**Formal Complaint to EY from LBC**

Over the years Luton Council has had a good track record of balancing our budgets and achieving Accounts sign off without any qualifications, or significant adjustments. Historically we had a positive relationship with our Auditor Ernst and Young (EY) and their lead Director Neil Harris. In February 2020 EY informed us that they were a ‘few weeks away’ from signing off the 2018/19 Statement of Accounts, with no major issues to be resolved. The Accounts would have been signed off before this date, if it had not been for an EY issue.

Then Covid hit and Luton Council endured an in year £50m (including 2019/20 dividend being written back) reduction in commercial income from its subsidiary company London Luton Airport Limited (LLAL) in the financial year 20/21. LLAL had substantial outgoings on development projects and it was absolutely necessary for the Council to stabilise the whole system including the airport operator which was also critical for the stability of the Council as well.

The Airport operator (LLAOL) in accordance with the concession agreement instigated a ‘Special Force Majuere’ event and stopped paying concession fee and tabled a legal request for LLAL to make up for their loss of profits. LLAL informed Luton Council that it could no longer pay a dividend and needed financial support. LLAL and LLAOL entered into a long and difficult negotiation finally reaching a SFM settlement agreement. The Settlement agreement minimised our loss whilst protecting the long term interests of the Airport system.

Additionally a number of other Council commercial revenue streams were also substantially affected. The Auditor quite understandably, and as advised by the Financial Reporting Council, paused work to wait for Luton Council and LLAL to prove that we were ‘Going Concern’s’. This was not an issue just for Luton but a national issue.

As part of stabilising the Luton Group financial position and alongside negotiating the settlement Agreement with LLAOL we were one of the first councils in the country to put in place an Emergency Budget in July 2020 delivering a £24m Revenue Budget reduction. We also secured a Capitalisation Directive from the Government of £49m of which we eventually utilised only £15m. As part of this process CIPFA undertook a detailed review of the Council and LLAL.

During this time the EY Audit lead changed.

On the 28 June 2021 the Executive finally approved the financial support to LLAL and the SFM settlement agreement and also took into account the Position Statement issued by EY. These and a number of other actions steadied the ship and we emerged from Covid in a stable financial position, without the use of Reserves to cover day to day revenue expenditure. We kept EY informed throughout this period and addressed all the concerns they raised at every step.

In the 2017/18 audited accounts signed by EY, the Airport was valued at £582m. This valuation did not take into account the long term (post concession reversionary value) value of Airport. When planning commenced for the longer term future of the Airport it became appropriate that this longer term value was assessed and the value of the airport was revised to reflect the nature of the concession agreement and this was highlighted as part of the stabilisation plan. The revaluation was also discussed with our auditors and was included in the June 21 Executive Report. We worked with our auditors, both LLAL and LBC, to ensure the revised figure was reflected in the accounts on both the subsidiary company and group accounts.

This revaluation triggered a significant amount to work to substantiate the revised value and it also led to significant change to the tax computation which all led to prior year adjustments to the 2017/18 Statement of Accounts. This process was complex with advice sought from Deloitte with regard to the revised valuation, and PricewaterhouseCoopers with regard to the deferred tax computation. We had to amend both the subsidiary accounts and the Council Group Accounts.

During this period the Council also had to make adjustments to the accounts to reflect changes to the Accounting Standards on valuation and treatment of Infrastructure Assets which is a nationwide issue and not just for Luton. We had to provide additional information requested by EY and also ensure that the disclosures were correct and that took some time.

As these were significant and very complex accounting issues we secured the service of Deloitte Accounting depart to assist us in finalising the 2018/19 Statement of Accounts and the final disclosures regarding the valuation, tax and PYA. The Statement of Accounts was also reviewed by the partner at Deloitte.

A final copy of the accounts was sent to EY on the 28 February 2023 however there were adjustments that had been made that were not reflected in the latest accounts. This was an issue that should have picked up by Deloitte but ultimately that we accept it was Luton Council’s error. We subsequently made those adjustments although they were not material. During this period we were open about the fact that due to the complexity of the issues that were being dealt with (as detailed above) and due to recruitment issues we were stretched.

In early May 2023 EY raised another query reading an historic adjustments to the Group accounts which dated back to 2005/06 when the airport assets were transferred. During this passage of time two auditors have gone through the figures including EY. We gathered the evidence and provided to EY by 9 May 2023 in order to address the issue raised. We followed up with EY on 9 June and offered three options to deal with this issue. EY later agreed on the 5 July 2023 not to make any changes and we considered this issue resolved.

On the 30 May 2023 EY had stated:

*Hi Dev*

*In relation to the audit position, it is as follows:*

*2018/19 – we have received all audit support requested to date. We are awaiting some final supporting work on a historic balance recorded in the accounts, where we have questioned the validity of the amount (£16m relating to transactions going back a number of years) and which we are working with Dev to gain sufficient information to be able to assess and then conclude. Once we are satisfied with the treatment of the transactions, we will also require an updated going concern position for the Council, which we will need to cover at least 12 months from the planned date of approval of the accounts.*

*Kind regards

Janet*

On 20 June 2023 we provided an updated Going Concern for the Council and a Cashflow through to March 2025 to EY. It was mutually agreed between EY and LBC that a large number of issues had been addressed and resolved and that at this point we would halt any further changes to enable EY to go through their Internal Due Diligence process.

There were a number of matters where we had agreed to disagree, as detailed in the Draft Audit Results tabled at the Audit and Governance committee minutes of 20th July 2023. EY’s proposal was that they would qualify the 2018/19 financial statements opinion in the form of a “limitation of scope”, subject to the formal consultation processes.

<https://democracy.luton.gov.uk/cmis5public/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBcoShgo=9kaxR62tfh8nQ3%2fWKH8%2bW7z1I8QDJLF6mOGavSUSRM5CDwdpL6cAag%3d%3d&rUzwRPf%2bZ3zd4E7Ikn8Lyw%3d%3d=pwRE6AGJFLDNlh225F5QMaQWCtPHwdhUfCZ%2fLUQzgA2uL5jNRG4jdQ%3d%3d&mCTIbCubSFfXsDGW9IXnlg%3d%3d=hFflUdN3100%3d&kCx1AnS9%2fpWZQ40DXFvdEw%3d%3d=hFflUdN3100%3d&uJovDxwdjMPoYv%2bAJvYtyA%3d%3d=ctNJFf55vVA%3d&FgPlIEJYlotS%2bYGoBi5olA%3d%3d=NHdURQburHA%3d&d9Qjj0ag1Pd993jsyOJqFvmyB7X0CSQK=ctNJFf55vVA%3d&WGewmoAfeNR9xqBux0r1Q8Za60lavYmz=ctNJFf55vVA%3d&WGewmoAfeNQ16B2MHuCpMRKZMwaG1PaO=ctNJFf55vVA%3d>

and the minutes targeting a sign off by EY at the A&G meeting of 11th October 2023:

<https://democracy.luton.gov.uk/cmis5public/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBcoShgo=QFTbZt5KgBiW1d28P%2f7knWaw5RwAaAcI3LG89sTXgnzOIV4SJPvWcw%3d%3d&rUzwRPf%2bZ3zd4E7Ikn8Lyw%3d%3d=pwRE6AGJFLDNlh225F5QMaQWCtPHwdhUfCZ%2fLUQzgA2uL5jNRG4jdQ%3d%3d&mCTIbCubSFfXsDGW9IXnlg%3d%3d=hFflUdN3100%3d&kCx1AnS9%2fpWZQ40DXFvdEw%3d%3d=hFflUdN3100%3d&uJovDxwdjMPoYv%2bAJvYtyA%3d%3d=ctNJFf55vVA%3d&FgPlIEJYlotS%2bYGoBi5olA%3d%3d=NHdURQburHA%3d&d9Qjj0ag1Pd993jsyOJqFvmyB7X0CSQK=ctNJFf55vVA%3d&WGewmoAfeNR9xqBux0r1Q8Za60lavYmz=ctNJFf55vVA%3d&WGewmoAfeNQ16B2MHuCpMRKZMwaG1PaO=ctNJFf55vVA%3d>

EY had confirmed to LBC that there were no material errors in the Accounts and confirmed that we had provided all the information required.

Due to resource constraints within EY the internal process was not undertaken until the end of September. EY wrote to us on the 5 of October and contrary to what we were expecting and agreed with EY and also reported to Audit Committee on several occasions (i.e. a limitation of scope), the draft audit report included the intention of EY to disclaim both the Council and Group accounts.

We wrote to EY on 30 October raising our concerns about the Draft Audit Report highlighting the inaccuracies and with respect areas of disagreement. We also raised our concerns regarding two newly tabled issues which were included in the draft audit report, regarding intercompany balances and revised going concern assessment. We have provided the information to address these issues but the updated draft audit report still does not reflect any of these facts. We have also provided updated structure charts detailing the progressive strengthening of the Luton Finance team.

Despite several meetings and exchanges of emails and phone conversation between EY and LBC this evidence is still not being taken into account.

The Audit and Governance Committee still have to consider the final Statement of Accounts and EY audit Report.

On 17th January 2024 EY informed us verbally about their intention to issue a Public Interest Report due to ‘the persistent and ongoing capacity and capability challenges in the Authority’s finance team and the impact of this on the Authority’s ability to produce adequate 2018/19 accounts’. We recognise that there have been some resource issues in the Luton finance team. However permanent recruitment has gone well over the last 9 months and the team is now substantially stronger. A substantial element of the delay in getting the Audit signed off since the start of the Audit have been resource constraints or issues within EY.

Due to lack of resource EY have not undertaken a VFM assessment since 2018. EY have undertaken work on 2019/20 but have not concluded as they have ceased working.

Detailed evidence can be supplied, if required, to demonstrate that the same information was requested and provided several times and that there was a substantial amount of rework due to the actions of EY over the course of the Audit due to EYs resource issues and prioritisation of other customers. This has led to unnecessary delays and additional work for LBC.

**Grounds for Complaint**

* LBC 2018/19 audit not properly resourced by EY, resulting in EY coming back time and time again for repeat and additional information and clarification.
* Unwillingness to review evidence supplied and concluding audit based on audit assignment not fully completed and contract honoured.
* Breakdown of relationship, due to EY not giving due consideration to our requests and information provided.
* It seems the Council is being viewed as high risk by EY without clear justification despite the Council showing a track record of balancing its budget without having recourse to reserves.
* Tabling in writing of completely irrelevant issues such as the car park fire at London Luton Airport, despite EY having the evidence that there is no impact on Luton Council, or our companies.
* Inconsistent actions following verbal confirmation by the EY Lead Partner.

**What we are seeking in redress**

* An appropriately resourced team from EY.
* An appropriate review of information provided by LBC.
* 18/19 Audit signed off with qualifications as agreed at Audit Committee on 20 July 2023.
* Removal of the threat of a PIR, which is currently unjustified.
* Consideration being given to assign another Audit Partner on this assignment.