

The 2018/19 audit of Glasgow City Council

Update on equal pay settlement



ACCOUNTS COMMISSION 

Prepared by Audit Scotland
February 2020


The Accounts Commission

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Commission findings

- 1** The Commission accepts the Controller of Audit's report on the conclusion of the equal pay settlement in Glasgow City Council.
 - 2** The Commission published findings on a Best Value Assurance Report on the council in August 2018. In our findings, we gave particular weight to the Controller of Audit's recommendation that the council consider the impact of resolving equal pay claims. We noted our serious concern about how the potential financial cost of the matter might affect the council's ability to deliver its services. In maintaining our close interest in this regard, we asked the Controller of Audit to report back to the Commission at an appropriate time on the progress and impact on the council of the equal pay matter.
 - 3** We are therefore pleased to commend the council on the Controller's conclusion that it has successfully delivered a challenging and complicated project within a relatively short period of time. In particular, we welcome the effective governance arrangements that the Council put in place to oversee the project, alongside appropriate controls to the calculation and payment of settlements.
 - 4** We acknowledge the residual liabilities in relation to ongoing claims not covered by the settlement and by the possibility of further claims arising in the period before the council implements its new pay and grading structure, which it intends to do by April 2021. In this latter regard, we strongly encourage the council to fulfil this commitment.
 - 5** We note that the auditor will continue to assess and report the impact of equal pay arrangements and future liabilities. We ask the Controller to update us on any further significant developments in the future.
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Executive summary

Introduction

1. The Code of Audit Practice requires auditors to produce a report summarising the significant matters arising from their work at the conclusion of each year's audit. For local authorities, these reports are addressed to elected members and the Controller of Audit.
2. I have received the 2018/19 annual audit report for Glasgow City Council (the council) from Audit Scotland, the appointed auditor. The most significant issue in their report relates to the conclusion of the equal pay settlement that the council has been dealing with since early 2018. I previously reported on this matter in August 2018 as part of the council's Best Value and Assurance Report (BVAR). In their findings on the BVAR, the Accounts Commission asked me to report back at an appropriate time on the progress and impact on the council. I have therefore decided to use the reporting powers available to me to bring this issue and subsequent developments to the Commission's attention.
3. Following the decision by the council's City Administration Committee (CAC) in January 2018 to address outstanding equal pay claims through negotiations, the council established a number of workstreams covering both the proposed settlement and a funding strategy to meet both the historical obligations and future cost implications of the funding strategy. The terms negotiated with, and agreed by, the claimants' representatives for the settlement of the claims, for which the representatives act, were reported to CAC in February 2019. At that meeting CAC approved the funding strategy for equal pay and, subject to securing appropriate funding, approved the settlement proposal estimated at £548 million.
4. This report provides an update on the position highlighted in the auditor's [2018/19 annual audit report](#).

Annual audit report 2018/19

5. The auditor's annual audit report was considered by the council's Finance and Audit Scrutiny Committee (FASC) on 11 September 2019 and again by CAC on 26 September 2019. The report has also been published on Audit Scotland's website.
6. I draw the Commission's attention, under s102(1) of the Local Government (Scotland Act) 1973, to the following points in relation to the equal pay settlement.

Settlement of historic liabilities

7. In their report, the auditor details the findings of their work during 2018/19 and outline the settlement position at the point at which their report was finalised on 26 September 2019. In summary this was:

- Following CAC approval in February 2019 the council applied the agreed settlement methodology to approximately 15,500 claims and each claim was assessed up to 31 March 2018.
- Any outstanding debts owed to the council by claimants, for example council tax arrears, were offset against the settlement sums. Additionally, a central settlement was also negotiated with HMRC to determine rates of tax and national insurance contributions to be deducted.

- Following the individual claim calculations, the final settlement cost to the council reduced to £505 million, from the estimated £548 million approved by CAC in February 2019. Individual settlement offers were issued to claimants in May 2019 and following receipt of signed agreements from claimants, the settlement payments commenced in June 2019. By the end of August 2019 over 98 per cent of claims had been settled and payment made.

8. Since the auditor finalised their report at the end of September 2019, the council has continued to progress the equal pay settlements. At the end of November 2019 there were approximately 150 equal pay settlements still outstanding and these all related to specific instances where the case has been difficult to finalise, for example, where claimants have not returned signed agreement forms, or, where the claimant is now deceased, and the council is working with their estate/executor to finalise the settlement. The council is committed to finalising all outstanding settlements insofar as it reasonably can.

Residual liability

9. The settlement proposal outlined above does not fully extinguish the council's equal pay liability. There remains a potential ongoing risk of an equal pay claim in respect of any claimant who is in employment during the period from 1 April 2018 up to the point at which the council implements a new pay and grading structure. The council is working to implement its new pay and grading structure by April 2021.

10. There are also approximately 480 claimants with existing equal pay claims, but who are not represented by the claimants' representatives. The settlement proposal previously outlined does not include these claims.

Funding strategy

11. Again, the auditor details the findings of their work during 2018/19 and outlines the funding position at the point at which their report was finalised on 26 September 2019.

12. At the time of the auditor's report, the council's proposed funding strategy for the equal pay settlements comprised two main elements:

- City Property Glasgow (Investments) LLP (CPGI), a council-owned arm's-length external organisation (ALEO) refinanced an existing loan with Barclays Bank through new borrowing. After settling the outstanding liability on the original loan, the remaining balance from the new borrowing has been remitted to the council as a member distribution to part-fund the equal pay settlement. Following issue of the auditor's report, the council reported to CAC that the borrowing to refinance this loan formed part of a wider funding agreement with LGIM Commercial Lending Limited (detailed in paragraphs 13 and 14 on page 7) which also includes funding for the purchase of three properties.
- City Property entered into a sale and leaseback arrangement with the council whereby the council disposed of a number of properties to City Property and then leased them back under commercial terms. The council was able to use the capital receipt from the sale of the property to complete the funding of the equal pay settlement. The properties involved in this transaction are predominantly culture and leisure facilities, none of which are common good or heritage assets. City Property secured their funding (borrowing) through a competitive procurement exercise which identified three preferred bidders. The auditor notes that contracts with two of the three preferred bidders had been finalised at the date of writing their report and that the third contract, which is subject to a more complex structure, was due to be finalised by the end of September 2019.

Financing Arrangements

13. Since the auditor finalised their report at the end of September 2019, the council and City Property have completed on the remaining funding arrangements and all contracts have been signed. The sums borrowed by City Property reflected the different commercial terms of each agreement and are noted below:

Borrowing by City Property

Bidder	Value	Date funding drawn down
LGIM Commercial Lending Limited (L&G)	£285 million	2 July 2019
Canada Life Asset Management Limited (CL)	£166 million	19 July 2019
Assured Guaranty (Europe) plc / Assured Guaranty Municipal Corp (AG)	£195 million	30 October 2019
Total borrowing by City Property	£646 million	

14. The agreement with L&G also includes refinancing the commercial portfolio of CPGI, including the termination of the loan with Barclays Bank and the purchase by City Property of three of the council properties. The funding agreements with CL and AG allow the purchase of the remaining eight properties. Appendix 1 provides the detail of the properties included within these arrangements. The total income to the council from the Funding Strategy is £549 million. City Property retained sufficient funds to repay the Barclays Bank loan, cover fees and charges associated with the funding and to ensure the organisation retained the levels of cash reserves required by the funding agreements.

15. Therefore, the total income to the council is sufficient to cover the £505 million of equal pay liabilities outlined previously. The council has ear-marked the residual balance of £44 million for the potential future equal pay obligations outlined in paragraphs 9 and 10 on page 6.

16. The council has finalised terms with City Property for the sale and leaseback of the 11 properties covered by the arrangement. The lease is for a period of 32 years with a rent-free period after 1 April 2050 and is on a full repairing and insuring basis. The total rent payable to City Property by the council is £20.4 million per annum with annual inflation of 2.75 per cent.

17. The full cost annual cost of £20.4 million to the council for 2019/20 was included in its budget for the year. However, due to the timing of the lease start dates there will be an underspend against budget in the current financial year. The council plans to add this underspend to the ear-marked reserves outlined in paragraph 15 for any potential future equal pay obligations.

18. The arrangements that the council has entered will require changes to its treasury Prudential Indicators to reflect the requirement of the Prudential Code to incorporate future lease payments as part of the council's overall liabilities. Additionally, as part of the funding agreements the council has committed to guaranteeing some of the debt repayments to be paid by City Property.

19. There was an existing guarantee provided by the city council to CPGI in respect of the Barclays Bank loan which is no longer required.

20. The auditor will consider the ongoing impact of the equal pay settlements and the associated funding arrangements as part of the current (2019/20) and future years audits. This will include, but is not limited to, consideration of:

- the impact of future equal pay obligations

- changes to the council's Treasury Management Strategy and Prudential Indicators
- obligations to the council under the guarantees provided to City Property
- appropriate accounting treatment and the adequacy of disclosures in the council's annual financial statements in relation to the above.

Project Governance

21. The scale and complexity of settling historic equal pay obligations has presented the council with significant financial, operational and reputational risks. The council acknowledged these challenges at an early stage and undertook a dedicated and recognisable project management approach to oversee both the settlement and funding elements of the scheme. Key to this was the action taken to bring together, in a single team, appropriate numbers of staff with the skills and experience necessary to advance the project with sufficient grip and pace.

22. Reports have been presented to the City Administration Committee at key stages during the project to inform progress and to seek approval from members for proposed actions. This included approval of the settlement proposal in February 2019, and delegation of authority to the Chief Executive and Executive Director of Finance to conclude the legal and financial agreements.

23. The settlement process has been overseen by an Equal Pay Board, which met every three weeks up to the point at which the settlement letters were issued to claimants in June 2019. The board was chaired by the Chief Executive, and included the Director of Governance, the Head of Human Resources, the Executive Director of Finance, the Project Manager and the Equal Pay Operational Team representatives.

24. The process for the funding arrangements was overseen by a separate group which met weekly and consisted of the Chief Executive, the Executive Director of Finance, the Director of Financial and Business Services, the Head of Legal and Administration Services and Managing Director of City Property.

25. The level of public reporting was restricted during the process due to the levels of confidentiality required during negotiations. However, cross-party elected member working group meetings were held on a fortnightly basis during the project, to keep members informed of progress.

26. The council has engaged effectively with key stakeholders and partners during the process and where appropriate has sought, acted on and, when necessary, challenged external professional advice. Senior officers within the council have actively engaged with the auditor throughout the process ensuring a "no surprises" approach both from the council and audit perspective.

27. The council's internal audit team has also reported on its review of the equal pay settlement process, concluding that a reasonable level of assurance could be placed upon the control environment.

Conclusion

28. Overall, the council has successfully delivered a challenging and complicated project within a relatively short period of time. Key to this were the governance and management arrangements that the council put in place around the project. I agree with the auditor's conclusion that the council developed and applied appropriate overarching governance arrangements to the equal pay project and applied appropriate controls to the calculation and payment of settlements. I am satisfied that the council has taken appropriate action to mitigate the key risks arising from both the settlement and funding arrangements and that it responded in a fast, transparent and comprehensive way to the challenges it faced.

29. The auditor has concluded that they are satisfied with the reasonableness of the equal pay accounting estimates and disclosures in the council's 2018/19 Financial Statements. Nevertheless, I acknowledge that the auditor will continue to assess the impact of the equal pay funding arrangements and potential future equal pay liabilities as part of the current and future years audits at the council.

Appendix 1

Sale and leaseback

The city council has entered into sale and leaseback contracts with City Property for the properties listed below:

L&G

- SEC Armadillo
- City Halls
- Glasgow Museums Resource Centre

CL

- Emirates Arena
- Scotstoun Leisure Centre
- Bellahouston Leisure Centre

AG

- Riverside Museum
- Tollcross International Swimming Centre
- Glasgow Royal Concert Hall
- Gorbals Leisure Centre
- Toryglen Football Centre

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