

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE

FRIDAY, 15 SEPTEMBER 2023 AT 09:15 HOURS
IN EXTRAORDINARY AUDIT COMMITTEE, COMMITTEE ROOM
3&4, COUNCIL HOUSE, [VENUE ADDRESS]

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 APOLOGIES

To receive any apologies.

3 DECLARATIONS OF INTERESTS

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

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

4 **EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC**

a) To consider whether any matter on the agenda contains exempt information within the meaning of Section 100I of the Local Government Act 1972, and where it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.

Exempt paragraph 3 of schedule 12A of the Local Government Act 1972

- Item 5 - Private minutes - Audit Committee 19 July 2023
- Item 6 - Report from External Audit
- Item 7 - Report on Equal Pay & Financial Plan
- Item 8 – Report on Oracle

b) If so, to formally pass the following resolution:-

RESOLVED – That, in accordance with Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation order) 2006, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

5 - 14

5 **MINUTES - AUDIT COMMITTEE 19 JULY 2023**

To confirm and sign the minutes of the last meeting of the Committee held 19 July 2023.

15 - 28

6 **REPORT FROM EXTERNAL AUDIT**

Report of the External Auditors

29 - 46

7 **REPORT ON EQUAL PAY & FINANCIAL PLAN**

Report of the Chief Executive

47 - 56

8 **REPORT ON ORACLE**

Report of the Chief Executive

9 **DATE OF THE NEXT MEETING**

The next meeting is scheduled to take place on Wednesday, 27 September 2023 at 1400 hours in Committee Room 3 & 4, Council House.

10 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

11 **AUTHORITY TO CHAIR AND OFFICERS**

Chair to move:-

'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE 19 JULY 2023

**MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD ON
WEDNESDAY, 19 JULY 2023 AT 1400 HOURS IN COMMITTEE
ROOM 3 & 4, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1
1BB**

PRESENT:-

Councillor Fred Grindrod in the Chair;

Councillors Shabrana Hussain, Miranda Perks and Paul Tilsley

NOTICE OF RECORDING/WEBCAST

611 The meeting started at 1409 hours.

The Chair advised and the Committee noted this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

The business of the meeting and all discussions in relation to individual reports was available for public inspection via the web-stream.

APOLOGIES

612 Apologies were submitted on behalf of Councillor Shafique Shah for his inability to attend the meeting.

DECLARATIONS OF INTEREST

613 The Chair sought advice from the City Solicitor and Monitoring Officer on the Equal Pay item. He questioned if members of the Committee had to declare if they were part of a Trade Union and request for a dispensation.

The City Solicitor and Monitoring Officer confirmed these declarations should be noted at the meeting however, an email can be sent to the City Solicitor prior to the item being discussed i.e. to request for a dispensation setting out the reasons and details of membership/trade union.

Councillor Tilsley declared he was a Non-Executive Director for Birmingham Airport (Non-pecuniary).

EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

The Chair advised there would be a possible private discussion for item 5 – Private minutes - Audit Committee 16 May 2023 (Exempt paragraph 3 of schedule 12A of the Local Government Act 1972).

In addition, a private discussion on item 8 - Private - Report on Equal Pay - (Exempt appendix due to paragraphs 3,4 & 5 of schedule 12A of the Local Government Act 1972).

At this juncture, Councillor Tilsley proposed for these items to be considered at the end of the agenda however, this posed an issue for the External Auditors attendance at the meeting. It was therefore agreed to continue in the running order of the agenda. This was agreed with the Members of the Committee.

Upon consideration, it was:

614

RESOLVED

That in accordance with Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation order) 2006, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

MINUTES – AUDIT COMMITTEE 16 MAY & 28 JUNE 2023

615

That the public minutes of the meeting, 28 June 2023 having been circulated, were agreed by the Committee.

That the public and private minutes of the meeting, 16 May 2023 having been circulated, were agreed by the Committee as a full set. There were no issues raised on the private minutes.

OVERVIEW FROM THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (LGSCO)

616

Members were informed this item would be discussed later in the meeting as the guest attending had been delayed travelling to Birmingham.

On this basis, item 7 – Update Report on Oracle since the last meeting 28 June 2023 would be discussed first.

UPDATE REPORT ON ORACLE SINCE THE LAST MEETING 28 JUNE 2023

A verbal update was provided by officers. Prior to the commencement of this meeting, a presentation on the Internal Management Review (Oracle Implementation) was emailed to the Committee – for information only. This would not be shared at the meeting.

The Programme Manager and the Acting Director for People and Corporate Services provided an update to the actions following the last meeting. The following points were made:

- The Wellbeing offer – This was available to Council Staff and now extended to finance, School staff, Business Managers. A support offer had been offered to schools.
- Risk management, key risks - A full report will be shared at the next Audit Committee covering all areas.
- Progress had been made – Gold Task Force were currently reviewing the strategic risks.
- Terms of reference for the Management Review had been circulated to members ahead of this meeting. The Assistant Director (Programmes, Performance, and Improvement), Partnerships Insight and Prevention was leading on the Management Review on behalf of the Chief Executive.
- DBS Checks – part of the responsibility in this area had devolved to line managers however, this was now controlled centrally. Changes to the processes were taking place – data entry, flagging data expiries, and regular assurance reporting etc.
- Update data as of 17 July had been shared with the Acting Director for People and Corporate Services on employees who required a review of DBS checks. The current total in process of DBS checks was 2700 across the organisation. Under 2300 were with Heads of Service to action.
- Out of 2700 that required a DBS check, a total of 1040 were compliant – around 30%. The remainder were being actioned by managers. Further details around categories was shared.

Members raised questions around the following areas; of the employees that required DBS checks, were these employees in an area of where Ofsted inspections would take place; If it was discovered DBS records were incorrect, would Birmingham fail Ofsted; there were concerns that Oracle had exposed the standard for DBS checks were not being adhered to, this was a culture issue around safeguarding; queries raised around financial budget and forecast – questions raised what these were based on if 2022-23 accounts were not closed off and in relation to reserves, if there had been an increase on the figures.

In response officers made the following points;

DBS checks and Ofsted areas – these DBS checks were spread across various Directorates including Children and Families. Of those employees who there was no record of, it was now established these were in place. If there was no valid DBS checks within the school, then this would result in a failure for Ofsted. Ofsted would need to see a record in order to be satisfied. Work was taking place with line managers to ensure the DBS checks were up to date.

A Management Review was taking place and Internal Audit were working within this area to understand the impact. A new Compliance and Vetting Team was in place. Update on the Management Review would come back to Audit Committee. This report was welcomed by the Committee.

The Chair questioned if the Safeguarding Board had been engaged with this issue. Members were informed the Safeguarding Board had been engaged however, further clarifications would be provided.

The City Solicitor and Monitoring Officer informed there were multiagency Safeguarding Boards that represent both Children and Adult issues. This would need to be confirmed via the Director of Children Services and Adults who were linked to the Boards. The Annual Governance Statement would refer to DBS. This would be monitored and raise awareness. The City Solicitor would make enquires with Statutory Officers around the Safeguarding Boards as assurances were required on this area.

The new Head of Compliance and Vetting (Jeremy Holt) could attend the next Audit Committee to provide assurances on the work he was undertaking. This was welcomed by the Chair.

The Chair or the Deputy Chair of the Design Authority to come to the next meeting to update on the Optimisation phase. This was welcomed. It was important for the internal technical team to lead on the areas of Optimisation.

The current Impact on Financial position and preparation of the statement of account was shared with the Committee. A high-level financial forecast was being prepared which was scheduled to be shared with Cabinet in July 2023. A plan had been devised for the Optimisation work. Costs and governance would be monitored.

The timescales of the accounts was being reviewed. An updated timetable on the production of the 2022-23 accounts would be shared with the committee.

The Interim Director of Finance S151 officer informed the outturn was being produced and there was the assumption of the use £80 million of reserves however the projected outturn was being looked at every day.

Further comments were made by members around those who use Oracle services. It was proposed engagement with these should take place from the start. Workshops were being held to engage on the processes. Business Change Capability was being built into the system and processes. Gap analysis and looking at the controls would be taking place.

Upon consideration, it was:

617

RESOLVED:-

The Audit Committee;

- (i) Noted the details contained with the Oracle Implementation report.
 - (ii) Noted an update on the Management Review would be reported back to the Committee.
 - (iii) Noted the new Head of Compliance and Vetting would attend the next meeting and provide assurances on the work he was undertaking around Oracle.
 - (iv) Agreed for the updated timetable 2022-23 accounts to be shared with the Committee.
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618

At this juncture, the Chair requested for the Equal Pay item to be discussed ahead on the Ombudsman briefing as the External Auditors had to leave and would not be present for the full duration of the meeting.

The Committee and the guest from the Ombudsman were content with the proposals and rearranging of the agenda.

REPORT ON EQUAL PAY

619

The following report of the Head of Paid Service, Interim Director of Finance & s151 Officer and City Solicitor & Monitoring Officer was submitted:-

(See document No.1 of the agenda pack)

The report was noted by the Committee and at 1456 hours, the Committee moved to the private session.

(Note: Minute 620 is in private)

RE-ADMITTANCE OF THE PUBLIC

621

At 1550 hours, following discussions on item 8, the report on Equal Pay Update, the Committee moved back into the public meeting.

(The Committee moved back to Item 8 on the agenda)

REPORT ON EQUAL PAY UPDATE (CONTINUED)

Upon consideration, it was:

622

RESOLVED:-

The Audit Committee noted the contents of the report and the exempt appendices.

At this juncture, the Chair noted there were a number of items still to go through on the agenda, items 6,9,10,11.

In relation to item 11 – Update from External Audit, the Key Partner confirmed there was no specific updates to share with the Committee at this stage.

Item – 9 and 10 – The Chair sought Councillor Perks view in relation to deferring these items. She was content for the items to be deferred to September's meeting and for an updated version to be shared. The Chair agreed with this in principle however, he would review the time remaining before a decision was made for postponing the item.

(The meeting moved back to Item 6 – Overview from the Local Government & Social Care Ombudsman (LGSCO) on the agenda).

OVERVIEW FROM THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (LGSCO)

The Head of Practice Management made introductory comments. It was noted the Ombudsman Annual Letter had been released today (19 July 2023). A follow up briefing report would be provided to the Committee in a future meeting.

The Assistant Ombudsman provided a verbal briefing on the Local Government & Social Care Ombudsman. A summary was provided of who the Ombudsman were and what their role was. Further points were noted:

- The Ombudsman investigate complaints from members of the public; investigate complaints about Council, Adult Care Providers.
- The Ombudsman were independent and impartial had the same powers as the high court.
- Unique power to extend investigations – an example of where this was used was referred to (SEND in Birmingham).
- The process of the Ombudsman process was shared with the Committee.

Audit Committee – 19 July 2023

- Decisions or Public Interest Reports are shared with the Council. Public Interest reports must be presented to Committee as form as Democratic oversight.
- Details around recommendations to public Interest reports were shared. Service Improvements was an area for which Audit Committee had an oversight on.
- Birmingham City Council had 100% compliance in the Annual Audit Letter.
- An interactive map was available on the Ombudsman website indicating all the service improvements Birmingham had listed. This was highlighted as a useful tool for the Committee to use.
- The learning from thematic issues is placed together and focus reports or practitioner guidance are issued. There was a list of questions available for members to use as a tool to hold members to account.

Comments made on Birmingham by the Ombudsman

Birmingham had been very engaging and receptive with the Ombudsman. The uphold rate of complaints had increased 81-85% over the last few quarters which matched general trend across local authorities.

It was hoped more decisions would be made as 'satisfactory' remedied by the council themselves.

- Only 7% had been remedied as satisfactory and the benchmark was 11%.
- 100% compliance however there was some delay in providing evidence on the remedies.
- 24% of remedies are complied with late – 18% was the benchmark.

Members were provided with advice of how they should apply their role as members of the committee to public interest reports.

The Head of Practice Management provided assurances in response to the Annual Letter received. This was noted by the Committee and officers would explore how to code the issues raised by the Ombudsman. In addition, officers would provide a summary of issues raised ahead of any presentations delivered to the Committee.

No comments were made by members of the Committee.

The Chair thanked the Assistant Ombudsman for her attendance and welcomed a revisit in the future. It was noted, a representative for the Housing Ombudsman would be invited to a future meeting. Upon consideration, it was:

623

RESOLVED:-

The Audit Committee noted the briefing/ verbal update from the Local Government & Social Care Ombudsman.

INTERNAL AUDIT PROGRESS REPORT - APRIL TO JUNE 2023

The Committee agreed to defer this item to the next meeting.

Upon consideration, it was;

624

RESOLVED:-

The Internal Audit Progress Report – April to June 2023 would be deferred to the next meeting of the Committee.

At 1614 hours, Councillor Tilsley left the meeting.

RISK MANAGEMENT UPDATE

The following report of the Report of the Assistant Director Audit and Risk Management was submitted;

(See document 2 of the agenda pack).

The Chair suggested this document would need to be linked to the next meeting when the Chief Executive would be invited.

A summary of the report was provided by the Assistant Director Audit and Risk Management.

Three key new risks noted; i) Financial Resilience; ii) Oracle and iii) Equal Pay/ Job Evaluation.

Members referred to the differences for operational and strategic risks and this area would need to be explored. Process and action plans should be accessible and shared with Members, in particular internal audit reports. It was proposed. further details and explanations around the risks should be shared with the Committee (e.g. Safeguarding children – was this DBS checks, other risks). Officers to draw Committee members attention to key risks. The risk owners were responsible for the risks indicated on the heat mat (Corporate Leadership Team – CLT). The Assistant Director Audit and Risk Management provided advice on the risks indicated on the heat map only. Discussions around this area would need to take place with the Chief Executive.

The Key Partner, External Auditors highlighted it was not possible for one person to know all the risks in the Council. If the Committee was interested in a particular area, they would request for the Director to attend to provide assurances. This was previously undertaken through Assurance Sessions.

The Interim Director, S151 officer informed the Committee, Gallagher (advisors – insurance brokers) would be providing a session with Audit Committee, Cabinet and CLT. This would enable a check on the top priorities for the

Council. Currently there were 6 -7 risks indicated, 2 new risks. She highlighted the Assistant Director Audit and Risk Management could not provide responses to all the risks indicated as she was not the risk owner. Officers would be provided an executive summary on the current position on risks to the Committee.

This was welcomed by the Chair of the Committee.

Upon consideration, it was:

625

RESOLVED:-

The Audit Committee:

- (i) Noted the progress in implementing the Risk Management Framework and the assurance and oversight provided by the Council Leadership Team (CLT).
- (ii) Reviewed the strategic risks and provided feedback on where further explanation / information was required from risk owners in order to satisfy itself that the Risk Management Framework has been consistently applied.

UPDATE FROM EXTERNAL AUDIT

Earlier in this meeting, the External Auditors mentioned that updates would be provided at the next meeting.

Upon consideration, it was:

626

RESOLVED:-

The Audit Committee noted the updates from the External Auditors would be provided at the next meeting.

SCHEDULE OF OUTSTANDING MINUTES

627

Deferred to the next meeting.

628

DATE OF THE NEXT MEETING

An additional meeting to be arranged to address Equal Pay and risks management. Focused discussion inviting the Chief Executive.

If an additional meeting could not be arranged then the next meeting scheduled to take place was Wednesday, 27 September 2023 at 1400 hours in Committee Room 3 & 4, Council House.

AUTHORITY TO CHAIRMAN AND OFFICERS

629

RESOLVED:-

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

The meeting ended at 1617 hours.

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CHAIR

External audit landscape for Birmingham City Council

**Audit years 2020-21, 2021-22,
2022-23 and 2023-24**

6 September 2023



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

This progress report presents the observations arising from the audit that are significant to the responsibility of those charged with governance to oversee the financial reporting process, as required by International Standard on Auditing (UK) 260.

Name: Jon Roberts and Mark Stocks
 For Grant Thornton UK LLP
 Date: 6 September 2023

Financial statement audits

2020/21 and 2021/22

As reported to the previous Audit Committees, and as set out in more detail in our first External Audit Landscape document, the financial statements of the Council for the years ending 31 March 2021 and 31 March 2022 both remain open. The most significant outstanding factor from both is the Council's Equal Pay liability.

The most recent Cabinet Report at the time of writing, (*Medium Term Financial plan (MTFP) Refresh – update to Cabinet at Quarter 1 of the 2023/24 Financial Year*) reports a liability of Equal Pay claims of between £650m and £760m (unaudited figures) which has led to the implementation of “mandatory spending controls to give the Council time to further review financial pressures.” We note that the Council has received correspondence that would significantly increase this liability.

Due to the Council's necessary focus on putting in place an appropriate Job Evaluation process little progress has been made on these audits.

We note that due to the size of the equal pay claims that both sets of accounts are materially misstated. We are in discussion with officers as to whether the accounts will be amended. If the accounts are not amended we will need to issue a qualification on the financial statements.

It is important that these accounts are closed at the earliest opportunity. We suggest that a target date of 30 November is set and that the Audit Committee monitor progress to ensure that the accounts are completed.

More details are provided on the following pages.

Financial statements - 2020/21

Issue	Progress since June update	Work to complete
Equal Pay provision <p>A fresh analysis of the Council's equal pay liability has been conducted which will give a more accurate estimate of the financial position and will require significant adjustments to be made to the financial statements.</p>	<p>Several meetings have been held between key members of the audit team and key individuals at the Council, including initial discussions with the Council's modelling team, to discuss the process that has been undertaken and the progress that the Council has made.</p> <p>We have not yet received the Council's revised model. We expect to receive this shortly for consideration, which is later than initially planned.</p>	<p>Upon receipt of the Council's revised model, we will consider the approach taken by the Council, the completeness and accuracy of the underlying data, and any key judgements and estimates that management have made. We will be supported in this work by modelling specialists from within Grant Thornton.</p> <p>Given our expectation that the provision currently reflected in the draft accounts is materially understated, we will then consider the implications of the anticipated material misstatement (if uncorrected in the draft accounts) for our audit opinion.</p> <p>We are aiming to complete this work by the end of October 2023.</p>
Investment property classification <p>The Council is unusual in that it only holds one asset as an investment property on its Balance Sheet. We have challenged the classification of a sample of operational properties.</p>	<p>Officers have provided additional information linking the assets we have selected for our review to place-shaping and strategic regeneration aims.</p> <p>So far, we do not consider the information provided to be sufficient, and so we have requested additional audit evidence.</p>	<p>Officers are actively considering the specific assets that we have challenged the classification of, and are providing additional information.</p> <p>We are aiming to complete this work by the end of September 2023.</p>
AGS update <p>The Annual Governance Statement will need to be updated to the date that it is signed.</p>	<p>We have not received any updates on the AGS, as the work on significant governance issues (which would inform a revised AGS) is still ongoing, eg Equal Pay/Financial Sustainability –s114/Oracle.</p>	<p>Once management have completed the other areas of work, consideration should turn to updating the AGSs as necessary.</p> <p>We can then consider the completeness and appropriateness of the proposed updates.</p>

Financial statements - 2021/22

Issue	Progress since June update	Work to complete
<p>Matters from 20/21: Equal pay, Investment property classification, AGS</p> <p>As above, the resolution of matters from our 20/21 audit in all three areas set out in slide 3 above will also have a bearing on the 21/22 audit of accounts.</p>	As for 20/21	As for 20/21
<p>Oracle impairment assessment</p> <p>The Code requires that assets are carried at no more than their recoverable amount (recoverable through sale or use).</p>	<p>Officers have not yet provided us with this information on the grounds that focus has been on Equal Pay matters. It is anticipated that this will be provided in September 2023.</p>	<p>We have requested that management document their consideration of whether any impairment is required in relation to the capitalised costs of the new ledger system.</p> <p>We are aiming to complete this work by the end of October 2023.</p>
<p>Actuarial valuation under IAS 19</p> <p>The LGPS underwent a full triennial valuation at 31 March 2022, the results of which are now available and are a more accurate estimate of the Council's pension liability at that date than the previous roll-forward estimate.</p>	<p>The actuary has provided us with initial responses on queries raised on review of the assumptions applied in the revised IAS 19 report, based on our review of the pension liability.</p> <p>Our work on the pension asset is ongoing as at the time of writing.</p>	<p>We have asked officers to confirm with the actuary to what extent the Equal Pay liability will need to be reflected in the IAS 19 valuation.</p> <p>We have also asked officers to consider the impact of the triennial valuation on the Children's Trust, given that it is a significant consolidated component in the group accounts.</p> <p>Upon receipt of this information, the Council will need to amend the financial statements accordingly, for us to audit any adjustments arising.</p> <p>We are aiming to complete this work by the end of September 2023.</p>

Financial statements - 2021/22(cont)

Issue	Progress since June update	Work to complete
<p>SAP IT audit</p> <p>We had reported in previous years that we had identified deficiencies relating to user access permissions. These deficiencies continued to be in place when we undertook our review of SAP for the purposes of our audit of the 31 March 2022 financial statements. Management responses to our recommendations were received in September 2022 noting that recommendations were accepted, and that the situation would not be repeated in the Oracle Cloud system.</p>	<p>We subsequently performed a follow up review of the Oracle system in March 2023 to identify whether the deficiencies previously identified in SAP had been addressed. This included a review of the Council's data migration processes in implementing the new system. Management responses to the recommendations raised were received week commencing 7 August 2023.</p>	<p>Findings from this review will feed into our overall work Value for Money work being undertaken on Oracle, as set out later in this document.</p>
<p>Property valuations</p> <p>A small number of queries remain outstanding to complete our work on the Council's property valuations in 2021-22.</p>	<p>A full audit trail of evidence remains outstanding in respect of the floor areas of three assets selected for review. We have been advised by officers that they are being reviewed as part of the 22-23 valuations process, the outcome of which may not be known for a further 2-3 weeks from the time of writing, but will inform considerations.</p>	<p>Officers are actively addressing queries. For the assets in question we will also consider the 2022-23 valuations for indications of potential issues in the 2021-22 valuations.</p> <p>We are aiming to complete this work by the end of September 2023.</p>

Financial statement audits

2022/23

Background

The audit of the 2022/23 financial statements is significantly delayed. This is primarily due to 2 reasons:

- Equal pay – as outlined in the previous slides the Council's equal pay liability is significant and the focus of the Council has been on putting in place an appropriate Job Evaluation process.
- Oracle - the Council has experienced significant problems from the implementation of its new Enterprise Resource Planning (ERP) IT system, Oracle Cloud, leading to anticipated additional costs of (total costs of £100m compared to an initial budget of £38.7m as approved by Cabinet in March 2021). This has significantly impacted on the Council's ability to operate business-as usual activities, due to the workarounds and manual interventions needed to operate the system.

Due to these issues the Council has been unable to produce

- An outturn position for 2022/23
- A set of financial statements for 2022/23.

We have discussed these matters with officers and note that:

- Implementation - the Oracle system was rated as 'red' before going live and included a significant number of items requiring a solution. The finance system had several adaptations that had not operated effectively. As such, the system is not able to fully meet the reporting needs of Council including human resources, finance and schools.
- Security - the Oracle risk cloud and other security systems were not implemented and there is an inadequate segregation of duties in the system. Due to these and other matters there is no record of IT changes to Oracle or segregation of duties re IT processes.
- Compliance - there are a number of compliance issues with regard to data.
- Finance system - the financial system has not operated as planned. Financial reporting is still not fully operational. Financial system integrations were not in place as at April 2022 but some were integrated during the year. Data was held in feeder systems until this integration occurred. Where financial system integrations had not taken place the financial information had been transferred via journal. The Council has asserted that controls were in place to ensure data was appropriately transferred.

Financial statement audits

2022/23 cont.

Background cont.

- Cash - the cash posting system is not operational. A number of mis-postings and issues occurred during 2022/23 that impacted the reconciliation process. These have now been undertaken manually off system. There was a backlog of cash transactions but these have largely been resolved through manual processing for 2022/23.
- Accounts receivable and Payables – both systems had significant delays in the processing of transactions. However, the Council have not identified any deficiencies in control as a result of the Oracle implementation.
- Payroll – the Council has not flagged any significant risks to us
- Journals - some issues occurred with authorisation during the year. This was resolved in November 2022.

Audit Approach

Given the complex nature of the Council and the level of customisation that has been made to Oracle, the issues identified give rise to significant uncertainty over the effective operation of the standard and non-standard functionality within the system. It is not possible to determine at this stage whether we will be able to undertake an effective audit of the Council's accounts. In particular, we are concerned re the lack of IT and cash controls.

We therefore plan to take a phased approach to our audit. If we are unable to gain sufficient assurance during phase 1 we will issue a qualified opinion on the Council's financial statements. If we are able to gain sufficient assurance at phase 1 we move to a substantive approach for phase 2. We note that the resources from both ourselves and the Council will be significant during both these phases but particularly for Phase 2.

The phases are:

Phase 1 – this comprises of a consideration of Data Migration, IT controls and security, and core processes. These core processes are: system controls; journal controls (because they're associated with the significant risk of management override of controls and fraud); control account reconciliations (as a fundamental financial reporting control); and cash (due to the failures in the cash posting system and the significant backlog that arose). We estimate that this will take c3 months to complete

Phase 2 – this will comprise of detailed testing on all integrated and non integrated systems. It will require substantive testing of transactions within those systems. We estimate as a minimum that this will take a period of 12 months to complete.

Summary

There are significant failures in the control environment such that we are unable to take a standard approach to the audit. It is uncertain whether we can gain sufficient assurance that the accounts, once produced, are free from material error or fraud.

Overarching VFM and additional powers

Equal Pay

The Council's current Equal Pay (EP) agenda is one of the most significant challenges that any Council in England has ever faced. Previous historical EP claims at the Council have been significant (exceeding £1 billion) and, over the last year, we have become aware of factors that have arisen since 2017, that have driven further claims, with a value currently estimated by officers of up to £760 million.

Officers have identified that, putting in place an effective Job Evaluation (JE) methodology and implementing subsequent collective agreement with the Trade Unions by 1 April 2025 is essential if the Council is to continue as a going concern (see following slide on Financial Sustainability). They have also identified that the matter is highly time-sensitive, as the liability is estimated to grow by c£14 million for every month until JE is implemented. The Council's Business Management Committee (CMBC) of 1 September made a key decision as to the JE option the Council would now pursue.

Our work in this area will:

- independently assess the Council's revised estimate of its current EP liability and consider the effectiveness of its emerging proposals to mitigate any further financial pressures;
- consider the process that has recently been followed to arrive at the option for JE that the CMBC decided upon and comment on the governance that has underpinned this current process;
- examine the historical background to the issue since 2017, including the key decisions made that have driven this liability since that time;
- reflect on the adequacy of the industrial relations arrangements in place between political leadership, management and the Trade Unions in the context of addressing the Council's longstanding EP challenges.

Given the nature of the issues under consideration, we will be assessing whether we need to apply one or all of our additional powers and duties under the Local Audit and Accountability Act 2014, as set out in the Appendix to this document.

Overarching VFM and additional powers

Financial Sustainability

The Council has Earmarked Reserves of £383m and Unearmarked Reserves of £230m. These are available to the Council. Earmarked reserves have been set aside to meet particular liabilities, or for particular purposes. Unearmarked reserves are available for use.

Given the additional financial pressures of EP referred to in the previous slide of up to £760 million, the Council has recently put in place a series of cost control measures to help it to stay solvent in the short-term. However, a number of further financial pressures have also been identified, including the costs of putting right the Oracle financial ledger system issues referred to in the following slide. As a result, the Council's Finance Director (s151 officer) issued a 'Section 114 report' on 5 September 2023, regarding the adequacy of the Council's reserves and future sources of additional funding it is likely to be able to secure, to ensure that the Council continues as a going concern.

This report dealt with the risks that the Council would exhaust its levels of usable reserves and be unable to generate sufficient funding to sustain its revenue expenditure commitments (through savings, additional Government support, permitted capitalisation direction and borrowing, or asset sales). In that scenario, it would cease to be viable and would be in breach of its statutory duty to have a balanced budget, or the imminent prospect of one.

- Our work in this area will consider:
- the likely effectiveness of the Council's proposals for cost control and for securing additional funding (including asset sales and capitalisation direction from the Government) in meeting the financial gap created by the identified additional cost pressures;
- the impact on future spending requirements of the decisions currently being sought for JE; and
- the role of statutory officers at this time.

Consistent with our approach to EP, set out on the previous slide, we will also be assessing whether we need to apply one or all of our additional powers and duties under the Local Audit and Accountability Act 2014 in this area.

Overarching VFM and additional powers – Oracle

The Council has experienced significant problems from the implementation of its new Enterprise Resource Planning (ERP) IT system, Oracle Cloud, leading to anticipated additional costs of (total costs of £100m compared to an initial budget of £38.7m as approved by Cabinet in March 2021). This has significantly impacted on the Council's ability to operate business-as usual activities, due to the workarounds and manual interventions needed to operate the system. Due to these issues the Council has been unable to produce

- An outturn position for 2022/23
- A set of financial statements for 2022/23.

We have been monitoring the issues associated with the Oracle Fusion implementation, and the plans and further investment required for this programme's completion. The programme is currently going through a process of re-planning and there is a risk that weaknesses in the governance and management of the programme present significant risks to the effective use of resources. Until these are resolved that the Council is at risk of not having adequate governance arrangements in place to ensure that it can effectively discharge its statutory responsibilities and maintain its financial sustainability.

We have therefore determined that we need to undertake a review of the Oracle implementation. The lines of enquiry for our additional work will focus on Oracle in particular the following:

The Programme to date

A review of the full programme life cycle, and related governance arrangements and decision-making processes, from inception of the original programme through to the end of the Financial Year 2022/23 and then to 30 June 2023.

Programme remediation and issue resolution

A forward-looking assessment of the Council's plans for remediation and stabilisation of the delivered solution, through to an agreed steady state for the programme.

The proposed workstreams are: Operating Model, i.e. Business Requirements (Operating Model changes to be enabled by Oracle, incl. structure and core processes; by function and departments within BCC), Governance and Risk Management (incl. Corporate and Programme governance, roles & responsibilities and effectiveness of management and decision-making processes), Technology implementation and Programme Management (Programme structure and resourcing, and the effectiveness of programme management approach and tools incl. data cleansing, data migration, build, test, implement), and Change management approach (incl. change readiness assessment, training, and change adoption)

Appendix - Recommendations and powers available

Potential types of recommendations

A range of different recommendations could be made following the completion of our work, as follows:



Statutory recommendation

Written recommendations to the body under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the body to discuss and respond publicly to the report.



Key recommendation

The Code of Audit Practice requires that where auditors identify significant weaknesses in arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the body. We have defined these recommendations as 'key recommendations'.



Improvement recommendation

These recommendations, if implemented should improve the arrangements in place at the body, but are not made as a result of identifying significant weaknesses in the body's arrangements

Power or duty

Auditors also have a range of additional powers and duties that can be brought to bear under particular circumstances, as follows:

- To apply to the court for a declaration that an item of account is contrary to law (Section 28 Local Audit and Accountability Act 2014)
- To consider whether to issue an advisory notice and to make an application for judicial review (Sections 29 and 31, Schedule 8 Local Audit and Accountability Act 2014.)
- Matters reported in the public interest (Schedule 7 Local Audit and Accountability Act 2014.)

In considering whether to exercise any of our additional powers and duties, and in determining the time and resource to be spent on dealing with matters that come to our attention, the Code of Audit Practice requires that we consider the relevant requirements of the Act and:

- the significance of the subject matter;
- whether there is wider public interest in the issues raised and/or whether it would be in the public interest for the auditor to comment publicly on an issue;
- whether the substance of the matter has been considered and/or reported upon previously by the body's auditor;
- whether the substance of the matter falls within the scope of work conducted by an inspectorate or other body;
- the costs of dealing with the matter when set against the sums involved and the size of the audited body, bearing in mind that these costs are borne by the taxpayer and so should be proportionate and in the public interest

Appendix - Recommendations and powers available (cont)

Advisory notices

These are rarely used and only where an authority is set on a course of action that the auditor is seeking to prevent

They are issued if the auditor thinks that the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure;
- is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency; or
- is about to enter an item of account, the entry of which is unlawful.

While an advisory notice has effect, it is not lawful for the relevant authority concerned or any officer of that authority:

- if the notice relates to a decision, to make or implement the decision;
- if the notice relates to a course of action, to take or continue to take the course of action; or
- if the notice relates to an item of account, to enter the item of account.

Public interest reports and recommendations

Auditors issue reports in the public interest and written recommendations upon taking the following into consideration:

- the significance of the matter or weakness in arrangements which has come to their attention or which they have identified during the audit;
- whether the body itself recognises the need to address a concern and is taking appropriate action in a timely way;
- what information is already in the public domain and whether there is merit in bringing the matter to the attention of the public in the interests of openness, transparency and accountability or to facilitate dissemination of learning to other public bodies;
- which form of reporting is likely to be most effective in helping the audited body to understand the significance of the matter and the need to take action; and
- whether previous reporting has been acted upon and, if not, whether more prominent reporting – such as issuing a statutory recommendation or a report in the public interest – is now necessary.

Section 114 Spend Control Manual

Guidance issued to support the Section 114 Report to all Elected Members of Birmingham City Council under Section 114 (3) of the Local Government Finance Act 1988, by Fiona Greenway CPFA, Interim Director of Finance (Section 151 Officer)

[S114 Notice](#) [for information]

Contents:

1. Spending Controls under the Section 114 Notice (page 2)
2. Process for Spending Controls and Approvals (page 3-4)
3. Wider activities to address financial challenges (page 5)

Appendices:

- i. Examples of essential and non-essential spending (page 6)
- ii. Frequently Asked Questions (page 7)

Temporary Measures are now in force such that all non-essential expenditure will now stop with immediate effect without written confirmation from the Section 151 Officer. For avoidance of doubt, non-compliance with this requirement will be considered a disciplinary matter by the Council. This supersedes all previous guidance on non-essential expenditure, with no exclusions or delegations of authority to Corporate Leadership Team (CLT).



1. Spending Controls under the Section 114 Notice

This section relates to new spending requests. Under the Section 114 notice, only essential spending requests will be approved. This means that no new non-essential spending is allowed and any new essential spending is only allowed subject to the approval process outlined in this document.

1.1. What is essential spending?

1.1.1. Is the spend request related to a clear (and referenced) statutory obligation?

a) *This includes regulatory and legal requirements – i.e. essential health and safety*

AND/OR

1.1.2. Will this spend request deliver a cashable saving compared to current spending within a quantified time period?

a) *Robust business case with short payback period required, i.e. less than 24 months;*

b) *Business Cases to be reviewed by a group (established by S151 officer);*

c) *Recruitment will only be allowed for posts meeting requirement of 1.1.1 above and where the post is currently being covered by an interim and will therefore deliver cashable savings.*

AND/OR

1.1.3. Is this spend already legally committed? This means:

a) *Existing staff **payroll** and **pension** costs;*

b) *Expenditure required through **existing legal agreements and contracts**;*

c) *Payments for goods and services which have **already been received**.*

AND/OR

1.1.4. Is this urgent expenditure required to safeguard vulnerable citizens?

AND/OR

1.1.5. Does this spend impact the General Fund? If not, it is allowable i.e.:

a) *Is this spend fully funded by external grants (e.g. Dedicated Schools Grant)?*

If this spend is partly funded by external grants, the S151 board will need to consider the specifics of the request

b) *Non-BCC funds do not impact the General Fund. Further guidance will follow on this area.*

1.2. Consideration can be given to the following spending requests, if quantified:

1.2.1. Prevents requirement for a more expensive statutory service;

1.2.2. Capital decisions that reduce borrowing requirements AND/OR provide a capital receipt;

1.2.3. Prevents the loss of an external funding source (e.g. PFI grant from central government) that is used to pay for a statutory service;

1.2.4. Generates an income stream for the Council;

1.2.5. A contractual obligation which is not required for statutory services, in which exiting the contract will cost more than the proposed spend requested; and

1.2.6. It mitigates additional commercial risk to the Council.

See Appendix 1 for examples of essential and non-essential spending.

2. Process for Spending Controls and Approval

This section relates to the process for approval of new spending requests of any value, as detailed in Section 1 (above). This includes setting a new board – the Section 151 Spend Control Board – that supersedes the previous Finance Governance Board.

2.1. The Council is prevented, without explicit agreement of the Section 151 Officer, from entering into any new agreement or commitment for expenditure until Full Council has met to consider the Section 114 report. These controls may be re-applied after the date of this Full Council meeting.

2.2. In practice, this means that:

- 2.2.1. The existing scheme of Financial Delegation is superseded by the S114 notice. Only the Section 151 Officer can sign off new spend. This applies to new spend of any value.
- 2.2.2. Relative to existing spending controls in place across the organisation, this means that Directorate Spending Boards (and the Finance Governance Board) do not have the authority to approve new spending. These Boards can recommend spending to the Section 151 Officer only – to be approved via the S151 Spend Control Board
- 2.2.3. Further details of the approval process are in paragraph 2.5 below.

2.3. S151 Spend Control Board Composition:

- 2.3.1. Membership:
 - Section 151 Officer
 - Head of Paid Service
 - Deputy Section 151 Officer
 - Assistant Director, Finance & Deputy Section 151 Officer
 - Monitoring Officer
 - Assistant Director, Finance Performance & Insight
 - Assistant Director, Procurement
 - Interim Director of HR
 - Secretariat support provided by Committee Services
 - Observers:
 - Cabinet Member for Finance & Resources
 - Independent Financial Advisor
 - Relevant CLT and Cabinet members for items in their Directorate

Note: Substitutes can be provided as needed based on availability.
- 2.3.2. Regularity of meetings:
 - Daily boards
 - Weekly review sessions
- 2.3.3. Outcomes:
 - Decisions published on CMIS as written. These will be published at a set time every week (assume end of Friday).

2.4. Terms of Reference

- 2.4.1. To apply the Spend Controls outlined within the Section 114 report issued on 5th September 2023, and the guidance outlined within this Spend Control Manual.

2.5. Spending Controls Flowchart

Any financial delegations outlined in the Constitution or the scheme of delegation are now superseded by this S114 report. Decision making power has been removed and all financial decisions must be agreed and documented by the S151 Officer:



Note: Spend Form will be shared shortly and mirror the criteria for essential spending outlined in Section 1 of this document.

All approvals and rejections will be documented as evidence of the application of controls.

3. Financial Recovery Plan

This Section relates to work required to address the in-year and future year budget gaps, based on existing and committed spend.

3.1. Review of existing revenue spend – what should be stopped, based on the criteria in Section 1 above?

- 3.1.1. This should be part of the scope of work being led by Fiona Greenway and Richard Brooks on the Council's savings programme for current and future financial years

3.2. Review of capital programme – how can the Council reduce the impact of existing borrowing costs? Can the Council free up spending to tackle the Equal Pay liabilities? A requirement of this work – and likely from Department for Levelling Up, Housing & Communities (DLUHC) in advance of any Exceptional Financial Support (EFS) request – is confirmation of existing Council resources that can be used to mitigate the scale of any EFS request. (In simple terms, how much can the Council free up within existing resources, or what assets can it sell, to reduce the scale of any central government EFS package.) This will include reviews of:

- 3.2.1. Committed capital spend: This should include a review of all current capital programmes to understand what can be paused and what can continue
- 3.2.2. Borrowing costs: a review of existing borrowing to assess whether refinancing might reduce interest costs
- 3.2.3. Existing reserves: this includes a review of all reserves and capital receipts that are committed to future spending plans
- 3.2.4. Assets: the Council must review all assets to assess which can be sold (and estimate the potential sale price). This will likely lead to an assets disposal programme.

3.3. This work should be owned collectively by the Executive Management Team (Cabinet members and Corporate Leadership team members).

3.4. Section 114 controls will remain in place until a Financial Recovery Plan can be agreed by Full Council to mitigate the budget gaps. This will include:

- 3.4.1. A clear and actionable savings plan to tackle in-year and future year budget gaps – details in this section; and
- 3.4.2. Resolution on the EFS available from DLUHC.

3.5. Ultimately, it will be the decision of the Section 151 officer as to whether the Financial Recovery Plan is sufficient, delivering (i.e. signs of tangible progress are clear to see), and reported to Scrutiny to enable the lifting of the spending controls laid out in this document.

Appendix (i): Examples of essential and non-essential spending:

Essential Spending:

Statutory Services: These are services that the council is legally obligated to provide and are considered essential. They typically include:

- Education (e.g., schools and special educational needs support)
- Social services (e.g., child protection, adult social care)
- Public safety (e.g., police and fire services)
- Waste collection and management
- Public health services (e.g., public health inspections, disease control)
- Debt Servicing: Payments on outstanding loans and debts are essential to maintain the council's financial integrity.

Staffing for Essential Services: Employee salaries and benefits related to delivering statutory services.

Maintenance and Repairs: Funding for essential infrastructure maintenance and repairs to ensure public safety and service continuity.

Emergency Provisions: Funds set aside for unforeseen emergencies or contingencies that could impact essential services.

Non-Essential Spending:

Discretionary Services: These services are not legally required but may enhance the quality of life in the community. Examples include:

- Parks and recreational facilities
- Cultural and arts programs
- Leisure centres and sports facilities
- Libraries

New Capital Projects: Investments in new infrastructure or construction projects that are not immediately necessary for public safety or statutory obligations.

Consultancy and Professional Services: Spending on external consultants, advisors, or professional services that are not directly tied to essential services or legal requirements.

Marketing and Promotion: Advertising and promotional expenses that are not critical to the delivery of essential services.

Non-Urgent Capital Expenditures: Capital spending on equipment, vehicles, or technology upgrades that are not immediately required for essential services.

Non-Essential Staffing: Hiring or maintaining personnel for roles not directly related to statutory services, which may include administrative or non-essential positions.

Events and Entertainment: Expenses related to hosting events, conferences, or entertainment activities that are not crucial for service delivery.

Non-Critical Travel and Training: Travel expenses and training programs that are not essential for maintaining statutory services.

Appendix (ii): Frequently Asked Questions

- *Do these spend controls apply to **Birmingham Children's Trust (BCT)**?* – These controls apply to Birmingham Children's Trust (as this impacts Council spending through the General Fund), and the S151 Officer will work with the Director of Finance for the Trust to ensure spending controls mirror the guidance set out within this document.
- *Do these spend controls apply to **Capital spend**?* – These controls apply to all Council spend, including Capital spend. As well as approval at the Directorate Spend Control Board, Capital spend should be approved at the Capital Board prior to being added to the agenda for the S151 Spend Control Board.
- *Do these spend controls apply to **Grants**?* – These controls apply to all Council spend, including Grant and ringfenced spend. To approach Grant and ringfenced spend in the most pragmatic way possible, we are requesting that CLT Directors (or delegates) work with Finance Business Partners to assess Grant and ringfenced spend to identify approvals that are required for high frequency mandatory spend. This will allow a spend decision to be documented for this type of spend, whilst also limiting the need to repeat approvals.
- *What does **Value for Money** mean?* – For all spend requests relating to Value for Money should represent a cashable saving compared to the current spending within a quantified period of time. This means there should be a short payback period, delivering savings or reducing costs in a 24 month period. All business cases should be created in conjunction with Finance Business Partners, and approved prior to submission to the S151 Spend Control Board.
- *Does the S151 Control Board need to **approve everything**?* – Yes, as per the terms of the S114 notice. There needs to be a clear written and published decision for each decision made. That is why all decisions will need to go through this board. All of these decisions will be recorded on CMIS.
 - To approach spend in the most pragmatic way possible, we are requesting that CLT Directors (or delegates) work with Finance Business Partners to identify approvals that are required for high frequency mandatory spend. This will allow a spend decision to be documented for this type of spend, whilst also limiting the need to repeat approvals.
- *Which decisions need to go to **Cabinet or Full Council**?* – All spending decisions need to be approved by the S151 Officer. Once the spending decision is approved, if there is a further policy decision to be made, a request may need to go to Cabinet or Full Council for approval. Guidance will be provided by the Chief Monitoring Officer.
- *Do these spend controls apply to **Accountable Bodies**?* – These spending controls apply to any spending that will go through the General Fund.
- *What is the role of **Scrutiny Committees**?* – It is expected that Scrutiny committees, notably Finance & Resources, will receive a list of spending decisions made for comment and discussion.
- *How should **spending on extraordinary items** be approved?* – This document states that all spending should go through the process outlined in Section 2, namely through Directorate Spend Control Boards and then on to the S151 Spend Control Board. This includes current work to mitigate the issues with the Oracle.

THIS DOCUMENT WILL BE SUBJECT TO REVISION AS THE SPEND APPROVAL PROCESS EMBEDS AND IS REVIEWED BY THE SECTION 151 SPEND CONTROL BOARD.

Public Report

Birmingham City Council

Council Business Management Committee

1st September 2023

Subject:	Pay Equity System
Report of:	Janie Berry, City Solicitor and Monitoring Officer. Fiona Greenway, Interim Director of Finance and Section 151 Officer; and Deborah Cadman, Chief Executive and Head of Paid Service
Relevant Cabinet Member:	Councillor John Cotton, Leader of the Council
Relevant O &S Chair(s):	Councillor Jack Deakin, Finance and Resources Overview and Scrutiny Committee
Report authors:	Darren Hockaday, Acting Director of People and Corporate Services

Does the report contain confidential or exempt information?

☒ Yes☐ No

If relevant, provide exempt information paragraph number or reason if confidential:

The information in this report and its appendices is exempt from public disclosure under paragraphs 3 to 5 of Schedule 12A of the Local Government Act 1972. The exemptions relied on are as follows:

- Schedule 12A, paragraph 3 – *'Information relating to the financial or business affairs of any particular person (including the authority holding that information)';*
- Schedule 12A, paragraph 4 – *'Information relating to any consultations or negotiations, or contemplated negotiations, in connection with any labour relations matter arising between the authority or Minister of the Crown and employees of, or office holders under, the authority';* and
- Schedule 12A, paragraph 5 – *'Information in respect of which legal professional privilege could be maintained in legal proceedings.'*

These provisions apply because the information in this report relates to financial affairs pertaining to pay, as well as negotiations in connection with a labour relations matter and trade dispute over equal pay, which has arisen between Birmingham City Council ("the Council") and its employees. Plus, legal proceedings have been taken by some employees involved in this trade dispute, and information relating to those proceedings is included in this report, as well as legal advice, in respect of which legal professional privilege could be maintained.

1 Purpose

- 1.1 The purpose of this report is to agree a renewed Pay Equity System (PES) consisting of a job evaluation study and new pay structure, to be delivered by no later than 1st April 2025. A renewed PES is critical to ending pay inequity and ensuring all staff are treated fairly.
- 1.2 The options set out in this report are intended to deliver a job evaluation study and a new pay structure for NJC grades within Birmingham City Council (BCC), Birmingham Children's Trust (BCT), Acivico and maintained schools. A further report will be brought to this Committee at a future date that addresses JNC grades.
- 1.3 This is a supplemental report to that published on 25th August 2023, for the meeting of this Committee scheduled for 29th August 2023. This report has been updated to take into account the Council's Best Value Assessment of the job evaluation options detailed at Appendix 7 of the report and referenced at Section 9 of this report. Additional legal advice has been sought in respect of the four options as presented in the report published on 25th August 2023. The independent legal advice now received from two Leading Counsel advise that Option 3 cannot be lawfully supported (as detailed within the Legal Implications) and the proposed recommendation to the Committee is for Option 2 and Option 4 to be considered. Statutory Officers have also advised that Option 1 is incompatible with best value obligations as it exposes the Council to significant ongoing liability (as detailed within the Financial Implications).

2 Recommendations

- 2.1 To note:
 - 2.1.1 That the Committee is required to make a decision based on the two objectives (listed in i. and ii. below) that are essential for a new job evaluation study for BCC (as set out in the report to Cabinet on 25th July) and the assessment against Best Value principles (at Appendix 7):
 - i. That it must be objective, robust, consistently applied, and Equality Act 2010 compliant; and
 - ii. That it must be conducted in the shortest possible timescale given the size of potential liability referred to above and the estimated accrual rate and noting that Cabinet has recommended that implementation should be on or before 1st April 2025.
- 2.2 It is recommended:
 - 2.2.1 That the Council Business Management Committee consider the adoption of either Option 2 (see 2.2.2 below and section 7) or Option 4 (see 2.2.3 below) contained within this report and**

make a decision on the PES methodology to be delivered based on the respective merits and risks.

2.2.2 To note that Option 2 (NJC Gauge delivered in conjunction with West Midlands Employers (WME)) is set out at section 12 of this report and is conditional on:

- i. A signed Addendum to the Principles Collective Agreement between the recognised trade unions and BCC attached at Appendix 3 of this report, including Points of Further Clarification;
- ii. The assurances set out at paragraph 12.7;
- iii. An immediate start to implementation at the point of decision, Friday 1st September 2023; and,
- iv. If the Addendum is not signed by 09:00am Monday 11 September 2023, that then means Option 2 is not practical to implement and the Council reserves the right to choose an alternative PES.

2.2.3 To note that Option 4 (outsource to an external provider) is set out in Section 14 of this report.

2.3 That the committee notes that, if it becomes apparent at any stage of the process that the deadline of April 2025 cannot be met or other concerns become clear, such as a deviation from the methodology agreed and any associated agreements and lack of evaluator resource, the Council may terminate the process and explore alternative methodology routes to achieve the programme outcomes. Should the need for this arise, the recognised Trade Unions will be consulted and engaged appropriately.

3 Background and Context

3.1 The estimated potential equal pay liability was made public in a Council statement on 28 June 2023. That statement gave a range of between £650m and £760m and an accrual rate of £5m to £14m per month. Since publishing this statement, the Council has received correspondence from one of the recognised Trade Unions advising of further potential Equal Pay claims being issued against the Council. This has the capability to further increase the potential financial liability on the Council.

3.2 Given issues raised as a result of the implementation of the Oracle ERP System, the Council's leadership instructed the interim Director of Finance (and S151 Officer) and Monitoring Officer to undertake a refreshed analysis and further due diligence of the Council's projected liability in relation to potential equal pay liabilities.

3.3 The principal solution to the Council's equal pay issues is the delivery of new terms and conditions of employment following a job evaluation study and a new pay structure that complies with the relevant provisions of the Equality Act 2010.

- 3.4 The estimated range of potential liability assumes that new terms and conditions will be implemented by no later than 1st April 2025. Any delay to this implementation date will add to the potential equal pay liability estimate.
- 3.5 Two objectives are essential for a new job evaluation study for BCC:
- 3.5.1 That it must be objective, robust, consistently applied, and Equality Act 2010 compliant; and
 - 3.5.2 That it must be conducted in the shortest possible timescale given the size of potential liability referred to above and the estimated accrual rate and noting that Cabinet has recommended that implementation should be on or before 1st April 2025.
- 3.6 On 25 July 2023, the Cabinet approved a budget of up to £20m for the delivery of a PES and ancillary resources in pursuit of the PES and for the establishment of a permanent Pay Equity Team and Pay Compliance Unit to ensure the maintenance of the PES once completed. The Cabinet further agreed that the delivery date for the PES must be no later than 1st April 2025 in order to limit the further accrual of the potential equal pay liability.
- 3.7 The Council is committed to working with relevant stakeholders (including Trade Unions) to make this happen as soon as possible, so that the focus of the organisation can return to delivering “best in class” services, tackling inequality and making Birmingham a great place to live for all its citizens. For any of the options to be successful it is imperative that there is a positive collaboration between the Trade Unions and the Council.
- 3.8 Unstable Trade Union relationships would lengthen the progression of any methodology and potential industrial action would delay any implementation and therefore add to the Council’s accruing potential equal pay liability. At the conclusion of the job evaluation study, it is the preference for the Council to seek a smooth and timely adoption of new terms and conditions through collective bargaining with its three recognised Trade Unions.

4 Implementation assurance and governance

- 4.1 Close monitoring of the milestones and delivery of job evaluation is critical to achieve the implementation deadline of 1st April 2025. The following will support delivery of the programme:
- Challenge and oversight of External Audit.
 - Regular oversight by the Council’s Statutory Officers and Corporate Leadership Team.
 - Finance and Resources Overview and Scrutiny Committee and Audit Committee will contribute to the performance monitoring by the addition of job evaluation to their respective Committee work plans as a standing item on their agenda.

- 4.2 Monitoring and oversight may be modified or enhanced as the programme progresses.
- 4.3 If it becomes apparent at any stage of the process that the deadline cannot be met or other concerns become clear, such as a deviation from the methodology agreed and any associated agreements and lack of evaluator resource, the Council may terminate the process and explore alternative methodology routes to achieve the programme outcomes. Should the need for this arise, the recognised Trade Unions will be consulted and engaged appropriately.

5 Job evaluation study

- 5.1 A job evaluation study starts with the Recruitment and Training of those who will participate. Once that is complete it comprises the following stages:
- Stage 1: Job Information
 - Stage 2: Evaluation and Moderation
 - Stage 3: Model and Structure
- 5.2 This is followed by a period of negotiation and implementation of a new pay and grading structure.
- 5.3 Any appeals by employees against outcomes will occur after the date of implementation of a new structure and new terms and conditions of employment.
- 5.4 To aid the maintenance of the job evaluation system, there is some advantage for the Council to seek to procure a single evaluation methodology throughout NJC and JNC roles. This would promote equity in the entire pay system and ensure that all roles are evaluated on an equal basis with the boundary between NJC and JNC roles properly defined.
- 5.5 However, it is recognised that to provide a robust job evaluation methodology for JNC graded employees, an alternative option may be required as the NJC Gauge methodology is not applicable. Therefore, references to time stated for the PES options in this paper does not account for JNC grade evaluation and there is no decision being sought from the Committee for this cohort.

6 The Current Job Evaluation Programme

- 6.1 The current programme was approved in the April 2022 Cabinet report on 'Job evaluations and Pay and Grading'. Hereinafter this will be referred to as "the current programme".
- 6.2 The current programme is based on the establishment of 12 panels, each led by a job evaluation analyst with a trade union evaluation partner and a management evaluation partner to evaluate the circa 3,200 roles that exist within the Council, Birmingham Children's Trust ("BCT"), Acivico, and maintained schools.

- 6.3 The approach of this option is set out in a collective agreement called “Joint Principles for Job Evaluation” dated December 2020. Hereinafter called the “Principles Document”.
- 6.4 The current programme is calculated by the project team to take more than 54 months to deliver.

7 Developments since April 2022

- 7.1 Contained within the private report.

8 Alternative options to the current programme

- 8.1 From officers’ assessment of the situation, informed by engagement with external audit and external lawyers, and the recent announcement of the Council’s potential equal pay liability, it is clear that an end-to-end job evaluation process plays a pivotal role in the resolution of the equal pay issues facing the Council.
- 8.2 An approach will be needed that meets the required criteria and provides the Council with a proven, objective, and consistent job evaluation methodology or methodologies that can deliver all original programme objectives, end-to-end, to achieve an implementation date of no later than 1 April 2025.
- 8.3 Given the concerns outlined (at section 7 above) about the current programme and the need to meet the key objectives it has been essential to review a number of methodologies.
- 8.4 The City Council and our recognised Trade Union partners have been engaged in consultation since January 2023 with the aim of reaching agreement on a job evaluation methodology that both meets the April 2025 deadline and provides a robust pay equity solution which protects the Council from future equal pay claims. The Unions have adopted a positive and co-operative approach to discussions over a Gauge WME option and share our commitment to delivering a new and equitable pay and grading system by the crucial April 2025 deadline.
- 8.5 It became apparent early on that application of the current programme (Option 1 below), that is the full NJC Gauge system would not meet the deadline of April 2025. In addition, given our unique and challenging history of equal pay claims and previous unsuccessful equal pay studies, there is a risk of inequity in assessments caused by role enrichment. We also note paragraph 4.3, in which the Council may terminate any process and explore an alternative methodology should it become apparent the deadline cannot be met.
- 8.6 There are four options for a PES to be considered by the Committee:
- 8.6.1 Option 1: Use the current approach of NJC Gauge system in full (the current programme). *(NB: as referenced in para 1.3 this option is further discounted due to the Best Value assessment)*
 - 8.6.2 Option 2: Use an adapted version of NJC Gauge in co-operation with West Midlands Employers (“WME”), Version A (“WME Gauge A”).

8.6.3 Option 3: Use an alternative adapted version of NJC Gauge in co-operation with West Midlands Employers, Version B (“WME Gauge B”). *(NB: as referenced in para 1.3 this option is no longer proposed for the Committee’s consideration)*

8.6.4 Option 4: Outsource job evaluation to a third-party specialist supplier.

9 Option considerations

9.6 Best Value Assessment

9.7 On Tuesday 29th August 2023 the Leader of the Council received a letter from the Department for Levelling Up, Housing & Communities (DLUHC) Minister Lee Rowley MP. This letter asks for assurances that the options presented to the Council Business Management Committee (CBMC) and any decision taken related to equal pay complies with the Council’s Best Value duty under the terms of the Local Government Act 1999.

9.8 The Best Value Duty relates to the statutory requirement for local authorities and other public bodies (defined as best value authorities in the Local Government Act 1999) 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”. 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.

9.9 This letter of 29th August states that “Given the size of the unweighted litigation liability as communicated by your officers - £1.15bn – it is prudent that I seek written assurances that decisions taken by the Authority represent value for money and do not adversely impact on the level of support the Government may need to provide”.

9.10 On Tuesday 29th August 2023 the Leader of the Council (and chair of the Committee) proposed adjourning the Council Business Management Committee until Friday 1st September 2023 to enable an assessment of the options in the report against the Best Value Duty to be completed to supplement this report.

9.11 A summary of this assessment is at Appendix 7.

10 Common stages in the process

10.1 Each of the options have common stages. These are:

10.2 Stage 1: Job Information

10.3 The role holder and their line manager define a Job Description and Person Specification (JDPS). Where possible, this should be by agreement. This is supplemented using a questionnaire, of varying length dependent on the solution being used, which should cover areas that remain unclear from the JDPS. The

JDPS and the questionnaire are called the 'Job Information' and it is this critical documentation that is used to evaluate the role.

10.4 Stage 2: Evaluation and Moderation

- 10.5 The evaluation scoring system is applied, using factors and weightings to arrive at a score. Where there is ambiguity, help text is used to provide clarity. For roles where there are many incumbents, for example an administrative assistant, a solution known as 'benchmarking' is used. This works by first agreeing which roles are going to be included as 'benchmark roles' then taking a sample of each role and evaluating that rather than every role individually. Following evaluation, scores are moderated, generally by a local panel followed by a business wide panel, to ensure consistency and fairness.

10.6 Stage 3: Model and Structure

- 10.7 The scored roles are placed into a grading system with cut off points and salary points awarded against each. This is negotiated with Trade Unions with the aim of reaching a collective agreement so that the new pay and grading system applies to all employees. Once individuals are informed of their new pay and grade, there is normally a right of appeal following implementation.
- 10.8 The options identified in paragraph 8.6 are examined in detail in the following sections, along with the advice of Officers. In formulating their advice, the Council has taken legal advice from four leading KCs with specialist knowledge in employment law and equal pay, including knowledge and understanding of the Council's Equal Pay litigation with one KC having consistently represented the Council in previous Equal Pay litigation, as well as considering the views of external auditors, input from the Local Government Association (LGA), and the experience of other Local Authorities.

11 Option 1 - Use the unadapted NJC Gauge system in full (the current programme)

- 11.1 A detailed analysis of each of the options is presented in the private report.

12 Option 2 - Use an adapted version of NJC Gauge in co-operation with West Midlands Employers ("WME"), Version A ("WME Gauge A")

- 12.1 A detailed analysis of each of the options is presented in the private report.

13 Option 3 - Use an alternative adapted version of NJC Gauge in co-operation with West Midlands Employers, Version B ("WME Gauge B").

- 13.1 A detailed analysis of each of the options is presented in the private report.

14 Option 4 - Outsource job evaluation to a third-party specialist supplier

- 14.1 A detailed analysis of each of the options is presented in the private report.

15 Option parameters and risks

15.1 Contained within the private report.

16 Consultation

16.1 Throughout 2023, BCC has been in consultation with the recognised Trade Unions, seeking a way to accelerate a job evaluation study while maintaining robust and defensible outcomes.

17 Risks

Industrial relations

17.2 BCC is clear in the objectives it must deliver to stem its potential equal pay liabilities and any delay to that delivery is likely to see the estimated potential liability grow. Therefore, any decision taken will need to balance speed, certainty, and the effect on industrial relations.

17.3 For simplicity, the risk of an industrial dispute in relation to PES is categorised in 2 phases.

- The first is based upon the decision on the PES methodology and any subsequent impact this may have on the delivery/performance of the PES and consequently delay the target date of April 2025 incorporation.
- The second risk is at the end of the process where trade unions and employees know the financial impact the PES and where BCC will seek a collective agreement to incorporate new terms and conditions.

18 Compliance Issues:

18.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

18.1.1 The recommended decisions are consistent with the Council's overarching equal pay strategy, the primary objective of which is to draw a line under the issue of equal pay in the organisation.

18.2 Procurement Implications

18.2.1 See Appendix 1.

18.3 Public Sector Equality Duty

18.3.1 The recommended proposals will limit and address any adverse equality impact on staff at the Council in the quickest possible time and, in the opinion of officers involved in the permanent pay equity programme, in the most reliable way. They will also ensure

compliance with the Public Sector Equality Duty and with Part 5, Chapter 3 of the Equality Act 2010.

19 Financial Implications

19.1 Contained within the private report.

20 Legal Implications

20.1 Contained within the private report.

21 Background documents

21.1 Cabinet Report – 26th April 2022 – ‘Job Evaluation/Pay & Grading’

21.2 Cabinet Report – 25th July 2023 – ‘Job Evaluation’

22 Appendices

22.1 Appendix 1: Procurement advice (Exempt)

22.2 Appendix 2: Consultation Process (Exempt)

22.3 Appendix 3: Addendum to Principles Document Option A (Exempt)

22.4 Appendix 4: ~~Addendum to Principles Document Option B~~ (REMOVED)

22.5 Appendix 5: ~~WME Letter regarding Benchmark Role Analysis options 24082023~~ (REMOVED)

22.6 Appendix 6: Glossary

22.7 Appendix 7: Best Value Assessment of Options (Exempt)

Oracle update

Report of the Chief Executive
15 September 2023



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Summary of previous meetings

16 May 2023:

- Findings of Discovery report, identified *“a significant number of issues which are now becoming business critical, impacting Finance, HR, and Schools”*
- Outlined the enhanced governance model – weekly Bronze, Silver, Gold and Member Oversight meetings.
- Explained plan to work on Safe & Compliant and Optimisation phases in parallel.

28 June 2023:

- Progressing work on Control, Capacity, Capability and Communication.
- Progress updates on Finance (backlog), People Services (data/reporting) and Schools (closure of accounts).
- Introduce the Design Authority – to lead the Optimisation / Solution Design work.
- Cabinet Report, approved in June 2023.

Current state of play



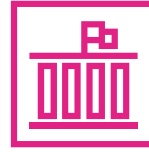
Overall Progress

- The programme is stable, and we have a strong grip.
- Made good progress on safe & compliant issues in all areas.
- Have had to deal with new issues that have arisen.
- Continue to progress safe and compliant fixes, whilst working on the optimised solution design.



Progress by Function

- Finance: Unallocated FY22/23 cash resolved, focus is the FY22/23 out-turn and the FY23/24 backlog.
- People Services: Enhancement reports completed, including Equal Pay, Gender Ethnicity Pay Gap, BCT, and DBS. Reduce risk.
- People Services: significant progress on DBS compliance.
- Internal Audit: Risk Management Cloud module went live 1st Sept 2023 (ahead of plan).



Governance

- Crisis response governance (based on Gold & Silver Command structure) has worked well.
- Clear escalation routes and informed decision making as supported delivering at pace.
- Proposing to now transition to a standard Programme Board model, whilst maintaining Member and Scrutiny reporting. This will increase pace without compromising assurance.

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People Impact

- Have deployed support arrangements to help our team members who are under a lot of pressure.
- A weekly Programme Director's Blogs and dedicated programme SharePoint site help to keep teams informed.

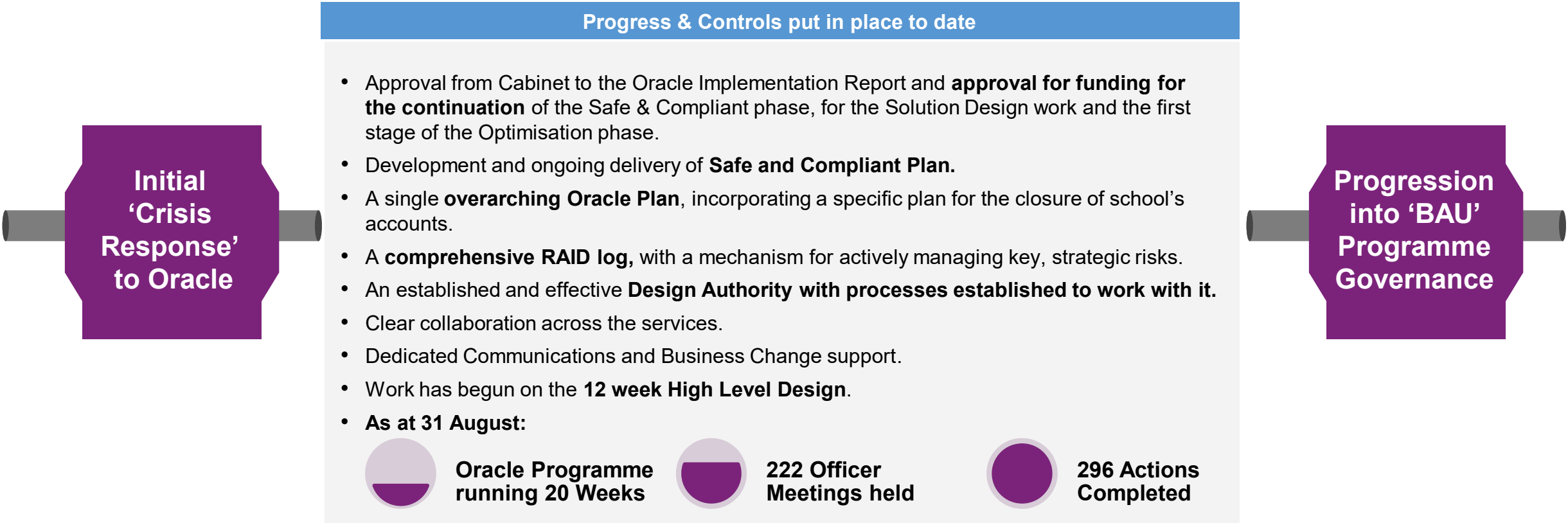


Vision

- Have confirmed our vision & guiding principles for the future design.
- Work on the high level end-state design is progressing.
- Oracle Consulting engaged to ensure we deliver our 'out of the box' Oracle vision.
- The Design Authority is holding the team to account and ensuring we follow our agreed principles.

Moving from ‘Critical Response’ to BAU

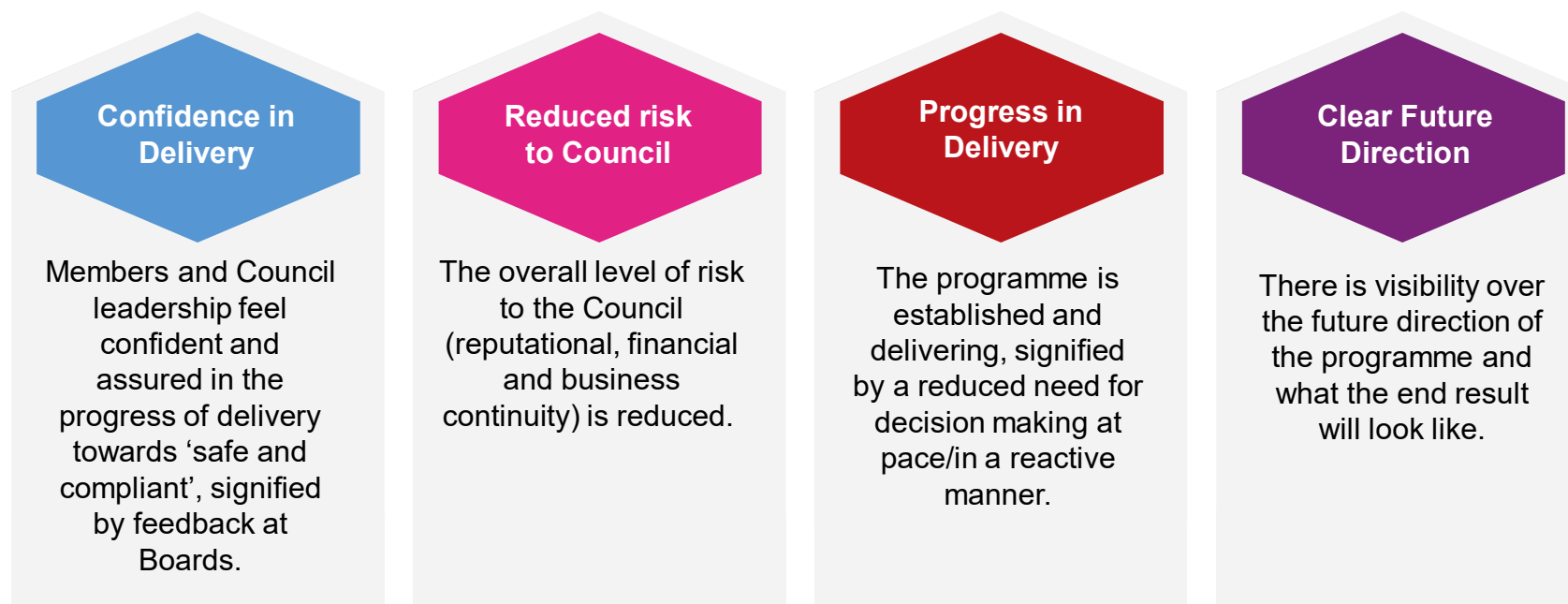
The progress made by the existing structure has enabled the programme to establish effective ‘ways of working’ underpinned by detailed plans, RAID logs and collaboration across workstreams. This will enable the programme to progress to a ‘BAU’ state allowing workstreams to focus more time on delivering against the plan in a manner which reduces the ‘crisis-response’ styled governance approach.



Key Indicators to Standing Down a Crisis Response

The current governance arrangements, (Gold, Silver, Bronze) are commonly associated with crisis management and were set up in response to the significant level of reputational, financial and business continuity risk to the Council.

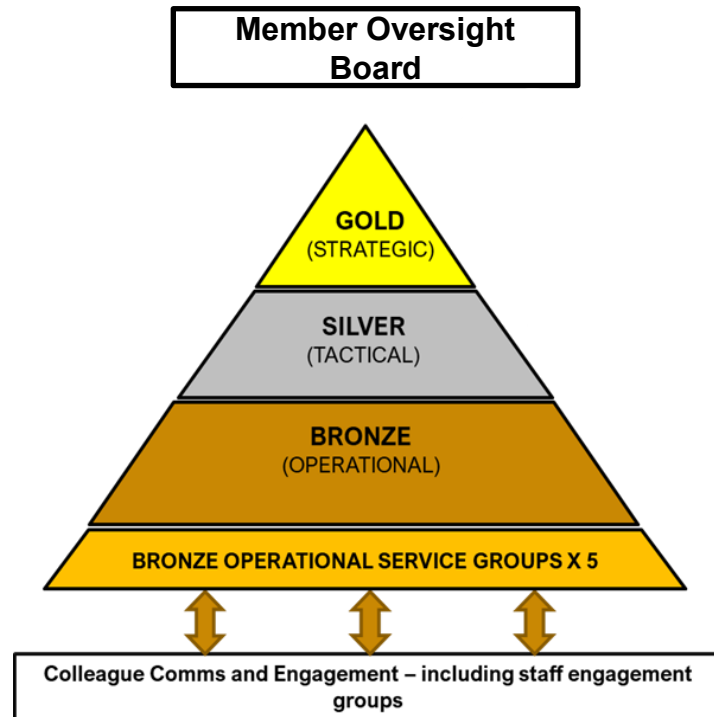
The expectation was that the command structures were a temporary measure and would be replaced with a more traditional programme structure once the following indicators have been met.



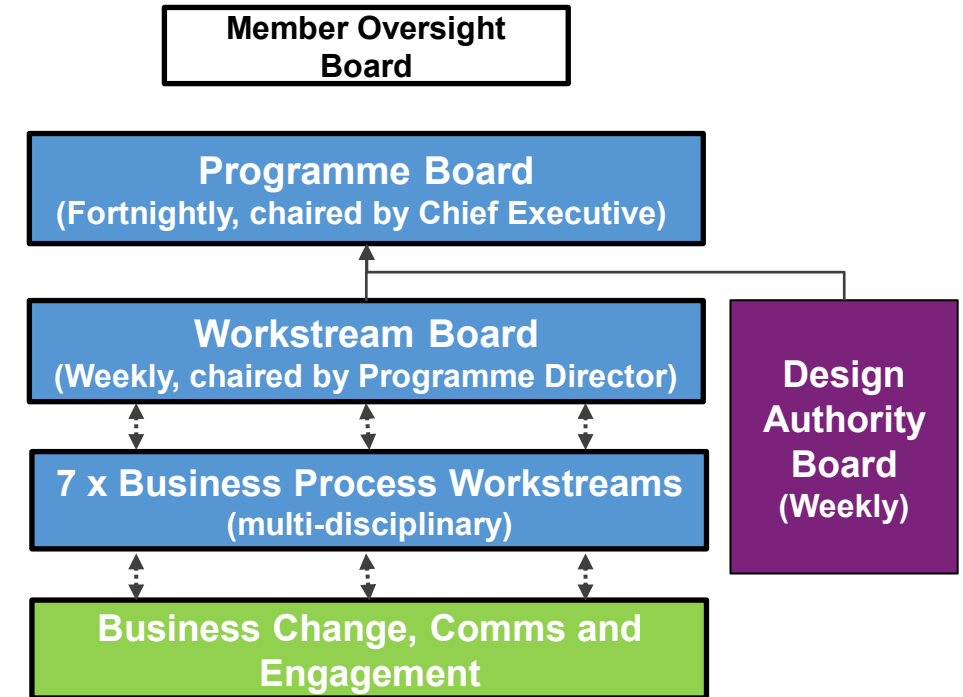
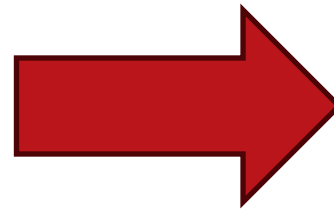
Current vs Proposed programme governance arrangements

Proposed transition from the initial 'crisis response' to a standard programme governance arrangement.

Current Governance arrangements



Proposed Governance arrangements



Future actions

Production of our first draft of the High-Level Design for the future of the Oracle solution.

Continued progress on 'Safe and Compliant', for example by automating DBS and Right to Remain checks.

Continued work on the outturn for October Cabinet approval, and to hand over the FY22/23 accounts for external audit and publishing.

Supporting Schools in their first financial close supported by Oracle, by finalising reconciliations and outturn in October 23.

Making targetted improvements to BRS where this offers value for money, and speeding up the transition to an optimised replacement.

Transition out of 'crisis mode' into a more standard programme position to achieve the objectives we set out for our staff and citizens.

Key strategic risks

1. Risk that the (new) Oracle programme will not deliver the 'vanilla' Oracle vision.
2. Risk that the programme does not get sufficient senior Finance input, given the Assistant Director, Financial Strategy is leaving in September.
3. Risk that due to the current FY23/24 backlog, there is a risk to the FY23/24 outturn position being finalise by the statutory deadline of 30 June 2024.
4. Risk that the School Workforce Census report cannot be produced in time for the statutory deadlines (snapshot by 03/11/23, for upload to DfE before 25/12/23).

Questions



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