

Report title	Notification of receipt of non-statutory Best Value Notice
Report author	Andrew Pritchard
Department	Chief Executive
Exempt?	No
Exemption type	Not applicable
Reasons for exemption	Not applicable

Purpose of report:

- **For information**

Synopsis of report:

This is to provide notification to Members that Runnymede Borough Council received a non-statutory Best Value Notice (“Notice”) on Dec 19th 2023 from the Department for Levelling Up, Housing and Communities (DLUHC).

Recommendation(s):

For information

1. Context and background of report

- 1.1 The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in Part 1 of the Local Government Act 1999 (the 1999 Act) to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.
- 1.2 In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget, provide statutory services and secure value for money in all spending decisions.
- 1.3 Where, over a period of time, continuous improvement is not demonstrated sufficiently, the 1999 Act grants the Government powers to intervene to ensure compliance with the Best Value Duty. These powers include taking action to protect the public purse and ensure significant or long-term failings are corrected and performance is raised to an acceptable and sustainable level.
- 1.4 In addition to the statutory powers available to it, the Government can exercise what are termed as non-statutory measures aimed at ensuring compliance with the Best Value Duty. They do not involve the Government using the powers in the 1999 Act. They are usually appropriate for addressing failure or risk of future failure that does not appear to be systemic in an authority and where that authority has the

willingness, capability and capacity to improve. Authorities that can demonstrate how they are addressing risk, and where the Government is confident that continuous improvement can be sustained without statutory intervention, are most likely to be subject to non-statutory measures.

2. Report

- 2.1 Following engagement with the Department for Levelling Up, Housing and Communities (DLUHC) and the Chartered Institute for Public Finance and Accountancy (CIPFA) during 2023, the Council has now received a non-statutory Best Value Notice (“Notice”) on 19th December 2023 from DLUHC.
- 2.2 CIPFA conducted a Capital Review of Runnymede on behalf of DLUHC due to the fact that:
 - The Council has significant debt relative to its core spending power. As of 31 March 2023 it had borrowing 71 times their core spending power, which has been used predominantly to invest in the Council’s property portfolio to generate commercial income.
 - Commercial income represents a substantial revenue source for the Council and is used to support both core and discretionary services. The Council currently derives £11.2m of net income from its investment property portfolio which is used to fund such services, generating a net return of 2.1%.
 - Both these facts expose the Authority to significant financial risks should anticipated commercial income fail.
- 2.3 Officers are obliged to inform Members of the receipt of the Notice in accordance with the requirement for transparency. The Notice was communicated to all Members via email on 20th December 2023 at 12.03 and has been published to the runnymede.gov.uk website.
- 2.4 The Notice is found at Appendix 1.
- 2.5 Officers are developing the work programme and action plan necessary to respond to the Notice and are continuing the ongoing dialogue with DLUHC officials.
- 2.6 Further details of the work programme will be provided to Members in due course.

3. Policy framework implications

- 3.1 The compliance of the Council’s with its obligation to secure continuous improvement and thereby deliver Best Value is evidenced through various decisions the Council makes under its Policy and Financial Framework. Addressing the issues which have been raised will enable the Council to demonstrate that it is delivering Best Value.

4 Resource implications/Value for Money

- 4.1 The Notice is a formal notification that DLUHC has concerns regarding the risk of future failure of an authority and is a request that the authority engages with the Department to provide assurance of improvement. The Department expects authorities that have been issued with Best Value Notices to continue leading their own improvement.

- 4.2 Responding to the Notice will require resources from across the organisation to support this as a priority. This may impact delivery of other planned activity for 2024/25.
- 4.3 Resource capacity and capability requirements to respond to the Notice will be part of the programme planning for the Best Value Notice response work programme and will be advised as this comes forward.

5. Legal implications

- 5.1 Under the 1999 Act local authorities must legally deliver what is termed 'Best Value' – a council must be able to show that it has arrangements to secure continuous improvement in how it carries out its work. The Government has powers under the 1999 Act to take action where this Best Value Duty is not, or is at risk of not, being met.
- 5.2 The Government has a range of responses open to it, both statutory and non-statutory, as listed below:
- (Non-statutory) Best Value Notice
 - Best Value Notice issued under section 230 of the Local Government Act 1972
 - Improvement board
 - Sector-led intervention
 - Directions to a best value authority
 - Directions for a commissioner-led intervention
- 5.3 The Council has received a (Non-statutory) Best Value Notice which involves a senior civil servant writing formally to an authority to state the Government's concerns on the available evidence and to set out the Government's expectations of the authority in providing assurance of progress. The Notice will request that the authority engages directly with the Government to provide assurance of improvement. The Notice will normally remain in place for 12 months, after which time, should the Government deem it necessary to continue to seek assurance of the authority's improvement progress, it will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.
- 5.4 (Non-statutory) Best Value Notices provide an opportunity for early engagement with an authority that is exhibiting indicators of potential best value failure and where there is confidence that the authority may have the capability and capacity to make its own arrangements to secure continuous improvement.

6. Equality implications

- 6.1 Non arising directly from this report

7. Environmental/Sustainability/Biodiversity implications

- 7.1 Non arising directly from this report

8. Risk Implications

8.1 Risks will be identified and recorded in the risk management system for the Best Value Notice Response programme as per the Council's project management methodology.

9. Other implications

9.1 None arising directly from this report

10. Timetable for Implementation

10.1 The Notice states 'This Notice will remain in place for 12 months, after which time, should the Department deem it necessary to continue to seek assurance through such a Notice, the Notice will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.'

10.2 The work programme will be developed to accord with the timetable stipulated by DLUHC

11. Conclusions

11.1 This is to provide notification to Members that Runnymede Borough Council have received a non-statutory Best Value Notice on December 19th 2023.

12. Background papers

12.1 The CIPFA Capital Review report referenced in the non-statutory Best Value Notice is also published to the website [here](#)

13. Appendices

- Appendix 1: Best Value Notice

Appendix 1: Runnymede Borough Council (RBC) Best Value Notice issued on December 19th 2023



Suzanne Clarke
*Deputy Director, Local Government
Finance*

**Department for Levelling Up,
Housing and Communities**
4th Floor, Fry Building
2 Marsham Street
London SW1P 4DF
www.gov.uk/dluhc

Andrew Pritchard
Chief Executive
Runnymede Borough Council

19 December 2023

Runnymede Borough Council (RBC) Best Value Notice issued on 19 December 2023

The Department expects authorities to identify and implement arrangements to secure continuous improvement and acknowledges the steps you are already taking to address issues in Runnymede Borough Council, including responding to the recommendations identified in the CIPFA capital review. Ministers remain concerned as to Runnymede Borough Council's capacity to comply with its Best Value Duty under the Local Government Act 1999. The Parliamentary Under Secretary of State has therefore made the decision to issue Runnymede Borough Council with this Best Value Notice.

This Best Value Notice ("Notice") is a formal notification that the Department has concerns regarding an authority and is a request that the authority engages with the Department to provide assurance of improvement. The Department expects authorities that have been issued with Best Value Notices to continue leading their own improvement.

This Notice is issued to Runnymede Borough Council ('the Authority') following concerns highlighted by the Capital Review of Runnymede, undertaken by the Chartered Institute for Public Finance and Accountancy (CIPFA), which was shared with the Authority on 25 July 2023. Concerns include that:

- The Authority has significant debt relative to its size, as of 31 March 2023 it had borrowing 71 times their core spending power, which has been used predominantly to invest in the Authority's property portfolio. This level of debt poses the Authority with capacity challenges, particularly in asset management, commercial and regeneration activity.
- Commercial income represents a substantial revenue source for RBC and is used to support both core and discretionary services, which exposes the Authority to significant financial risks should anticipated income fail.

The Authority has engaged constructively and openly with the CIPFA capital review and has indicated it is already taking steps to address the concerns raised in the review. We expect the Authority to continue to improve and, specifically, to commission an external governance review which aims to provide more in-depth assurance on RBC's governance and leadership structures in line with Best Value principles, including a review of:

- The effectiveness and efficiency of internal decision-making and scrutiny processes
- Culture and leadership, including the Authority's sense of strategic vision and direction, effectiveness of leadership, and attitudes and behaviours towards positive and open relationships.
- Capacity and capability, including evidence of continuous improvement.
- Delivery of services.

The Authority should also agree plans to address concerns and deliver all recommendations set out in the CIPFA review, at pace. In particular, the Authority should:

- Outline what steps they plan to take to reduce and manage the overall debt of the Council.
- Develop a risk appetite statement, including specific elements for its commercial and regeneration portfolio and divestment opportunities, and formalise a moratorium on commercial investment.
- Update the MTFP to reflect different scenarios in savings delivery, in the relationship of stock condition findings to MRP, and in commercial income performance.
- The Finance and the Asset Teams should work together to determine the appropriate scale of the sinking fund to the extent that the sinking fund can cover income and repairs risk.
- Develop and monitor capacity and capability to support priority areas.
- Work to elevate the profile of, and focus on, commercial and regeneration priorities in formal decision-making and oversight.
- Improve reporting on investment performance and expected returns.

While the Authority may continue to receive and be awarded government funding whilst under this Notice, we would emphasise that receipt of funding does not indicate the Department's broader view of the performance of the Authority, nor would it indicate any change in the status of this Notice, with individual funding programmes being managed and assured independently by their respective departments.

This Notice will remain in place for 12 months, after which time, should the Department deem it necessary to continue to seek assurance through such a Notice, the Notice will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.

This Notice is issued outside the statutory powers held by the Secretary of State under the Local Government Act 1999 to inspect or intervene in local authorities where there is evidence of Best Value failure and, separately, under section 230 of the Local Government Act 1972 to request information from local authorities. However, a failure to demonstrate continuous improvement may be judged to contribute to Best Value failure and the Secretary of State will consider using these powers as appropriate.

It is important to ensure transparency in relation to the challenges faced by local authorities and the Department's engagement on these. A copy of this Notice will therefore be published on gov.uk. I encourage you to make a copy of this Notice available on the Authority's website, and to share it with full council and the audit committee. In line with this, we will notify your external auditor of this action.

Separately to this Notice, I would encourage you to engage with the Local Government Association, making use of the full range of support they have to offer. We also expect the Authority to engage regularly with the Department during the period of the Notice and in determining the scope of the external governance review. A member of my team will be in touch with you to make arrangements. I look forward to receiving updates on your progress.

Yours sincerely,

Suzanne Clarke
Deputy Director, Local Government Finance