

**BIRMINGHAM CITY COUNCIL**

**FINANCE AND RESOURCES O&S COMMITTEE – PUBLIC**

**MEETING**

**1400 hours on Thursday 7 September 2023, Committee Room 6, Council House**

**Minutes**

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**Present:**

Councillor Jack Deakin (Chair)

Councillors: Alex Aitken, Raqeeb Aziz, Meirion Jenkins, Rashad Mahmood and Paul Tilsley

**Also Present:**

Councillor Brigid Jones, Cabinet Member for Finance and Resources

Janie Berry, City Solicitor and Monitoring Officer

Fiona Bottrill, Senior Overview and Scrutiny Manager

Jayne Bowles, Scrutiny Officer

Richard Brooks, Director, Strategy, Equality and Partnerships

Craig Buckley, Oracle Programme Director

Cheryl Doran, Assistant Director and CIO, Digital and Customer Services

Sarah Dunlavey, Assistant Director, Audit and Risk Management

Fiona Greenway, Interim Director of Finance (S151 Officer) (Online)

Darren Hockaday, Acting Director of People and Corporate Services (Online)

Richard Lloyd-Bithell, Assistant Director, Financial Strategy (Online)

Mohammed Sajid, Interim Head of Financial Strategy

Steve Sandercock, Assistant Director, Procurement

**1. NOTICE OF RECORDING/WEBCAST**

The Chair advised that this meeting would be webcast for live or subsequent broadcast via the Council's Public-I microsite and that members of the press/public may record and take photographs except where there were confidential or exempt items.

## **2. APOLOGIES**

Apologies were received from Councillors Hendrina Quinnen and Ken Wood.

## **3. DECLARATIONS OF INTERESTS**

Members were reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

The following interests were declared:

Councillor Alex Aitken – member of GMB Union.

Councillor Raqeeb Aziz - member of Unite Union.

Councillor Jack Deakin – a family member works in one of the care homes mentioned in the Planned Procurement Activities Report.

Councillor Rashad Mahmood – member of Unite Union.

Councillor Paul Tilsley - member of the Birmingham Airport Board.

## **4. MINUTES**

There were no matters arising from the minutes.

### **RESOLVED:**

That the minutes of the meeting held on 27 July 2023 be confirmed as correct and signed by the Chair.

## **5. ACTION TRACKER**

The Chair highlighted the following outstanding actions:

### **List of the Council's statutory responsibilities**

Janie Berry, City Solicitor and Monitoring Officer, informed the Committee that statutory functions were difficult to define. In making spending decisions, a number of issues needed to be considered, including information from directorates on what was deemed to be priority based on risk analysis. It was highlighted that more comprehensive guidance was being developed for Directorates and Members and the list would be updated.

### **List of property assets**

Fiona Greenway, Interim Director of Finance (S151 Officer), confirmed that this had been requested from Property Services and suggested that Scrutiny Officers follow this up with the Strategic Director of Place, Prosperity and Sustainability.

### **Risk assessment methodology for 2023/24 RAG rated savings and definition of risk levels**

The Interim Director of Finance (S151 Officer) informed the Committee that risk was assessed by individual services and that additional information would be provided to the Committee.

**RESOLVED:**

That the action tracker be noted.

**6. UPDATE ON BUDGET RECOVERY PLAN AND MTFP AND SCRUTINY CONTRIBUTION TO BUDGET SAVINGS (ITEM 9 ON THE PUBLISHED AGENDA)**

Councillor Brigid Jones, Cabinet Member for Finance and Resources, Janie Berry, City Solicitor and Monitoring Officer, and Mohammed Sajid, Interim Head of Financial Strategy, were in attendance for this item.

Fiona Greenway, Interim Director of Finance (S151 Officer), and Richard Lloyd-Bithell, Assistant Director, Financial Strategy, were in attendance online.

The Committee was informed that the City Solicitor and Monitoring Officer and the Interim Director of Finance (S151 Officer) would need to leave the meeting at 3.00pm.

The Interim Director of Finance (S151 Officer) explained the current position and the reasons for issuing a s114 notice on 5<sup>th</sup> September under s114(3) of the Local Government Act 1988, highlighting the following key points:

- The s114 notice had been issued because her opinion was that the Council had a negative General Fund position, which meant that there were insufficient resources to meet expenditure and the Council was not currently able to agree a solution to allow suitable funding or financing to be obtained to cover the liability of Equal Pay claims.
- The six individual factors leading to the report being issued were outlined.
- Full Council would consider the s114 Notice and an emergency budget or budget recovery plan to explain how the position would be addressed. The notice would remain in place until delivery against that plan could be demonstrated.
- Full Council may request exceptional financial support from the Government.

During the discussion, and in response to Members' questions, the main points included:

- In response to a query as to whether the £65m budget savings at risk were in addition to or part of the £87m shortfall referred to in the s114 notice, Members were informed that the high risk savings were included, but the medium and low risk savings were not.
- The Committee requested clarity regarding the timeline on communications in relation to the s114 notice prior to publication and the announcement at Cabinet. The Interim Director of Finance (S151 Officer) confirmed that the correspondence from the external auditors had been received late on the afternoon of 1<sup>st</sup> September, but had not been accessed until 4<sup>th</sup> September. As required by statute, she had consulted formally with the Head of Paid Service and the Monitoring Officer before issuing the s114 notice at 9am on 5<sup>th</sup> September.
- The Committee queried when the political Executive had been made aware that the s114 notice was going to be issued and it was agreed that the Chief

Executive would be asked to provide confirmation of the timeline showing at what point the Leader and Cabinet Members had been informed.

- The Chair requested that the correspondence between the external auditors and the S151 Officer prior to the issuing of the s114 notice be shared with the Committee, subject to agreement from the external auditors.
- The City Solicitor and Monitoring Officer informed the Committee that there would be an Extraordinary Meeting of the Audit Committee on 15<sup>th</sup> September and that the issuing of the s114 notice would be considered.
- In response to a question regarding the estimate of the Equal Pay liability at the time the budget had been passed, Members were informed that the S151 Officer was charged with assessing financial risk, that the risk register figure had been determined on the judgement of the person in that post at the time and that the risk allocated to Equal Pay liability at that time was not accurate.
- There was a more robust risk management control framework around Equal Pay.
- Members highlighted that residents had asked what was defined as non-essential spending and were informed that Appendix 1 of the Spend Control Manual set out what was statutory and non-statutory and that will be reviewed based on feedback from services. The manual has been sent to all Councillors and is available on the website.
- In response to a question about what legal advice had been given to Cabinet regarding the Equal Pay risk, the City Solicitor and Monitoring Officer confirmed that substantial legal advice had been provided to Council Business Management Committee (CBMC) the previous week and the Trade Unions had until 9am on 11<sup>th</sup> September to sign the addendum to the CBMC report.

The Chair proposed that an additional meeting of the Committee should be arranged to take place before the next scheduled meeting in order to continue the discussion. This was required due to the Interim Director of Finance (S151 Officer) and the City Solicitor and Monitoring Officer needing to leave at 3.00pm.

**RESOLVED:**

That:

- An additional meeting of the Committee be arranged to take place before the next scheduled meeting.
- The Chief Executive's Office be requested to provide the timeline on communications regarding the S114 notice prior to publication and the announcement at Cabinet.
- The communication with the external auditors, before the S114 notice was issued, be provided (subject to agreement from the external auditors).
- The risk assessment methodology for 2023/24 RAG rated savings and definition of risk levels be provided.
- The report be noted.

## **7. PLANNED PROCUREMENT ACTIVITIES REPORTS**

Steve Sandercock, Assistant Director, Procurement, presented the reports which had been considered at Cabinet on 5<sup>th</sup> September 2023.

The Committee noted that there were two key decision planned procurements – Integrated Neighbourhood Teams – Programme Support, and Electronic Bill Payment and Prepaid Cards. Following a question at Cabinet in relation to the timescales for on the Electronic Bill Payment and Prepayment Cards decision, a written response had been provided, which had been copied to the Chair of Finance & Resources OSC. This confirmed that procurement officers were confident there would not be a gap in service provision.

There were no questions raised by Members.

### **RESOLVED:**

That the Planned Procurement Activities reports be noted.

## **8. ORACLE STABILISATION UPDATE**

Richard Brooks, Director, Strategy, Equality and Partnerships, Craig Buckley, Oracle Programme Director, Cheryl Doran, Assistant Director and CIO, Digital and Customer Services, and Meena Kishinani, Director of Transformation, were in attendance for this item.

The Committee received a presentation on:

- Summary of progress to date and focus for next period.
- Proposed change to programme governance arrangements.
- Optimisation High Level Design.
- Programme funding and spend approval process.
- Key strategic risks and issues.

During the discussion, and in response to Members' questions, the main points included:

- There had been significant progress but there was still a lot to resolve. It was highlighted that the majority of what needed to be done was now known, allowing for a focus on the medium to long term.
- Progress in the Finance area, with a focus on the outturn and moving on to look at 2023/24, making sure the backlog stayed under control.
- There had been a lot of fixes and enhancements in People Services, and the Internal Audit risk management cloud had started slightly ahead of plan.
- The gold, silver and bronze governance arrangements had worked well to date, There was a transition to a programme board structure, still maintaining key oversight meetings including Scrutiny and Audit.
- There had been no changes to timescales and they were still working to plan, progressing through safe and compliant and at the same time moving to optimisation and a report would be taken to Cabinet later in the year regarding timescales and costs and funding for implementation.
- Indicative costs would be available during September / October.

- Capacity in Finance had been identified as a key risk which may impact on the timeline.
- The Chair requested that all reports produced relating to Oracle (external auditors' review, CfGS wider governance review and management review) be brought to his attention to determine whether to share with the Committee.
- It was agreed a more detailed breakdown of how the money was being spent would be included in the next report to Committee.
- A review of the programme had been requested in light of the current situation and there will be a close eye kept on this in the build up to the budget.
- In response to a proposal made by the Chair regarding any future recommendations to adapt Oracle should be reported to the Finance and Resources OSC, the Committee was informed that it would be hard to define "adaption" and it was agreed a definition of customisation (what it is and what it looks like) would be included in the next report.

**RESOLVED:**

That:

- All reports relating to Oracle (external auditors' review, CfGS wider governance review and management review) be shared with the Chair of Finance and Resources OSC.
- The next report to Committee to include a detailed breakdown of what money was being spent and a definition of customisation – what it is and what it looks like.
- The report be noted.

**9. MANAGING COUNCIL RISK INCLUDING THE STRATEGIC RISK REGISTER, BUDGET RISK AND SAVINGS RISKS**

This report was deferred.

**RESOLVED:**

That the report be deferred for consideration at the next meeting.

**10. JOB EVALUATION – PERMANENT PAY EQUITY**

Darren Hockaday, Interim Director of People and Corporate Services, and Richard Lloyd-Bithell, Assistant Director, Financial Strategy, were in attendance online for this item.

The Chair stated that, as already discussed, there were various concerns regarding previous assessment of risk relating to the Equal Pay liability. The status of the private part of the report that had been considered at Council Business Management Committee was also raised and the Committee was informed that the private report contained legally privileged information and any further question should be raised with the Monitoring Officer.

The Interim Director of People and Corporate Services provided the Committee with the background to how the Equal Pay liability had evolved over the last two years. The key points included:

- The work relating to the Memorandum of Understanding (MoU) between the Council and 3 Trade Unions and also the work on COT3 agreements from April 2021 and during 2022.
- Notification from the GMB Union received in summer 2022 of 3,000 Equal Pay claims that were going to be lodged in the Court which materialised August 2022 – April 2023.
- Discussions that took place regarding alleged Task and Finish within some Council services and assurances that had been provided that this practice had been eradicated.
- The work that was undertaken during late 2022 – early 2023 to assess the Equal Pay liability, including that the first estimate of the potential liability was produced in February 2023 and that range was between £300-800m.

During the discussion, and in response to Members' questions, the main points included:

- In response to a question about how many claimants there would be, Members were informed that GMB had provided 3,000 names initially, which materialised into about 2,100 claims and that Unison wanted to submit between 500-600 claims with additional notification made in the last month. There were no claims from Unite at the current time.
- That the model producing the estimates did not just extend to claims received or potential threats of litigation, it was an assessment of the entire workforce and potentially also people who may have left the organisation, who can make a claim within six months. There were also some historical cohorts that would need to be included in the figure, for example the Jennings cohort who settled in late 2021, those who settled through no win no fee lawyers and the MoU cohort.
- The range of the estimate looks at the legal risk weighted liability based on a number of factors, including task and finish and job evaluation.
- The specific number of potential claimants was queried and it was agreed that the number of people within the scope of the estimate as at 31<sup>st</sup> March 2023 would be provided to the Committee.
- In response to a question about the history of Equal Pay prior to 2021, the Committee was informed that a document had been put together by Legal Services detailing the chronology of how the Equal Pay issue had manifested itself over a period of years and it was agreed that a request would be made to the Monitoring Officer to share the document with members of the Committee.
- The estimated liability of £300 – 800 million had been shared with key officers and members in early February 2023.
- Members raised concerns that when they had previously asked questions about equal pay that information had not been provide to them.
- The Committee raised concerns that later in that month the Council approved a balanced budget in which not even the lower figure in that estimate had been included as a risk.

- The Chair confirmed the proposal to hold an additional meeting relating to these issues.

**RESOLVED:**

That:

- The specific number of potential Equal Pay claimants within the scope of the estimate, as at 31<sup>st</sup> March 2023, be provided.
- A request would be made to the Monitoring Officer to share the document prepared by Legal Services detailing the chronology of how the Equal Pay issue has manifested itself over a period of years.
- The verbal update be noted.

**11. WORK PROGRAMME**

This report was deferred to the next meeting.

**12. REQUEST(S) FOR CALL IN/COUNCILLOR CALL FOR ACTION/PETITIONS RECEIVED (IF ANY)**

None.

**13. OTHER URGENT BUSINESS**

None.

**14. DATE OF THE NEXT MEETING**

The date of the next scheduled meeting on Thursday 12 October 2023 at 1400 hours was noted. However, the Chair confirmed his intention to arrange an additional meeting.

**15. AUTHORITY TO CHAIR AND OFFICERS**

**RESOLVED:**

That in an urgent situation between meetings, the Chair jointly with the relevant Chief Officer, had authority to act on behalf of the Committee.

**16. EXCLUSION OF THE PUBLIC**

The Committee did not go into private session to consider the exempt appendix on the Planned Procurement Activities report.



**PRIVATE AGENDA**

**17. PLANNED PROCUREMENT ACTIVITIES REPORT EXEMPT APPENDIX 3**

Members had raised no questions on the exempt appendix under item 7.

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The meeting ended at 17.01 hours.