responsible Head of Service	Head of Finance
Date of Report	22 October 2024
File Reference	FIN65
Legislation	Part 2 Local Government (NI) Order 2005
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below:
Subject	Contractual Arrangements for Leisure Services
Attachments	

Purpose

The report is to provide Members of the Audit Committee with the following:

- Outline the background to the Council decision which resulted in the appointment of Northern Community Leisure Trust (NCLT).
- Provide further details on the contractual arrangements
- Provide a management response to the audit finding

1. Background**1.1 Chronology**

It is important to state from the outset, that none of the existing Senior Management team either worked for the Council or were directly involved with the process undertaken which concluded in 2012. Therefore, much of the historic information

Not Applicable

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is obtained from the review of Council papers and meeting minutes from that time rather than from first-hand experience. For background, the table below sets out the chronology.

<i>November 2010 (Policy Committee)</i>	Council approved an Options Appraisal to be undertaken into the best method of management and operation of the new Leisure Centre in Bangor.
<i>June 2011 (Policy Committee)</i>	Policy committee reviewed business case and agreed on an option to commence the outsourcing process.
<i>September 2011</i>	<ul style="list-style-type: none"> • Open day held for prospective contractors. • Contract notice issued. • Procurement pre-qualification questionnaire (PQQ) was issued.
<i>October 2011</i>	Four applications received and PQQ assessment panel assessed the four applications.
<i>November 2011 (Policy Committee)</i>	<ul style="list-style-type: none"> • The Policy Committee agreed that the four applicants progress to the next stage. • Council approved the draft PQQ evaluation report which recommended that the four companies proceed to the next stage. • One company subsequently withdrew.
<i>January 2012</i>	Final clarifications were issued.
<i>July 2012</i>	Invitation issued to submit final tenders.
<i>August 2012 (Council Meeting)</i>	The NCLT bid was approved at a special Council meeting.
<i>September 2012</i>	Offer of contract was issued to NCLT.
<i>November 2012</i>	Signed NCLT Leisure Management Services contract received.
<i>December 2012</i>	Commencement of the NCLT contract.

1.2 Extracts from August 2012 Council Meeting

The following is an extract from the papers presented and included in the minutes of the meeting of the Council in August 2012 to appoint the preferred supplier:

“At the outset, the primary reason for embarking on the process of tendering for a Management Contractor was to offset the risk of exceeding the budget, either by underachieving on income (viewed as the major risk) or over-spending. It was also anticipated that Management Contractors would deliver services at a lower net cost, thus creating a saving and a beneficial impact on the rates. The specification required the bidders to offer proposals which maximised income, controlled expenditure and transferred the commercial risk to the Contractor.

The financial evaluation of the tenders concentrated on the management fee proposed by the bidders based on a fixed annual payment. The tenders were also

Not Applicable

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assessed in terms of how each bidder intended to maximise income and minimise costs, taking account of the Council's requirements to ensure that the facilities and services were accessible for all sections of the community. Finally, each bidder was scored on how they proposed to share any surplus income they generated with the Council over the life of the contract.

Each bidder was required to submit an income and expenditure projection over a 10-year period based on the requirements set out in the specification. They were also required to provide supplementary information setting out the rationale behind the financial projections.

The financial templates and supporting information were scored using a weighted scoring method and scores were awarded using objective evidence and the professional judgement of the evaluation panel. The lowest management fee submitted was given full marks and the other bidders were scored in proportion to this based on their comparison to their management fee. The annual management fees proposed by the bidders were as set out in the table below:

<i>Bidder X</i>	<i>Bidder Z</i>	<i>Bidder Y</i>	<i>In-House Comparator</i>
<i>£295k</i>	<i>£364.6k</i>	<i>£373.1k</i>	<i>£1,347k*</i>

**This equates to the mid range estimate from the economic appraisal.*

As seen from the above table there was just over £1m difference between the lowest management fee and the in-house comparator. When compared to the optimistic model of the business case, this difference decreases to £760k. A further £135,000 of savings had been identified in central support costs (Finance, Human Resources, ICT and maintenance budgets). Some of these savings would be achieved immediately e.g. maintenance contracts. The other salary related savings would be achieved through natural attrition at the earliest opportunity.

Whilst there were some differences in the expenditure projections between the bidders and in-house comparator, the material difference was in the income projections. On average the bidders had projected their income £1m (or £760k compared to the most optimistic in-house model) higher than the in-house comparator. All 3 bidders based their income projections on;

- Detailed research of the local market including population analysis and travel times*
- The use of specialist leisure management information systems*
- Benchmarking tools, using their experience of operating similar 50m centres in GB*
- Access to their central professional teams and resources in marketing and sales providing specialist knowledge and economies of scale*
- Consideration of their private sector commercial expertise in this field*
- The use of financially incentivised sales staff*

All of those factors, combined, had historically produced significantly higher levels of sales than any typical local authority approach.

Not Applicable

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Risk

When examining the financial projections it was important to consider how the risk associated with fluctuations in costs or income would be distributed. This is outlined as in Table 5, below;

Risk	Responsibility	Comment
Income	<i>Contractor</i>	<i>Contractor must manage their income as set out in their financial template.</i>
Expenditure (generally)	<i>Contractor</i>	<i>Contractor must manage their costs as set out in their financial template.</i>
Inflation	<i>Council</i>	<i>Contract will be adjusted annually to take account of pay and price increases.</i>
Routine Maintenance	<i>Contractor</i>	<i>Day to day maintenance is the responsibility of the Contractor. Council is responsible for building repairs and plant replacement.</i>
Utilities	<i>Split</i>	<i>Contractor responsible for the efficient use of oil, gas, electricity. Contract will be adjusted annually to reflect changes in tariffs.</i>
Pension – Annual contribution	<i>Council</i>	<i>Tender based on Admitted Body Status contribution of 21.5%, the contract will be adjusted if this changes.</i>
Pension – Initial Shortfall	<i>Council</i>	<i>This can only be determined on the day of transfer and has been estimated to be £540k.</i>
Pension – Exit Shortfall	<i>Council</i>	<i>This can only be determined on the last day of the contract. Employer contributions will be monitored and adjusted to minimise this as far as possible.</i>

1.3 Analysis of 2012 decision

The reason for outsourcing the contract was to minimise risk. In setting a fixed consumption rate for energy, the council passed the energy consumption risk to the Contractor. The Council therefore had certainty over energy consumption levels, meeting the objective of minimising risk.

The Council assessed value for money in the selection of the preferred contractor by comparing the received bids against each other, plus comparison with an in-house comparator model. When comparing the preferred contractor to the in-house comparator, the saving from outsourcing was over £1m per year - £10m over the initial contract period.

Not Applicable

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2. Contractual Arrangements

2.1 Contract fees explained

The details of the management fee are set out in Schedule 4 of the Leisure Services contract.

The management fee is made up of the following parts:

Line	Term	Explanation
1	Base Payment	Contract fee excluding utility payments
2	- Performance Deduction	In connection with performance failures
3	+ Utilities Payment	Payment calculated using the utility mechanism
4	+/- Pension Adjustment	In connection with NILGOSC enrolled staff
5	- Profit Share	Reduction due to contract being in surplus
6	+/- Utility Adjustment	End of year
7	+/- Loss of Income Adjustment	In relation to loss of income events
8	+ Mobilisation Fee	Fee for year's 1 and 2 of the contract period.

For the purposes of explanation this report will focus on items 1, 3 and 6. The remaining items do not have regular adjustments.

The contract payments are based on a financial model which is included in the contract. This is inflated each year in the following ways:

- Base payment – this is increased by inflation each year.
- Utility payment - increased based on actual prices for the next year based on the year past.
- Utility adjustment - at the end of the year a utility adjustment is made based on the actual prices paid by the contractor in comparison to the budgeted prices.

The utility mechanism is based on the standard calculations for price variances and volume variances.

For illustrative purposes information for 2 individual years is set out in the table below, along with the totals for the first 10 years of the contract and the total payments set out in the contract.

Not Applicable

19

	2018/19	2019/20	10 Year Total	Contract Schedules
	£	£	£	£
1 Base Payment	(242,946)	(249,019)	(2,564,855)	(2,307,805)
2 Utility Payment	491,859	585,273	6,155,870	6,156,760
3 Utility Adjustment	94,255	(4,194)	1,344,974	-
4 Total cost	343,168	332,060	4,935,989	3,848,955

Points to note:

- The base payment is actually in favour of the Council, not the contractor. Over the 10 years this totalled £2.5M (line 1). The difference in the contract schedule and the 10 year total relates to inflationary uplifts.
- The utility payment overall shows minimal difference between the contract schedule and the ten year cost. The reduction in consumption by the contractor offset the unit price increases over the contract period.
- The utility adjustment of £1.3m is driven partly by the cost increase associated with energy price volatility during the period and would have been incurred by Council under any operating model. It also includes the reduced levels of consumption (equivalent to c.£600k) noted in the audit report.

2.2 Consumption Targets

As this was a new centre of a major scale that had never been operational before, no data existed on energy consumption. Consumption targets were set based on estimates leveraging advice from industry experts. A mechanism was included within the contract that allowed for review after the first two years to allow targets to be reset once operational needs were better understood. This review resulted in a 6% reduction in the gas target and a 25% reduction in the electricity target.

The finding within the report to those charged with governance states that “Serco never had to bear additional energy costs in any year of the contract and the council had to pay this additional amount over the period of the contract.”

While overall, NCLT did not bear additional charges, that is not correct in terms of electricity consumption where in 5 of the 10 years the contractor exceeded the target and had deductions made from the annual adjustment payment. In addition, the benefit received by the contractor in those particular years was also curtailed.

2.3 Contract Variation

When the contract was first put in place in 2012, the contractor was obliged to procure the utilities on the understanding that they would be able to achieve a better price than Council.

However, by the time extension discussions were undertaken in 2022, there were a number of interlinked factors that had come to the fore for the operator:

- Utility prices had increased very substantially;

Not Applicable

- This increase was having a negative effect of the operators’ irrecoverable VAT position.
- Council had joined a consortium with other councils and were able to achieve more competitive prices than the contractor.

The Council procuring utilities partially addressed the first issue, however as the contract stood it would not solve the second issue in connection with VAT. Following professional advice the operator therefore requested a contract variation which would resolve this issue. This was agreed to following the Council consulting its own VAT advisors, and results in the operator’s fixed contribution to utilities being deducted from the agreed contract payment. This results in the operator contributing to the cost of utilities, as shown in the table below:

Table 8

	Note	2023/24	2024/25
Contract Payment	1	£ 527,669	£ 435,928
Utility Contribution	2	£ (701,615)	£ (728,276)
Base Payment	3	£ (173,946)	£ (292,349)

Notes:

1. Contract extension fee plus inflation
2. Utility contribution by operator plus inflation
3. Net payment to Council to be offset against utilities paid.

3. Management Response to Audit Finding

The draft report to those charged with governance presented by the NIAO to the September 2024 Audit Committee contained the following recommendation:

“Contracts should not include clauses that result in 3rd parties receiving payments over and above that which is paid by the Council for services provided. Any incentives within service contracts should ensure that reasonable limits are in place to cap the amounts that the council may pay out. In this case, where the council was paying energy costs, payments should have been based on actual usage, with conditions in place to ensure that the usage is reasonable.”

Management’s response is as follows:

Contractual overview

In August 2012, North Down Borough Council let a contract for the provision of leisure services to the operator who was assessed as providing the most economically advantageous tender. This recommendation only considers one aspect of the payment mechanism associated with this contract, without reference to the contract as a whole and therefore management feel misrepresents the benefits of the deal obtained by Council, which per the original business case projected a saving of approximately £10M over the contract period versus the in-house model.

Not Applicable

21

Contract stipulation

It is our understanding that the energy consumption element of the contract is a reasonably standard clause adopted by leisure services operators across the industry for this type of facility.

Energy usage

In compiling their bid each bidder will have considered the whole contract, both from expenditure and income aspects and will have pitched their management fee to Council on that basis. Should the utility mechanism have been based on actuals only (rather than both targets and actuals), the bidders would have had a reduced incentive to minimise consumption. The Council would therefore have been exposed to more risk, which is counter to the Council's initial objectives for outsourcing.

Value proposition

It is management's view that a change to one stipulation in the contract should not be viewed as having an isolated impact, but rather had a different contractual clause been used for energy consumption, that the value propositions in the initial bids received would have been different.

Investment

The analysis does not account for any investments made by Northern Community Leisure Trust to drive down energy consumption.

Management will consider the recommendation made by the NIAO should the Council decide to tender for similar services in the future, however will ultimately make the decision based on what the Council see as the contractual stipulations which are mostly like to provide the Council with the best overall commercial deal.

RECOMMENDATION

It is recommended that Council notes this report.

Unclassified

22

ITEM 5**Ards and North Down Borough Council**

Report Classification	Unclassified
Exemption Reason	Not Applicable
Council/Committee	Audit Committee
Date of Meeting	23 October 2024
Responsible Director	Director of Corporate Services
Responsible Head of Service	Head of Finance
Date of Report	16 October 2024
File Reference	FIN65
Legislation	Part 2 Local Government (NI) Order 2005
Section 75 Compliant	Yes <input type="checkbox"/> No <input type="checkbox"/> Other <input checked="" type="checkbox"/> If other, please add comment below:
Subject	Management Responses to Draft Report to those Charged with Governance
Attachments	

Background

The NI Audit Office provided a draft report to those charged with governance at the committee's last meeting in September. This report details management's responses to those recommendations that the Local Government Auditor made in that report for the Committee's information.

Following the Committee meeting these will formally be issued to the NIAO and they will finalise their report.

Not Applicable

23

Recommendation 1

“Contracts should not include clauses that result in 3rd parties receiving payments over and above that which is paid by the Council for services provided. Any incentives within service contracts should ensure that reasonable limits are in place to cap the amounts that the council may pay out. In this case, where the council was paying energy costs, payments should have been based on actual usage, with conditions in place to ensure that the usage is reasonable.”

Management response

Contractual overview

In August 2012, North Down Borough Council let a contract for the provision of leisure services to the operator who was assessed as providing the most economically advantageous tender. This recommendation only considers one aspect of the payment mechanism associated with this contract, without reference to the contract as a whole and therefore management feel misrepresents the benefits of the deal obtained by Council, which per the original business case projected a saving of approximately £10M over the contract period versus the in-house model.

Contract stipulation

It is our understanding that the energy consumption element of the contract is a reasonably standard clause adopted by leisure services operators across the industry for this type of facility.

Energy usage

In compiling their bid, each bidder will have considered the whole contract, both from expenditure and income aspects and will have pitched their management fee to Council on that basis. Should the utility mechanism have been based on actuals only (rather than both targets and actuals), the bidders would have had a reduced incentive to minimise consumption. The Council would therefore have been exposed to more risk, which is counter to the Council's initial objectives for outsourcing.

Value proposition

It is management's view that a change to one stipulation in the contract should not be viewed as having an isolated impact, but rather had a different contractual clause been used for energy consumption, that the value propositions in the initial bids received would have been different.

Investment

The analysis does not account for any investments made by Northern Community Leisure Trust to drive down energy consumption.

Management will consider the recommendation made by the NIAO should the Council decide to tender for similar services in the future, however, will ultimately make the decision based on what the Council see as the contractual stipulations which are mostly like to provide the Council with the best overall commercial deal.

Not Applicable

24

Recommendation 2

We recommend that for any direct award art contracts, that meet the definition of regulation 32, the council documents the initial process for how the selected artist was chosen.

Management response

We note that the NIAO agree that a direct award is justifiable in line with regulation 32 of the Public Contracts Regulations 2015 and that the Council has prepared a business case to support the procurement method followed. Management will endeavour to further document the process followed on future projects of a similar nature, should the opportunity arise.

Recommendation 3

We recommend that:

- The Council continues work to ensure that all policies are up to date and formally approved;
- Fraud training is provided to all Council staff and Members; and
- The Council assesses the potential benefits of IT ISO 27001 accreditation.

Management Response

A new policy register is in the process of being rolled out to Heads of Service and Service Unit Managers. The updating of significant policies has been a particular focus over the past year with a number of important policies having been updated and related Internal Audit actions closed. Work will continue to address those which remain overdue. Managers will be reminded to ensure that policies are updated in a timely manner.

An updated Scheme of delegation was approved in July 2024 and is now in operation. This will now be reviewed on an annual basis.

Council has assessed that it has a low risk of fraud and does not, at this stage, intend to give training to all staff, however an online training module is in development which will be rolled out in a targeted fashion to those roles where risk is greater.

Work is currently underway to align Council's ICT systems to ISO27001, although accreditation is not being actively considered at this time due to the cost and resources involved. This will be kept under review. Management are not aware of any Northern Ireland council that is accredited to ISO27001 standards. Council will continue to work through the implementation of the recommendations agreed with Internal Audit.

RECOMMENDATION

It is recommended that Council notes this update.



Draft Report to those charged with Governance

Ards and North Down Borough Council
2023-24

Date of Issue:
19 September 2024

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DRAFT

We have prepared this report for Ards and North Down Borough Council’s sole use. You must not disclose it to any third party, quote or refer to it, without our written consent and we assume no responsibility to any other person.

1. Key Messages

This report summarises the key matters from our audit of the 2023-24 Ards and North Down Borough Council financial statements which we must report to the Audit Committee, as those charged with governance. We would like to thank the Director of Corporate Services and his staff for their assistance during the audit process.

Proposed Audit Opinion

It is proposed that the Local Government Auditor (LGA) will report on the 2023-24 financial statements with an unqualified audit opinion, without modification.

Proposed Audit Certificate

It is also proposed that the Local Government Auditor will certify completion of the audit of accounts of the Council in accordance with the requirements of the Local Government (Northern Ireland) Order 2005 and the Local Government Code of Audit Practice. The audit certificate closes the audit and marks the point when the Local Government Auditor's statutory responsibilities in respect of the audit of the accounts for the period covered by the certificate have been discharged.

The Audit Certificate is included at [Appendix Two](#).

Misstatements

Financial Statement Adjustments

We are not proposing any adjustments.

Uncorrected misstatements

We are not proposing any uncorrected misstatements.

Audit Findings

During the audit we reviewed internal controls; accounting systems; and procedures to the extent considered necessary for the effective performance of the audit. We have identified one priority one recommendation in relation to the internal control environment as outlined in Section 4 of this Report.

Full details of findings are included at [Findings from the Audit](#).

Proper Arrangements

Under the Local Government (Northern Ireland) Order 2005, the Local Government Auditor should be satisfied that a Council has in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We are satisfied that the Council has in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. However, we have identified a number of areas for improvement in relation to policies that are overdue for review.

Full details of findings are included at [Findings from the Audit](#).

Status of the Audit

Following resolution of the following points:

- review and receipt of revised Statement of Accounts incorporating all previously advised changes; and
- close out of final review points and queries;

the Chief Financial Officer will sign the Statement of Accounts together with a letter of representation, the proposed wording of which is included at [Appendix One](#).

The total audit fee charged is in line with that set out in our Audit Strategy.

Independence

We consider that we comply with the Financial Reporting Council (FRC) Ethical Standard and that, in our professional judgment, we are independent and our objectivity is not compromised.

No non-audit services were provided to the Council.

Management of information and personal data

The Council is required to comply with the UK General Data Protection Regulations (UK GDPR) in the handling and storage of personal data. Those Charged with Governance should ensure they have made sufficient enquiries of management to form a view on whether there were any significant specific data incidents which should be disclosed in the Governance Statement. We are unaware of any data handling incidents during the year other than those disclosed within the narrative report. Confirmation to this effect has been sought within the letter of representation included at [Appendix One](#).

During the course of our audit we have access to personal data to support our audit testing. We have established processes to hold this data securely within encrypted files and to destroy it where relevant at the conclusion of our audit. We can confirm that we have discharged those responsibilities communicated to you in accordance with the requirements of UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018.

Performance Improvement

The outcome from our work in respect of Part 12 of the Local Government Act (Northern Ireland) 2014 on Performance Improvement will be reported separately to those charged with governance, as set out in the timetable in the 2023-24 Audit Strategy.

Actions for the Audit Committee

The Audit Committee should:

- Review the findings set out in this report, including the draft letter of representation and the proposed audit certificate at Appendices one and two respectively.

2. Audit Scope

We have completed our audit of the 2023-24 financial statements in accordance with International Standards on Auditing (UK) (ISAs) issued by the Financial Reporting Council; with Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'; and with the Audit Strategy presented to the Audit Committee in March 2024.

There are no new matters to communicate concerning the planned scope and timing of the audit.

DRAFT

3. Significant Risks

The significant risks identified in our Audit Strategy have been addressed as follows:

Significant Risk 1

Management override of controls

Under ISA (UK) 240, there is a presumed significant risk of material misstatement due to fraud through management override of controls.

Audit Response

As required by ISA (UK) 240, we:

- tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements;
 - reviewed accounting estimates for biases and evaluated whether the circumstances producing the bias, if any, represented a risk of material misstatement due to fraud; and
 - considered significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual.
-

Outcome

A sample of journal entries relating to the 2023-24 financial year and the post year-end period were reviewed.

Significant accounting estimates were reviewed.

During the course of the audit no significant items have come to our attention which would indicate an override of the control systems in place.

No issues were noted in respect of management override of controls.

Significant Risk 2

Financial Resilience

The cost of living crisis and high inflation rates, during 2023-24, continued to have a significant impact on council finances. There are continuing challenges for councils to deliver a balanced budget within the current environment. Costs have increased in multiple areas, such as utilities, construction, and pay settlements.

Audit Response

We:

- Considered the Chief Financial Officer's assessment of the going concern basis for the preparation of the accounts;
- Examined financial projections and plans prepared by Council; and
- Considered the disclosures regarding the financial position included within the 2023-24 Statement of Accounts.

Outcome

The Council identified the following as major risks to the Medium-Term Financial Plan:

- pay issues;
- strategic savings;
- financial resilience;
- prioritisation; and
- climate change.

We noted that in viewing the impact of these challenges there was appropriate management of resources, using a mix of cash and reserves.

The Council's policy was to hold General Fund levels of at least 7.5% of gross expenditure for the year. This target was achieved in the 2023-24 year. We note this is an improvement from the 2022-23 year when the target of 7% was not achieved.

The financial outlook for the Council remains challenging and uncertain. We reviewed the Council's "Robustness of Estimates and Adequacy of Reserves" paper over the medium term. We note that action is required by Management to ensure successful delivery of planned outcomes, including astute financial management and constraint. Based on the assumptions used for the financial projections, the Council should be able to achieve a balanced position.

Any changes to borrowings or large-scale expenditure will be expected to have appropriate review at full Council and it is expected that the delivery of the Bangor Waterfront project will consume time and resource to ensure successful delivery. Cost pressures associated with the unknown impacts of inflation and price constraint in capital procurement may provide a challenging project outlook. However, the Council should also realise cash associated with the DfI debtor for land that was vested (from 2021-22 and currently included in debtors at £1.8m) and the outcome of HMRC's ruling on VAT on services (currently disclosed in a note to the accounts).

DRAFT

4. Findings from the Audit

Financial Reporting

As part of our audit, we evaluate the qualitative aspects of accounting practices and financial reporting. In this section we draw to your attention any significant changes or issues in respect of accounting policies; accounting estimates; and financial statement disclosures.

The Council has robust processes in place for the production of the accounts and continue to produce good quality supporting working papers. Officers dealt efficiently with audit queries, effectively prioritising them, and the audit process has been completed within the planned timescales.

Accounting Policies

Accounting policies adopted by the Council have not changed or altered since the prior year financial statements. On this basis we can conclude that the quality, effectiveness and transparency of financial reporting and accounting at the Council is appropriate.

Accounting Estimates

We examined the appropriateness of accounting estimates and judgements and are content with the consistency of assumptions and the degree of prudence reflected in the recorded amounts.

Financial Statement Disclosures

We have made a number of suggestions to improve narrative disclosures and to ensure completeness of the disclosures required under the Code of Practice on Local Authority Accounting and other relevant guidance.

Going Concern

We considered the Medium Term Financial Strategy and while the financial outlook appears challenging, no events or conditions were identified from our audit work that cast significant doubt about the Council's ability to continue to adopt the going concern basis of accounting. Further details have been included at significant risk 2.

Narrative Report

The Narrative Report was considered to be consistent with our understanding of the business, and was in line with the other information provided in the financial statements.

Remuneration Report

The parts of the Remuneration Report to be audited were considered to be properly prepared in accordance with Department for Communities (DfC) directions issued under the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015. A number of changes were suggested in relation to various disclosures contained within. These changes have been made.

Governance Statement

Our review of the Governance Statement confirmed that it complies with the Code of Practice and the Department for Communities Accounts Direction. We provided management with a number of minor observations and suggested disclosure changes to improve the narrative and completeness of disclosures within the Governance Statement.

Legality, Propriety and Losses

We found no issues in relation to illegality, impropriety or losses during our audit.

Internal Control

No material weaknesses in the design and implementation of the Council's internal control systems have come to our attention during the audit.

Related Parties

No significant matters were arising during the audit in connection with the Council's related parties.

DRAFT

Audit Recommendations

This section outline the findings arising from our audit, as well as management's response and target date for implementation. Our findings are defined as:

- **Priority 1** – significant issues for the attention of senior management which may have the potential to result in material weakness in internal control.
 - **Priority 2** – important issues to be addressed by management in their areas of responsibility.
 - **Priority 3** – issues of a more minor nature which represent best practice.
-

Finding 1

Energy Costs pertaining to the Serco contract

The council outsource North Down Leisure Facilities to a management company NCLT and its operating partner Serco. The original 10-year contract was dated November 2012, with a 5-year extension granted in 2023.

As part of this contract, energy payments are paid by the council to Serco based on 'Annual Utility Services Consumption Targets', with a target energy consumption set. If the contractor's (Serco) actual energy usage comes in below the target usage threshold they get to keep the benefit, however if their usage does not meet the agreed target then the contractor (Serco) will bear the cost.

When we looked at Cost vs Benefit to the contractor, Serco, over the period of the contract (2014 to 2023), the contractor has had a net benefit of £600k. Serco never had to bear additional energy costs in any year of the contract and the council had to pay this additional amount over the period of the contract.

We do however note that a contract variation was put in place in the 2023-24 year and the council now pay the actual energy costs on behalf of Serco.

Priority Rating

1

Recommendation

Contracts should not include clauses that result in 3rd parties receiving payments over and above that which is paid by the council for services provided. Any incentives within service contracts should ensure that reasonable limits are in place to cap the amounts that the council may pay out. In this case, where the council was paying energy costs, payments should have been based on actual usage, with conditions in place to ensure that the usage is reasonable.

Management Response (including target date)

[text]

DRAFT

Finding 2

Procurement of Bangor Art Regeneration Project

It was noted that the council commissioned a local artist to develop a proposal for Bangor City Centre. In finalising the plans for Marine Gardens, the developer, Bangor Marine undertook to involve an artist in the design of the space and, as such, had discussions with a world-renowned Bangor artist in this regard.

The cost for this project was £1.27m with DfC funding £1.05m of the cost, with the council contributing the remainder.

The project was negotiated without a prior call for competition, citing Regulation 32 of the Public Contracts Regulations 2015.

(b) The works, supplies or services can be provided only by a particular economic operator for the following reason:

(i) procurement aiming at the creation or acquisition of a unique work of art or artistic performance.

A Voluntary ex ante transparency notice was published on 01/03/2024 for a 10 day period with the award of contract dated 14/03/2024.

We agree that a direct award contract can be justified, where the identity of the artist intrinsically determines the unique character of the art. The council had also prepared a business case to support the procurement method followed.

However, we would have expected to see documentation, at an earlier stage in the process, setting out how the preferred artist was selected for inclusion in the business case, whether other artists were also considered, and the rationale for the choice that was made.

Priority Rating

2

Recommendation

We recommend that for any direct award art contracts, that meet the definition of regulation 32, the council documents the initial process for how the selected artist was chosen.

Management Response (including target date)

[text]

DRAFT

Finding 3

Proper arrangements

While we are satisfied that the Council has in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources, the following areas for improvement have been identified and we note that many of these are repeat points that require resource to implement:

- some work continues to be needed to ensure that all policies are up to date, complete and reflective of actual practice. As part of our consideration of proper arrangements, we noted further updates are required to either review existing policies, approve draft policies or to review new policies for the following areas: Staff Travel Policy (2010); Employee Expenses and Benefits Policy (2013); Capability Policy (2015); the Council's IT policies;
- we note that a workforce planning /succession planning policy has not yet been implemented however development of a policy position is underway;
- fraud training has not been provided to all Council staff and Members (although we appreciate some fraud training has been undertaken by a small number of Officers); and
- the Council's ICT system is not ISO 27001 accredited and the Council has not sought any cyber security accreditation. There was also a limited opinion given on a July 2024 internal audit report titled 'Review of Access Management Controls on Core HR and Windows Active Directory' The Council appreciate that following a number of internal audit recommendations relating to the cyber control environment that further resource is needed in this area.

Priority Rating

2

Recommendation

We recommend that:

- the Council continues work to ensure that all policies are up to date and formally approved;
- fraud training is provided to all Council staff and Members; and
- the council assesses the potential benefits of IT ISO 27001 accreditation

Management Response (including target date)

[text]

Proper Arrangements

Under the Local Government (Northern Ireland) Order 2005, the Local Government Auditor should be satisfied that a Council has in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We are satisfied that the Council has in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources, however, a number of areas for improvement have been identified – see Finding 3 in previous page.

DRAFT

5. Misstatements

Adjusted misstatements

During the audit process we identified no misstatements above our clearly trivial threshold.

Uncorrected misstatements

We are proposing no unadjusted misstatements which exceed our clearly trivial threshold.

DRAFT

Appendix One – Draft Letter of Representation

[Client Letterhead]

The Local Government Auditor
Northern Ireland Audit Office
106 University Street
BELFAST
BT7 1EU

LETTER OF REPRESENTATION: Ards and North Down Borough Council 2023-24

As Chief Financial Officer of the Ards and North Down Borough Council I have fulfilled my responsibility for preparing accounts that give a true and fair view of the state of affairs, total income and expenditure, cash flows, and movements in reserves; and the related notes of the Council for the year ended 31 March 2024.

In preparing the accounts, I was required to:

- observe the accounts direction issued by the Department for Communities (DfC), including the relevant accounting and disclosure requirements and apply appropriate accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis; and
- state whether applicable accounting standards have been followed and disclosed and explain any material departures in the accounts; and
- make an assessment that Ards and North Down Borough Council is a going concern and will continue to be in operation throughout the next year; and ensure that this has been appropriately disclosed in the financial statements.

I confirm that for the financial year ended 31 March 2024:

- having considered and enquired as to the Ards and North Down Borough Council's compliance with law and regulations, I am not aware of any actual or potential non-compliance that could have a material effect on the ability of the Council to conduct its business or on the results and Balance Sheet disclosed in the accounts;

- all accounting records have been provided to you for the purpose of your audit and all transactions undertaken by the Ards and North Down Borough Council have been properly recorded and reflected in the accounting records. All other records and related information, including minutes of all management meetings which you have requested have been supplied to you; and
- the information provided regarding the identification of related parties is complete; and the related party disclosures in the financial statements are adequate.

All material accounting policies as adopted are detailed in note 1 to the accounts.

Internal Control

I have fulfilled my responsibility as Chief Financial Officer for the design and implementation of internal controls to prevent and detect error and I have disclosed to you the results of my assessment of the risk that the financial statements could be materially misstated.

I confirm that I have reviewed the effectiveness of the system of internal control and that the disclosures I have made are in accordance with DoF guidance on the Governance Statement.

Fraud

I have fulfilled my responsibility as Chief Financial Officer for the design and implementation of internal controls to prevent and detect fraud and I have disclosed to you the results of my assessment of the risk that the financial statements could be materially misstated as a result of fraud.

I am not aware of any fraud or suspected fraud affecting the Ards and North Down Borough Council and no allegations of fraud or suspected fraud affecting the financial statements has been communicated to me by employees, former employees, analysts, regulators or others.

Assets

General

All assets included in the Balance Sheet were in existence at the reporting period date and owned by the Ards and North Down Borough Council and free from any lien, encumbrance or charge, except as disclosed in the accounts. The Balance Sheet includes all tangible assets owned by the Council.

Non Current Assets

All assets over £5,000 are capitalised. They are revalued regularly to ensure that their carrying amount is not materially different from their fair value at the year-end. Annually a full revaluation is performed on 1/5th of the Council's assets and all other assets subject to a desk based valuation. All assets will receive a full revaluation as a minimum, every 5 years, by Land and Property Services (LPS). Depreciation is calculated to reduce the net book amount of each asset to its estimated residual value by the end of its estimated useful life in the Council's operations.

Other Current Assets

On realisation in the ordinary course of the Ards and North Down Borough Council's operations the other current assets in the Balance Sheet are expected to produce at least the amounts at which they are stated. Adequate provision has been made against all amounts owing to the Council which are known, or may be expected, to be irrecoverable.

Liabilities

General

All liabilities have been recorded in the Balance Sheet.

There were no significant losses in the year and no provisions for losses were required at the year end.

All litigation and claims have been disclosed to you and correctly accounted for.

Provisions

Provision is made in the financial statements for:

- Insurance: £696k

Contingent Liabilities

There are a number of legal claims or potential claims against the Council the outcome of which cannot at present be estimated with certainty. Full provision is made in the financial statements for all liabilities which are expected to materialise.

I am not aware of any pending litigation which may result in significant loss to the Ards and North Down Borough Council, and I am not aware of any action which is or may be brought against the Ards and North Down Borough Council under the Insolvency (Northern Ireland) Order 1989 and the Insolvency (Northern Ireland) Order 2005.

Actuarial Valuation of the Council's Pension Scheme Liability

The overall net pension liability as at 31 March 2024 is £747k. This represents the liability for the unfunded part of the pension scheme.

To comply with accounting standards, the net pension asset of £18,175k as at 31 March 2024, for the funded part of the pension scheme, has been restricted to the asset ceiling of nil. The loss in value has been recognised as adjustments within Other Comprehensive Income and Expenditure (Remeasurements of the Net Defined Benefit (Asset)/ Liability) (2023-24 (£3,538k); 2022-23 £57,650k).

Having made appropriate enquiries, I am satisfied with the appropriateness of the actuarial assumptions underlying the valuation of the Council's share of the valuation of the pension scheme liability.

Furthermore, I confirm that:

- All significant retirement benefits, including any arrangements that are implicit in the employer's actions, have been identified and properly accounted for; and
- All settlements and curtailments have been identified and properly accounted for.

Other Disclosures

Results

Except as disclosed in the accounts, the results for the year were not materially affected by transactions of a sort not usually undertaken by the Ards and North Down Borough Council, or circumstances of an exceptional or non-recurring nature.

Contingent Asset

The Ards and North Down Borough Council, together with the other 10 district councils in Northern Ireland, is participating in a legal action against His Majesty's Revenue and Customs (HMRC) to recover previously overdeclared output VAT in respect of leisure and recreational income, which arose because HMRC did not accept that the Council provides leisure and recreational activities pursuant to a special legal regime without causing any significant distortion of competition. Although Mid Ulster District Council (as lead council in the litigation) succeeded in its claim to the First Tier Tax Tribunal, HMRC subsequently appealed to the Upper Tier Tax Tribunal, which was successful. The Tribunal released its decision on 19 July 2022 to allow the appeal and remit the matter back to the First Tier Tax Tribunal for consideration.

Mid Ulster District Council subsequently sought and received permission to appeal the Upper Tier Tax Tribunal decision to the Court of Appeal and a Hearing was scheduled to take place in May 2023. On 26 January 2023, HMRC notified Mid Ulster District Council that it decided to pay all of the Local Authority Leisure Service claims and proceeded to publish an associated Revenue and Customs Brief on 3 March 2023.

Following extensive litigation regarding the treatment of leisure services for VAT purposes, HMRC published VATGPB8410 – Other local authority activities: sport and leisure: supplies of sporting services in November 2023. The Ards and North Down Borough Council is liaising with HMRC with regard to the interpretation of this guidance, its implication for the Council's claims and there are still areas of dispute. It is hoped that further clarification will mean revised claims can be produced and collated for submission and ultimately payment during the 2024-25 financial year.

Uncorrected Misstatements

There were no uncorrected misstatements brought to my attention.

Events after the Reporting Period

Except as disclosed in the accounts, there have been no material changes since the reporting period date affecting liabilities and commitments, and no events or transactions have occurred which, though properly excluded from the accounts, are of such importance that they should have been brought to notice.

Accounting Estimates

The methods, significant assumptions and the data used in making the accounting estimates and the related disclosures are appropriate to achieve recognition, measurement or disclosure that is in accordance with the financial reporting framework.

Management of Personal Data

Except as disclosed in the Narrative Report, there have been no personal data related incidents in 2023-24 which are required to be reported.

Suzie McCullough
Ards and North Down Borough Council
xx September 2024

Appendix Two – Audit Certificate

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF ARDS AND NORTH DOWN BOROUGH COUNCIL

Opinion on financial statements

I have audited the financial statements of Ards and North Down Borough Council for the year ended 31 March 2024 under the Local Government (Northern Ireland) Order 2005. The financial statements comprise the Comprehensive Income and Expenditure Statement, Movement in Reserves Statement, Balance Sheet, Cash Flow Statement, and the related notes including significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and the Code of Practice on Local Authority Accounting in the United Kingdom supported by UK adopted international accounting standards.

I have also audited the information in the Remuneration Report that is described in that report as having been audited.

In my opinion the financial statements:

- give a true and fair view, in accordance with relevant legal and statutory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2023-24, of the financial position of Ards and North Down Borough Council as at 31 March 2024 and its income and expenditure for the year then ended; and
- have been properly prepared in accordance with the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015 and the Department for Communities' directions issued thereunder.

Basis for opinion

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK). My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of this certificate. My staff and I are independent of Ards and North Down Borough Council in accordance with the ethical requirements of the Financial Reporting Council's Ethical Standard, and have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern

In auditing the financial statements, I have concluded that Ards and North Down Borough Council's use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work I have performed, I have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on Ards and North Down Borough Council's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue.

The going concern basis of accounting for Ards and North Down Borough Council is adopted in consideration of the requirements set out in the Code of Practice on Local Authority Accounting, which require entities to adopt the going concern basis of accounting in the preparation of the financial statements where it anticipated that the services which they provide will continue into the future.

My responsibilities and the responsibilities of the Chief Financial Officer with respect to going concern are described in the relevant sections of this report.

Other Information

The other information comprises the information included in the Statement of Accounts other than the financial statements, the parts of the Remuneration Report described in that report as having been audited, and my audit certificate and report. The Chief Financial Officer is responsible for the other information included in the Statement of Accounts. My opinion on the financial statements does not cover the other information and except to the extent otherwise explicitly stated in my report, I do not express any form of assurance conclusion thereon.

My responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If I identify such material inconsistencies or apparent material misstatements, I am required to determine whether this gives rise to a material misstatement in the financial statements themselves. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

I have nothing to report in this regard.

Opinion on other matters

In my opinion, based on the work undertaken in the course of the audit:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with the Department for Communities' directions made under the Local Government (Accounts and Audit) Regulations (Northern Ireland) 2015; and
- the information given in the Statement of Accounts for the financial year ended 31 March 2024 is consistent with the financial statements.

Matters on which I report by exception

In light of the knowledge and understanding of Ards and North Down Borough Council and its environment obtained in the course of the audit, I have not identified material misstatements in the Statement of Accounts.

I have nothing to report in respect of the following matters which I report to you if:

- in my opinion:
 - the Annual Governance Statement:
 - does not reflect compliance with the Code of Practice on Local Authority Accounting in the United Kingdom 2023-24;
 - does not comply with proper practices specified by the Department for Communities;
 - is misleading or inconsistent with other information I am aware of from my audit; or
 - adequate accounting records have not been kept; or
 - the statement of accounts and the part of the Remuneration Report to be audited are not in agreement with the accounting records; or
 - I have not received all of the information and explanations I require for my audit, or
- I issue a report in the public interest under Article 9 of the Local Government (Northern Ireland) Order 2005; or
- I designate under Article 12 of the Local Government (Northern Ireland) Order 2005 any recommendation made to the Council; or
- I exercise the other special powers of the auditor under Article 19 to 21 of the Local Government (Northern Ireland) Order 2005.

Responsibilities of the Chief Financial Officer for the financial statements

As explained more fully in the Statement of Council's and Chief Financial Officer's Responsibilities, the Chief Financial Officer is responsible for:

- the preparation of the financial statements in accordance with the applicable financial reporting framework and for being satisfied that they give a true and fair view;
- such internal controls as the Chief Financial Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error;
- assessing Ards and North Down Borough Council's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Chief Financial Officer anticipates that the services provided by Ards and North Down Borough Council will not continue to be provided in the future.

Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit the financial statements in accordance with the Local Government (Northern Ireland) Order 2005 and the Local Government Code of Audit Practice.

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error and to issue a certificate that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

I design procedures in line with my responsibilities, outlined above, to detect material misstatements in respect of non-compliance with laws and regulation, including fraud.

My procedures included:

- obtaining an understanding of the legal and regulatory framework applicable to Ards and North Down Borough Council through discussion with management and application of extensive public sector accountability knowledge. The key laws and regulations I considered included the Code of Practice on Local Authority Accounting in the United Kingdom 2023-24, the Local Government

(Accounts and Audit) Regulations (Northern Ireland) 2015 and the Department for Communities' directions issued thereunder;

- making enquires of management and those charged with governance on Ards and North Down Borough Council's compliance with laws and regulations;
- making enquiries of internal audit, management and those charged with governance as to susceptibility to irregularity and fraud, their assessment of the risk of material misstatement due to fraud and irregularity, and their knowledge of actual, suspected and alleged fraud and irregularity;
- completing risk assessment procedures to assess the susceptibility of Ards and North Down Borough Council's financial statements to material misstatement, including how fraud might occur. This included, but was not limited to, an engagement director led engagement team discussion on fraud to identify particular areas, transaction streams and business practices that may be susceptible to material misstatement due to fraud. As part of this discussion, I identified potential for fraud in the following area: posting of unusual journals;
- engagement director oversight to ensure the engagement team collectively had the appropriate competence, capabilities and skills to identify or recognise non-compliance with the applicable legal and regulatory framework throughout the audit;
- documenting and evaluating the design and implementation of internal controls in place to mitigate risk of material misstatement due to fraud and non-compliance with laws and regulations;
- designing audit procedures to address specific laws and regulations which the engagement team considered to have a direct material effect on the financial statements in terms of misstatement and irregularity, including fraud. These audit procedures included, but were not limited to, reading Council and committee minutes, and agreeing financial statement disclosures to underlying supporting documentation and approvals as appropriate; and
- addressing the risk of fraud as a result of management override of controls by:
 - performing analytical procedures to identify unusual or unexpected relationships or movements;
 - testing journal entries to identify potential anomalies, and inappropriate or unauthorised adjustments;

- assessing whether judgements and other assumptions made in determining accounting estimates were indicative of potential bias; and
- investigating significant or unusual transactions made outside of the normal course of business.

A further description of my responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website www.frc.org.uk/auditorsresponsibilities. This description forms part of my certificate.

This report is made solely to the Members of Ards and North Down Borough Council in accordance with the Local Government (Northern Ireland) Order 2005 and for no other purpose, as specified in the Statement of Responsibilities of the Local Government Auditor and Local Government Bodies.

Certificate

I certify that I have completed the audit of accounts of Ards and North Down Borough Council in accordance with the requirements of the Local Government (Northern Ireland) Order 2005 and the Local Government Code of Audit Practice.

*Colette Kane
Local Government Auditor
Northern Ireland Audit Office
106 University Street
BELFAST
BT7 1EU*

September 2024

Appendix Three – Implementation of Prior Year Priority One Recommendations

Recommendation 1

Disposal of Ards Leisure Centre

We reported last year that the Council disposed of the former Ards Leisure Centre site to the Department for Infrastructure (DfI) on 1 April 2021 for due consideration of £1.8m. DfI had not made payment for the site at 31 March 2022 and this payment continues to be outstanding at 31 March 2023. We note that the vesting order for this disposal became operative during the 2021-22 financial year (19 May 2021), with compensation due to the Council of £1.8m. The Council's compliance team followed up this matter with DfI and while they remain content that this amount is fully recoverable there was no commitment in writing from DfI. On 30 May 2022, DfI stated to Council that "the matter of compensation is currently the subject of negotiations between the DfI Departmental Solicitor's Office and the legal representatives of AND Council. Until the negotiations are successfully concluded, an invoice should not have been submitted".

Further communication between the Council Chief Executive and the DfI's Permanent Secretary in January and February 2023 would suggest that the Department are holding its view that it will not pay on receipt of an invoice. The Permanent Secretary noted that as the valuation of the site was dependent on a number of assumptions around title and that title for part of the site is missing, this could affect the final valuation. She advised that the DSO is taking forward this matter and until such time as instructed, DfI are asking the Council to issue a credit note or withdraw the invoice.

While there is certainty that an asset transferred and consideration is due there is some uncertainty as to the value the DfI will pay. The Council has no reason to believe that the value will be less than £1.8m and believe that the title issue while complex, can be resolved.

We consider that while a provision for bad debt may be required when the matter is resolved, it is not likely to be material.

Status **Not cleared**

While some progress has been made, this issue is still unresolved at year end.

On 28 August 2024, a final set of Supplementary Statutory Declarations were sworn and signed by council management in front of an independent solicitor. DSO were forwarded a copy of these declarations with the hope that DSO will finally be satisfied that Ards and North Down Borough Council have covered every possible aspect of the title perfection exercise demanded by DSO. Once DSO are content, they will advise DfI that they can release the compensation of £1.8m + VAT + compound interest.

We are content that the council is doing everything in its power to resolve the issue.

DRAFT