

Northamptonshire Commissioners

One Angel Square, Angel Street, Northampton, NN1 1ED

Lessons learned from Year 1 of our intervention at Northamptonshire County Council by Tony McArdle and Brian Roberts

We were appointed by the Secretary of State in May 2018 following the Best Value Inspection by Max Caller CBE which highlighted significant failures within the council. We have written this interim lessons learned report at the end of year 1 of the intervention to ensure the significant learning over the first year is captured, before with the passage of time, it becomes consigned to history. It is also being produced because of the opportunity afforded to us to feed into the NAO review on audit arrangements for local government.

It has been apparent since the beginning of the intervention that there are critical fault-lines within the organisation that are central to its failure. To understand this is to understand that the situation was preventable.

The 6 fault-lines overwhelmingly clear to us during this year are as follows:

1. There was a **failure of leadership** at senior political and senior managerial level. Rather than meet challenges head on as others in the sector were doing, the council's leadership failed to tackle issues, looked to lay blame elsewhere and chose instead to pursue fanciful remedies as opposed to tackling the issues the council faced. Max Caller is clear in his report that this was despite there being 'many good, hard working dedicated staff'. The report states that as far as staff were concerned the problems at the council were 'not their fault' but directly caused by the failure of leadership.
2. The council suffered from a **lack of strategic direction**. It was without a realistic council plan, county plan, transformation strategy, digital and technology plan and had a poor approach to risk management. The core of the organisation – its heart, had been hollowed out or badly outsourced and as a result it lacked capacity.
3. **Service failures** stretched back many years. By pursuing erroneous service delivery models instead of real changes in operating, some services received significant investment without any credible improvement plan, while other services were denied resources and in some cases effectively ceased to exist.
4. The council **failed to accept any challenge** on any level from any quarter. There was a 'group-think' mentality pursuing damaging and misguided

courses of action while showing a consistent inability to accept the reality of the organisation's predicament.

This mentality undermined the council's scrutiny function and the proper governance structures which could have provided effective checks and balances.

5. The result of these failures has been an enduring **cultural malaise** within the organisation. There is a deeply ingrained fatigue and a learned helplessness throughout the organisation where failure has been accepted and to an extent expected. Throughout this period aspiration for improvement within the council and for the county generally was weak.
6. Falling out of this was the **complete failure of financial management**. The council had outsourced its strategic financial expertise and support services to a shared-service organisation, meaning it was left without in-house capacity – even the s151 officer was embedded within the shared service for a greater part of the last 7 years. Consequently many elementary tenets of financial management were simply not in place. This was clear to us from the first week of the intervention when we asked for some basic financial and statistical information that is the norm in other councils but could not be delivered to us.

A Very Public Demise

Underpinning each of these fault-lines is the extent to which many of them had become enduring.

It has been clear during the intervention that rather than suddenly falling into crisis, the council had in truth been steadily moving towards its inevitable collapse for at least 7 years prior to the intervention. This failure of leadership and accompanying poor financial management was often played out in the public arena and included:

- An understanding that the council's income was less than its expenditure yet decisions were made to keep an artificially depressed and nationally low Council Tax (although not the lowest of the shire counties) in place.
- Efforts to ensure the council lived within its means e.g. by delivering savings, had failed. Reserves were depleted without a plan for their replenishment.
- High-profile service failures such as the inadequate rating for Children's Services in 2013 which were without a viable recovery plan and compounded by a subsequent loss of staff resulting in a chaotic service.
- Two adverse opinions from External Auditors in 2015/16 and 2016/17.
- Latterly a high turnover of senior staff including 4 Chief Finance Officers in 18 months and 4 Chief Executives in less than a year.

Rapid action, Firefighting and Transparency

The ingrained nature of the council's failures meant decisions were needed quickly to arrest the further deterioration of the council and the services it provides. We

were firefighting for the first year and to some extent still are. The imposition of budget discipline has been necessary, and beneficial, but it has also exposed the inadequacy of some of the budgets in question in terms of their ability to sustain a credible level of service.

It was essential that the light of transparency was shone on our work because for too long that transparency has been missing from the authority contributing to an erosion of trust in the council overall.

A particular feature of the Northamptonshire case is that the Best Value inspection recommendations included the abolition of the authority on the basis that the council was so damaged as to be irrecoverable in a reasonable timescale. This advice was accepted by the Secretary of State, and the reorganisation process is under way.

Whilst clearly the sensible response in the long term, it creates some short-term tensions inherent in all such reform. Some capable staff have chosen to avoid the upheaval and accompanying uncertainty and have left; the council finds it difficult to attract replacements for the same reason; costs to provide cover have risen accordingly; long-term career planning is difficult.

What we have done and how we have done it

Max Caller said in his report 'there is no substitute for doing boring really well.' An obvious comment perhaps but not something Northamptonshire council has been familiar with in its recent past. This year we have concentrated on getting those basics right, we are not there yet but our main areas of focus to date have been:

a. Finance

On arrival we were informed that there was an £8m pressure on the budget in year. We had little confidence in this given the lack of a corporate centre and immediately ordered an independent review that would provide a reliable, impartial and forensic assessment. This review revealed an in-year gap for 2018/19 in excess of £30m and an unfunded deficit for the previous year (2017/18) of £34m (a sum that later increased to over £41m after misuse of grants and the use of ring-fenced reserves for other than their intended purpose was taken into account). This was in addition to the misuse of capital receipts for that year.

We supported the issuing of a second Section 114 notice, in order to ensure the severity of the situation was recognised and minds concentrated. A Section 114 notice is issued by the chief finance officer at a council when expenditure incurred in a financial year is likely to exceed the resources available to meet that expenditure and proper plans are not in place to recover the position.

We also sourced a former treasurer who could provide robust external challenge and expertise independent of that provided by the county council. Once confident of an accurate financial position we worked with the council and new leadership team, some of which were our appointees, to produce a stabilisation plan. The plan provided the route to bridging the in-year gap for

2018/19, it wasn't a plan of exotic solutions or rocket science but the application of basic housekeeping measures and good financial management that is part of business as usual in most local authorities, such as:

- Liquidation of arms-length services and return of assets to NCC
- Better management of demand in adult social care
- Renegotiation of highways contracts
- Review and realignment of home to school transport
- Capitalisation of equipment
- Agency staff reductions and conversion to permanent
- International social worker recruitment
- More effective treasury management and other measures

Examples that serve to illustrate the art of the possible taken from the stabilisation plan as well as other savings initiatives:

- To date (July 2019) the review and realignment of home to school transport service has resulted in savings of £450k with no impact on provision to children. Further new approaches are being implemented in September that include travel training for greater independence, pick-up points and safe walking routes to promote health and exercise working alongside public health and greater internal capacity to facilitate regular route optimisation. We expect this service to deliver further cash savings in 2019/20 and 2020/21 whilst investing in travel training for young people.
- Greater use of short-term re-ablement and support at home within adult social care services reduced the costs of care for people coming out of hospital and reduced the number of people requiring long term care, saving the council £700k, providing a better service and having a positive impact on NHS bed availability.
- Adult Social Care - Managing all placements in one place, using firmer negotiating and provider management techniques and placing customers using intelligence and insight about what placement is available where, as well as finding voluntary sector based solutions has delivered savings of £1.05m.
- Adult Social Care – there has been a programme of initiatives to review and reduce the cost of complex care cases through the use of assistive technology and equipment and firmer negotiation with providers saving £2.25m.
- Growth and improved efficiency of the shared service business support function (LGSS) across Northamptonshire, Cambridgeshire and Milton Keynes has delivered savings of £776k.

Simultaneously we constructed a credible medium term financial plan and approached MHCLG to consider a request for a capital dispensation to

address the unfunded deficit incurred in the previous year, which was subsequently granted.

Once adopted, the stabilisation plan was implemented alongside ensuring savings identified for delivery at budget setting materialised, mindful of a track record of recent past savings delivery of 49%. The savings delivered within the stabilisation plan were £11.7m.

At the same time we were developing the 2019/20 budget proposals.

b. Governance and Scrutiny

Aware of the unfocussed nature of the scrutiny function as well as some unacceptable behaviours from members and officers that we personally observed, we required the council to work with the Centre for Public Scrutiny to design a new scrutiny model and remind members and officers of the code of conduct.

A review was undertaken, a new model adopted which focused wholly on the financial aspects of council activity, and workshops and training provided so that scrutiny members understood their role and responsibilities. The council continues to work with the CfPS to embed improvements in the way scrutiny functions.

c. Engagement

Underpinning this activity was a wide reaching and ongoing engagement programme with partners and the public to repair the broken relationships and trust. This included early engagement with the external auditor.

Regular meetings with district and borough council leaders and chief executives were introduced and relationships with other partners within the police, voluntary sector and the health economy were developed. Initially there was a great deal of hostility and anger, but by being open and honest we have developed positive relationships that have made a real difference to how public services are delivered in the county.

Additionally we developed a series of 'drop-in' surgeries for members of the public and hosted 'town-hall' sessions speaking directly to staff about their work and progress with the intervention. We recognise that the staff working at the county (and indeed within the districts and boroughs) have been as much of a victim in this as the council tax payer.

On the face of it you could read our approach as a well thought through, measured sequencing of events. In reality we were working quickly, sometimes feeling under siege and often in a hostile environment which manifested itself in personal attacks and a heightened political sensitivity among councillors across the local authorities in the county. We were dealing with problems and taking opportunities as they presented themselves against our priorities. The year-end outturn of a £4.5m underspend demonstrated the stabilisation plan and pressure to deliver savings identified during the 2018/19 budget setting process had worked, and it confirmed

the previous inefficiency that the council had been operating under. The driving out of these basic inefficiencies meant that there was little impact on service quality.

Recommendations

We do not profess to have all the answers, we have operated under the principle of 'doing the boring well'. The following recommendations are intended to be of value to a wide range of partners in a bid to prevent the Northamptonshire experience being repeated elsewhere and, if it is, to ensure appropriate action follows promptly. They are drawn directly from our experience of the first year as commissioners.

1. Recommendations for local government

1.1 Local authorities should take action, without delay, to address shortfalls in savings targets and not work under the illusion that 'it will all be all right in the end'. NCC, during the 3 year period 2015/16 – 2017/18, achieved annual savings of less than 49% of those identified as needed during its budget setting process. This suggests that budgeted savings were not systematically or robustly challenged during the budget setting process. Local authorities should have robust processes in place to challenge the veracity of savings proposals.

1.2 That 'challenge' in the widest sense, whether internal or external, should be regarded as an opportunity to consider and improve, not a threat to leadership. Do not close your ears to messages that you do not want to hear.

1.3 Local authorities running programmes to modernise and improve their services should dedicate proportionate resources to monitoring the progress of such projects.

1.4 When a local authority's financial circumstances deteriorate, it should seek to boost the influence of its scrutiny committee in respect of financial overview. For example, the authority can provide impartial and independent training and advice to councillors through the Centre for Public Scrutiny, to enable the committee to scrutinise effectively key decisions on services, income and expenditure and learn how to question without aggression.

1.5 Local authorities need to ensure they have in place proper plans that are fit for purpose and commensurate with their purpose and responsibilities as local government.

2. Practical actions of Intervention – advice for commissioners and local government

2.1 As commissioners ensure you are assigned as chief of staff a top quality civil servant who has an understanding of local government and how local authorities work. Advice and guidance on all aspects of the intervention, as well as navigating central government has helped a lot with our strategy, tactically and with relationship development, as well as solving a multitude of practical issues.

2.2 As commissioners ensure you meet as a group before the first day at the council to agree operating practices/approach. We took a very early decision to work through the authority rather than issue directions because we felt ownership by the authority was key to success. We presented this approach as our 'modus operandi' to the council on day 1 and invited them to buy into it.

2.3 The authority should provide PA support and logistics (IT, offices, hotel accommodation etc) and ensure they are in place promptly. Commissioners should take care to ensure the efficacy of these from the outset. They are easier to remedy at an early stage if that proves necessary.

2.4 Very early on in the Intervention, HR should ensure the appropriate method of payment of commissioners' fees is applied (HMRC IR35 test etc). The key to this is the designation of the end client – HMRC regards the end client as the local authority, not the Secretary of State. However the civil service has a duty of responsibility to ensure the correct method is applied

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-22/HCWS1774>

As office holders PAYE is likely to be the method of taxation.

2.5 Clearly the circumstances of interventions and the problems to be addressed differ. In our case it has been important that the lead commissioner has had the following skills and attributes:

- an experienced chief executive with a realistic view of Best Value and the various means by which it can be secured;
- experience of working in difficult political environments and a thorough respect for democratic accountability;
- an ability to communicate effectively and with presence, collaborate with and command the respect of all interested parties including the Secretary of State, members of the public, members, partner organisations, local businesses, staff, service users and the news media;
- an ability to identify reasons for service failure and instigate the measures necessary to stabilise service delivery and implement improvement;
- proven ability to provide effective leadership in challenging circumstances;
- a decision-maker who can quickly adapt when proposed solutions don't work first time.

2.6 The skills and attributes of other commissioners are the same as for the lead commissioner except that relevant subject matter expertise replaces the need for experience as a chief executive.

2.7 In order to ensure transparency commissioners should publish on the local authority's website:

- the Directions that set out their objectives together with periodic reports on progress to the Secretary of State;

- their contact details and the arrangements made to be accessible to members, members of the public, partners and other interested parties;
- their fees and expenses.

2.8 Commissioners should make it clear to stakeholders how decisions will be made. In Northamptonshire, we have worked on the basis that while we do have the powers of direction we would not utilise them if the council itself made sound decisions. There was little recent history of doing so, making this self-evident requirement a challenging one for the authority. We emphasised that this approach would require the council to make decisions that would be particularly difficult given the circumstances. Although it would do so with the benefit of our early input, advice and guidance in setting the parameters for those decisions, there could be no question of dodging difficult issues and leaving them for us to resolve. This act of faith would be of immense benefit in restoring confidence in local democracy, but would not survive its first failure. Despite the challenges, this approach has thus far endured, and the council is the better for it.

2.9 Commissioners should act quickly to create stability at the upper levels of leadership – we took full advantage of our powers to make appointments to statutory roles to achieve this within the first six weeks. Good fortune played a part in this as we managed to recruit a chief executive of the highest calibre when the odds were against us.

2.10 Commissioners should develop a continuous engagement plan early. This should include staff, partners (including other local councils - districts and boroughs in Northamptonshire) and residents. Commissioners should listen to what they are saying – in Northamptonshire we have heard the same messages of anger and frustration from many different sources and continue to hear them now.

2.11 Commissioners should develop key messages based on facts – it will likely vary from the messages previously used by the organisation. In Northamptonshire it is still the case that some councillors (past and present) as well as officers refuse to accept the facts, so strong fact-based messages are critical.

2.12 Commissioners should confirm for themselves whether effective financial management exists. This may seem an obvious point to make but during our first year all of the following became apparent (some were clearer than others when we arrived). There was / is:

- an under-estimation of revenue budgets to a material level leading to overspending;
- an imbalance between income and expenditure;
- the use of one-off resources to fund ongoing revenue expenditure with no plans to replace them;
- an adverse opinion from the external auditor on the authority's ability to deliver best value;

- a lack of financial resilience when measured against CIPFA's financial resilience model;
- a poor outcome from benchmarking financial services against CIPFA's financial management model;
- a failure to close the accounts and publish the Statement of Accounts on time;
- a failure to respond in a timely fashion to matters raised by the auditor in the ISA260 report;
- a failure to disclose to the external auditor and / or to the Audit Committee weaknesses in the council's financial systems, management or processes;
- a poor outcome from independent inspections including an LGA Peer Review, and an Ofsted inspection that although rated as requires improvement has since proved to be a misplaced judgement;
- a persistent failure to deliver savings proposals in the short, medium and long term, and the lack of an appropriately skilled transformation team to support and monitor the progress of projects designed to deliver savings;
- a high level of reliance on the use of reserves to fund ongoing revenue expenditure;
- an inappropriate use of government grant funding;
- an over-reliance on short-term funding sources such as the flexible use of capital receipts;
- use of reserves for purposes for which they were not originally intended;
- a weak system for financial monitoring and reporting and for informing members of cabinet, scrutiny and council which is less than timely, complete, clear and relevant to decision making;
- the likely issuing by the external auditor of a Report in the Public Interest;
- the issuing by the external auditor of an advisory notice under the Local Audit and Accountability Act 2014;
- weak financial stewardship leading to routine financial processes (e.g. clearing suspense and control accounts and reconciliations) not operating effectively;
- opaque, confused and jargon riddled reporting, written for the benefit of finance 'experts' rather than for the benefit of understanding by councillors, residents and council tax payers;
- weak governance associated with shared service arrangements and a lack of understanding of roles, remit and responsibilities.

2.13 It is fundamental that commissioners work within the organisation as the representatives of the Secretary of State, and are not perceived as being officers accountable to local politicians. It is also important that, in being available to advise and assist officers of the council, commissioners do not do their jobs for them.

3. Audit

3.1 We have written this interim lessons learned report to ensure learning is captured from year 1 of the intervention. During year 2 (2019/20) we have fed into Sir Tony Redmond's Review of Audit being conducted on behalf of Government, giving the following views:

- Timeliness and accuracy are so important to the production of the Statement of Accounts that they should be added to the list of principles underpinning the Code of Audit Practice rather than being subsumed within the paragraph on Transparency and Public Reporting.
- The external auditor should be required to issue an opinion no later than 9 months following the end of the financial year to which those accounts relate.
- The scope of the external audit should be extended to enable external auditors within a local area to collaborate and comment on the economy, efficiency and effectiveness of joint working with other local public service providers so as to get better value from the public pound.
- The external auditor should be required to review the effectiveness of major outsourced services in order to ensure councils aren't rendering themselves incapable of delivering Best Value in the pursuit of new models of service delivery. Whether outsourced or in-house the external auditor should have a duty to assess and comment on the value for money of the service provided.
- The section 151 officer (chief finance officer) and the Audit Committee should be consulted and be able to make suggestions and comments to inform the auditor's choice of areas for further work. There should be scope for the exploration of emergent risks to help the authority's forward planning and active management of risk.
- The external auditor should be required to raise a formal complaint about the professional conduct of a s151 Officer who persistently fails to tackle and resolve matters of substance raised in the ISA260 that are material and affect the Statement of Accounts.
- The existing duty on the external auditor of Clinical Commissioning Groups (to consider whether there are any issues arising during their work that indicate possible or actual unlawful expenditure or action leading to possible or actual loss or deficiency that should be referred to the Secretary of State) should be applied to the audits of local authorities.
- The external auditor should raise concerns in writing with MHCLG if a local authority fails to deal with material issues that are raised in the ISA 260 after a given period.

4. Recommendations for CIPFA

4.1 CIPFA should issue a guidance note to s151 officers and auditors setting out the circumstances which may give rise to the need for a Section 114 Notice to be issued and the steps that should be taken to respond.