

Birmingham City Council

City Council – Extraordinary Meeting

4 March 2020



Subject: Improvements in Governance & Culture
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Does the report contain confidential or exempt information? Yes No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

1 Executive Summary

- 1.1 This report sets out the improvements that have been made in relation to the Council's governance arrangements and organisational culture since the Waste Management Governance Review ('WMGR') that was undertaken in December 2018.
- 1.2 This report also provides an update upon improvements in the Waste Service since the events that led to the production of the WMGR.

2 Background/Introduction

- 2.1 The Council commissioned an independent Waste Management Governance Review ('WMGR') which was undertaken by VVV Solicitors and reported in December 2018.
- 2.2 The review was prompted by the handling of an industrial dispute relating to the Waste Service during the summer of 2017 [rehearsed in Section 5 below]. The WMGR highlighted that proper governance processes were not followed and that this was enabled by the prevailing culture of the organisation at the time.

- 2.3 The WMGR concluded that improvements in both culture and governance were required at the Council and that these improvements extended beyond simply the Waste Management Service but rather the Council as a whole.
- 2.4 The purpose of this report is to highlight the improvements in governance and steps taken to improve the culture of the organisation since the WMGR, accepting that there is still much work to do and that the Council is on a continuing journey of improvement.

3 Improved Governance

- 3.1 As referred to above the WMGR found that proper governance processes (legal and constitutional) were not followed. The following section sets out changes to the Constitution and other governance changes that have been implemented since December 2017.

Constitution

- 3.2 The WMGR quoted from the Constitution in support of its conclusions, recognising that some key governance issues considered by the Review (for example the remit of Executive decision making, and the authority of Cabinet Members to take decisions) were present in the Constitution at the time. However, the WMGR report did raise governance matters that required a fresh approach, and a revised Constitution could and should support these improvements.
- 3.3 Therefore, an extensive review of the Constitution was carried out in late 2018 and 2019, which included consultation with Elected Members and Officers. This culminated in a new Constitution being approved by Full Council on 10th September 2019.
- 3.4 The review looked to ensure that the final document was up to date, properly reflected legal requirements and contained all relevant information to enable good governance. It was partly about extensively revising the document itself to give a more logical structure and to make it easier for provisions to be found, to facilitate compliance and transparency. However, the focus was to ensure the Constitution clearly set the operating framework (including decision-making) for the Council.
- 3.5 The resulting document included a number of new or enlarged sections which were introduced to address a range of governance issues, including those raised in the WMGR. Crucially, it retains the stipulations on Cabinet and Cabinet Member decisions (i.e. that they must be taken based on written report(s) from Chief Officers and after any appropriate advice from the Head of Paid Service, Monitoring Officer and Chief Finance Officer and posted on CMIS in order to be effective and actionable) but these are now set out more clearly and in one section of the Constitution. In addition:
- Authority for decision-making is more clearly set out, including the detailing of Executive and Non-Executive functions (Part B2) and clarity on who can take decisions (Part B3);

- Emphasis is placed on the requirement that Cabinet decisions are taken jointly, and at formal meetings (Part B3.1 vii and Part B6.2);
- Processes with regards to reports not on the Forward Plan or where notification of intention to consider a matter in private has not been given are codified (see below for more detail);
- Members' access to information has been fleshed out in Part C2 of the Constitution, and includes the changes introduced earlier in the year on how confidential or exempt information is handled (see below).
- Roles of officers, including senior and statutory officers, are now outlined in the Constitution (Part B1.7 and B3.3). Part E sets out the delegations to officers, and this is supported by Schemes of Sub-Delegations published on the website.

3.6 Following on from the approval of the new Constitution, there is still work to do to both embed the changes across the organisation, with both Members and Officers, and to further develop processes in support. For example, with regards to delegations, whilst in some areas the reporting process for delegated decisions was set out in the Constitution (for example see Part B3.1 viii), further work is needed to bring greater visibility to these decisions.

Improvements in Governance Practice – Past and Future

3.7 Simultaneously with the review of the Constitution, a number of other changes in governance practice were introduced, or are currently being developed:

- The **Cabinet process** was reviewed and revised in 2018. Changes included bringing in a revised process with guidance setting out the steps and expectations with regards to Cabinet reports, and additional quality control steps, including a "Corporate Clearance" meeting (to give senior Members and Officers final assurance as to the content and quality of Cabinet report and that the decision will be properly and legally taken). A year on from those changes, the process will be reviewed with a view to further improvements.
- In tandem with changes to the Cabinet process, the council's Senior Management Team was revised under the new (at the time) Chief Executive in early 2018. Weekly meetings of the **Council Leadership Team (CLT)** are now held and attended by Chief Officers; and there is a forward plan for the meeting. Collectively, CLT members have a vital role in ensuring all items going forward to Cabinet have received timely consideration including analysis of emerging risks and consideration of steps to minimise or mitigate their impact; and to consider, shape and influence policy initiatives on a cross-directorate basis.
- The **Executive Management Team** comprises Cabinet Members and senior Officers and is a forum for consideration of strategic issues facing the Council and development of policy. It is not a formal decision-making body, but a forum for policy discussion and facilitates effective and collaborative working.

- Other steps to improve collaborative working across Council have been introduced, such as **regular meetings of the three group leaders**.
- Improvements in **transparency** were achieved with a change in how confidential or exempt information is handled at Cabinet meetings. Research undertaken in late 2018 showed Birmingham taking 30% of Cabinet decisions in private session over the period of one year (one of the two highest percentages amongst core cities); since the change no decisions have been taken in private (though some reports still have confidential or exempt appendices as part of the decision report).
- A re-evaluation of the process for where Cabinet reports are not on the Forward Plan took place at the Co-ordinating O&S Committee on 6th September, following a motion at Full Council. A revised process to reinforce the role of Scrutiny Chairs was agreed.

- 3.8 There is still much to do. Examples of work currently in development include the development of a Scrutiny Strategic framework, which will address the roles of members and officers in scrutiny and rules of procedure, but more importantly sets a strategic context and structure to guide both Scrutiny and the Executive, to facilitate more scrutiny engagement in policy development and encourage more constructive challenge and backbench involvement. There are good examples of this already, such as the work of the Health and Social Care O&S Committee in reviewing enablement provision. Following an extensive dispute and protracted negotiations with trades unions, the O&S Committee was asked to look at the future options for the current in-house Enablement (homecare) service following Cabinet approval for the in-house service to undertake prevention work alongside the delivery of home care. The Committee will report in the new year.
- 3.9 The Council's approach to financial management was given a one-star rating from the CIPFA review earlier in the year, citing a lack of accountability, structure and transparency through our budget planning and delivery processes. There is a commitment to implement the recommendations of the review with a focus on establishing an integrated approach to strategic and financial planning. Following the review, training for both Officers (all budget holders) and Cabinet Members, Scrutiny Chairs and the Chair of Audit Committee. Further sessions will be offered to all members.
- 3.10 Supporting members in their governance role is a continuing theme. The current Member Development Programme has included sessions on equalities and on chairing meetings; and sessions will be developed to help Members understand their roles in governance and decision-making, and to understand their rights and responsibilities, in step with evolving culture change on transparency. The programme will also include more briefings for Members on key issues facing the Council.

4 Improvements in Culture

- 4.1 As referred to in the WMGR, any improvements in governance will not have the desired impact unless underpinned by an improvement in the organisational culture with an emphasis on the right values and behaviours.
- 4.2 Included within a new JNC structure, which came into force on 21 January 2019, were a series of further appointments at Assistant Director level, with property, legal, human resources, skills, streetscene, highways, social care quality and improvement, enforcement and regulation roles all populated to provide a platform for rapid change in these areas. Further senior appointments at Assistant Director level are in train. This provides the Council with capacity, capability and the stability needed to tackle the improvement challenge, with fresh perspectives and breadth of experience from elsewhere a vital part of driving a cultural shift over time.
- 4.3 Leadership features as a key “lever for change” in the new culture change framework 2019 (see Table 1 Below), recognising the importance of authentic and cohesive leadership in a healthy and progressive organisation. The culture change framework sets out six behaviours that have been identified as being key to meeting the aspirations of our corporate values. Working in partnership is one of those behaviours.
- 4.4 A programme of work underpins the leadership lever including:
- a) A forward plan for dedicated time for the Council’s Leadership Team (‘CLT’) to explore work styles and practices, barriers to cohesion and planning around key strategic issues;
 - b) A roll-out of an Organisational Development Programme to CLT and the Extended Leadership Team (‘ELT’) members (which includes Assistant Directors - also referred to as JNC Officers) to reinforce the values and behaviours associated with a coaching-led approach to leadership;
 - c) Work between CLT and ELT to agree how the wider leadership team will best engage with Directors and each other to support transparency, good governance, cross-working and innovation. This will build a forward programme of monthly ELT sessions;
 - d) The use of psychometric assessment to provide bespoke development reports for our Heads of Service to support investment in a cohort of staff that are recognised as being critical to the effective delivery of policy into practice;
 - e) Enrolment of a number of senior leaders (and potential senior leaders) on degree-level apprenticeships that focus on public sector leadership and effective business management, giving leaders exposure to good practice elsewhere and learning through networking;

CULTURE CHANGE LEVERS

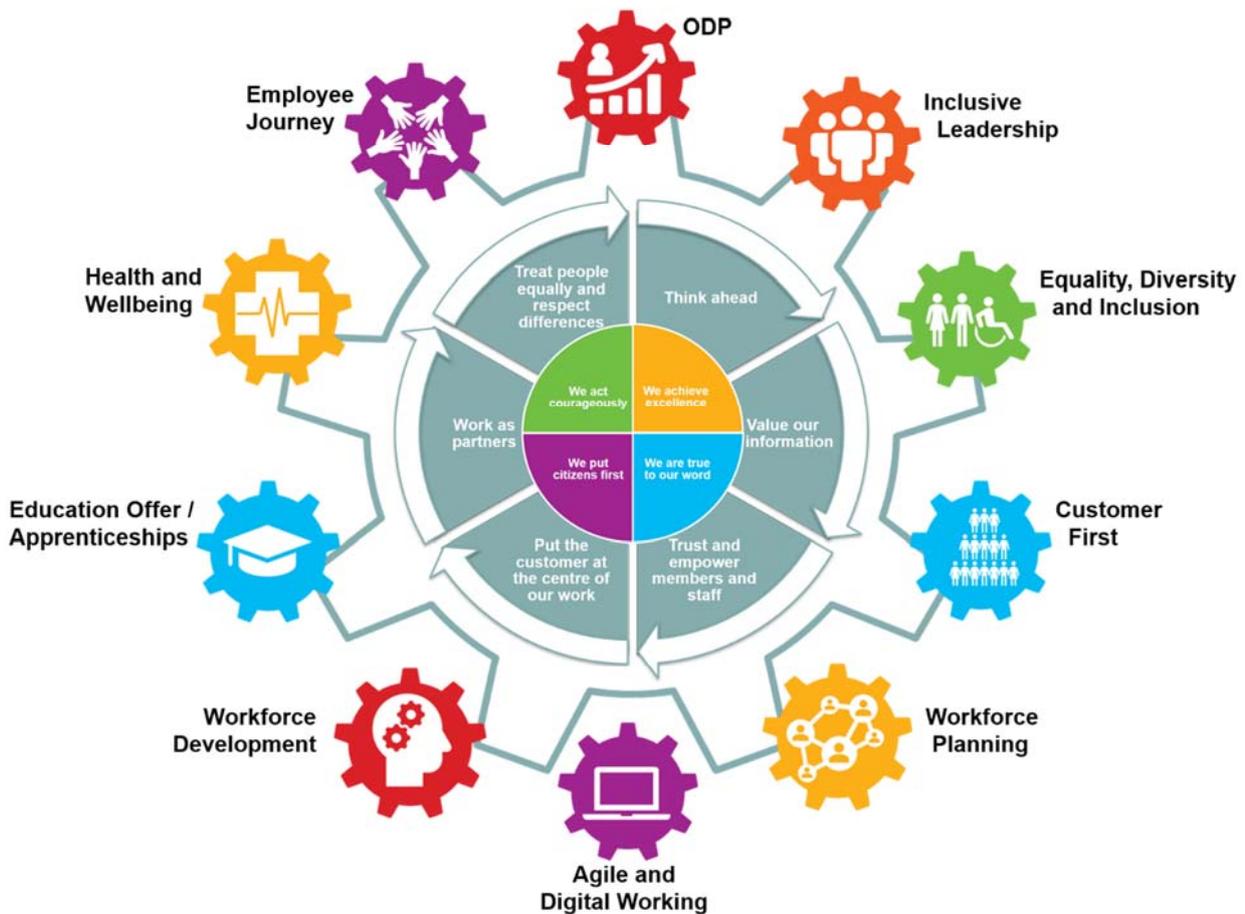


Table 1.

- 4.5 The Council continues to seek external challenge and independent support through the various projects with follow up research into officer and member relations. An original report, 'Exploring Relationships between Partners, Officers and Elected Members in Birmingham City Council' was produced in 2016 and published in 2017 and this provides a baseline against which to measure our progress as part of our continual improvement and to evidence our culture change over time.
- 4.6 Over the last year there has been comprehensive member support available to all councillors alongside an on-going programme of member development with the LGA and a member induction programme (welcome/welcome back programme). It was designed and informed by a members' steering group to ensure it met members' preferences and the Council's objectives taking suggestions from previous, current and new elected members. The feedback from members was on the whole positive.

- 4.7 To understand the issues around member commitment to personal and collective development, it is important to understand some unique pressures regarding the role of elected members in UK core cities.
- 4.8 The Deputy Leader of the Council has established a member development governance group to encourage a reflective and owned approach from elected members on this issue whilst understanding their lived experience. There is now a detailed programme of development sessions and following each election cycle, there will be mandatory elements that will have to be completed within the year and certain modules will be on a Continuing Professional Development (CPD) basis. The responsibility for member development is now effectively resourced and is seen as crucial in preventing issues regarding member conduct.
- 4.9 The Council is working with the University of Birmingham and the LGA, and we are also developing a number of peer mentor relationships with other councils, including support for all Cabinet Members and dedicated support from Rotherham to the chair of the Audit Committee.
- 4.10 Officers and members have worked effectively together to produce a four year council plan and vision for the authority which contained the associated performance measures. Improvement planning has been at the heart of council planning with improvement plans integrated into the monthly performance and finance monitoring cycles. The Council plan was produced through a series of Executive Management Team away days and drew on research and insight data on the state of the city and residents' opinions. Following on from this, our financial planning cycle now commences earlier in the year, with budget workshops held throughout July to October to build towards proactive consultation on our next budget cycle.

5 Waste Collection Service

- 5.1 As one of the largest local authorities in Europe with a population of 1.1 million, Birmingham's Council has responsibility for the collection of waste from 440,000 properties each week.
- 5.2 The Council handles approximately 495,000 tonnes of waste each year from its collection arrangements. Any reorganisation of the Waste Service comes with a major risk of disruption for residents and requires significant oversight and governance to ensure the authority maintains adequate arrangements for the collection of waste whilst seeking to contain the cost of the service within the allocated budget. Any departure from the Council's governance arrangements will put the ability to manage budgets and the service in jeopardy.
- 5.3 In June 2017 the Council proposed a reorganisation of the Waste Management Service. Amongst the changes were the proposal for deleting the post of Leading Hand from the refuse collection crew (Grade 3s), and changing the refuse collection

service from a compressed, four-day working week with overtime on the fifth day to mop up any missed collections, to a five-day working week with no overtime.

- 5.4 Extensive consultations were held at the time with recognised trades unions but industrial action commenced in July 2017.
- 5.5 The action that followed by the then Leader of the Council to retain the Grade 3 post and the subsequent proceedings brought against the Council restraining the dismissals of the Grade 3 Leading Hand role are the subject of the WMGR.
- 5.6 Following a High Court Injunction and direction, in November 2017 written agreements with Unite and Unison agreed a new role of Waste Reduction and Collection Officers (WRCO) at Grade 3. These new WRCO's have duties over and above those of the Grade 3 Leading Hand roles. It was also agreed that the five day working week would replace the compressed four day week.
- 5.7 The agreement of November 2017 effectively created a legally binding arrangement which was incorporated into individual employees' contracts of employment.
- 5.8 Subsequently a further dispute arose in that there were a number of GMB members within the workforce and GMB maintained that they were not expressly consulted on the role of the WRCO.
- 5.9 As a result of these claims and following ACAS talks together with external legal advice, the Council considered that GMB had a potentially valid claim on behalf of its members and in May 2018 agreed to pay GMB members in Waste Management for failure to consult.
- 5.10 In September 2018 the five day working week and the WRCO roles commenced as a new model of operation.
- 5.11 As a result of the payment to GMB, Unite balloted and further industrial action took place with effect from 29 December 2018 and following a separate ballot Unison gave notification of industrial action from 25 January 2019. Therefore, whilst the revised collection arrangements were implemented in September 2018, there was an ongoing dispute and industrial action taking place. The implications of the strike and options to mitigate risks were presented to Cabinet on 15 January 2019, and Cabinet agreed the options for the management of the industrial action and the contingency plan for the collection of waste. Further discussions were undertaken with the trade unions following legal advice and further updates were reported to cabinet on 12 February 2019 and on 8 March 2019.
- 5.12 Following negotiations and a proposed settlement of the dispute, a report was presented to Special Cabinet on 8 March 2019 that noted that as a result of ACAS talks and pending the Cabinet decision both Unite and Unison suspended industrial action from Friday 8 March 2019. The Special Cabinet considered the advice of statutory officers, noted and approved a heads of terms for both Unite and Unison and delegated authority to conclude the respective agreements. The Cabinet were also informed of the unsuccessful application for a temporary injunction to prevent industrial action. The hearing took place on 28 February 2019.

5.13 As part of the resolution to ending the dispute and settling litigation, it was agreed that an independent service review would be undertaken. This review will provide options for future service provision for consideration by the Council in due course. An interim report has been received and presented to Cabinet on 11th February 2020. This report outlines a number of key areas for immediate action which are now underway and have been incorporated into the street scene improvement plan.

Performance

5.14 The performance management cycle has improved, with alignment to the Council Plan priorities, enhanced benchmarking with peer areas, clarity on quartile positioning for indicators, rapid turn-around in reporting and more honest transparent narrative in reporting.

5.15 The Council is moving beyond the strategic clarity provided by the Council Plan and performance framework, and embedding a properly integrated strategic planning framework that traces the golden thread from the Council Plan, to directorate and service plans right through to individual appraisals. The newly appointed Head of Business Improvement and Insight is working closely with the Assistant Director for Organisational Development in taking this work forward.

5.16 Financial Star Chambers have been re-introduced by the Portfolio Holder for Finance and Resources, to hold the Council Leadership Team to account in terms of adherence to more robust budget monitoring and delivery of savings. The finance team have introduced monthly finance peer challenge sessions to budget holders to monitor this in more detailed discussions and to understand the potential pressures of services at an earlier stage.

5.17 Since the revised collection arrangements were implemented in September 2018, the service initially struggled to stabilise since the introduction of the 5 day model for a number of reasons, including: the fact that the staff did not initially want to move to a 5 day working model; all collection rounds needed to be changed and this was carried out without the need for wholesale changes to the day of collection for members of the public; staff were required to understand new routes and collection rounds including specific arrangements for assisted collections for vulnerable house holders; the introduction of the WRCO role changed the daily waste collection operation; the five day model required additional vehicles and some of the existing vehicles are at the end of their working life, therefore capital investment into the service was required; the high court ruling of 2017 requires the WRCO role to be in place on every waste collection round and the service was in dispute from end December 2018 to end February 2019 as described above.

5.18 The establishment of a Joint Service Improvement Board consisting of trades unions, management and the Cabinet Member has helped work through all of the above issues with the result being an improved performance in the service in recent months. The following provides information on current performance.

Calls to the Contact Centre

5.19 Calls to the Contact Centre are reviewed on a daily basis. The table below is showing an improving picture since September 19, excluding the lower than normal seasonal increase in January 2020.

Month	2018	2019	2020	Difference
January	-	15 113	5557	9556
February	-	9828	2055*	7773
March	6919	11 591		(4672)
April	5614	10 178		(4564)
May	5899	8941		(3042)
June	5580	8489		(2909)
July	5130	6519		(1389)
August	4346	5288		(942)
September	5770	6935		(1165)
October	15 746	6135		9611
November	12 652	5288		7364
December	8909	4203		4706
Total	-	101 888	-	20 327

*Part Month – Till 22/02/20

5.20 The weekly calls are reducing too. Using the same week in each month you can see the changes:

January 2019	4327
February 2019	2548
March 2019	3183
April 2019	2886
May	2138
June 2019	2331
July 2019	1753
August 2019	1266
September 2019	1888
October 2019	1498
November 2019	1224
December 2019	1089
January 2020	1929
February 2020	691

Table 2 below shows by waste stream the improving picture of calls relating to missed collections.

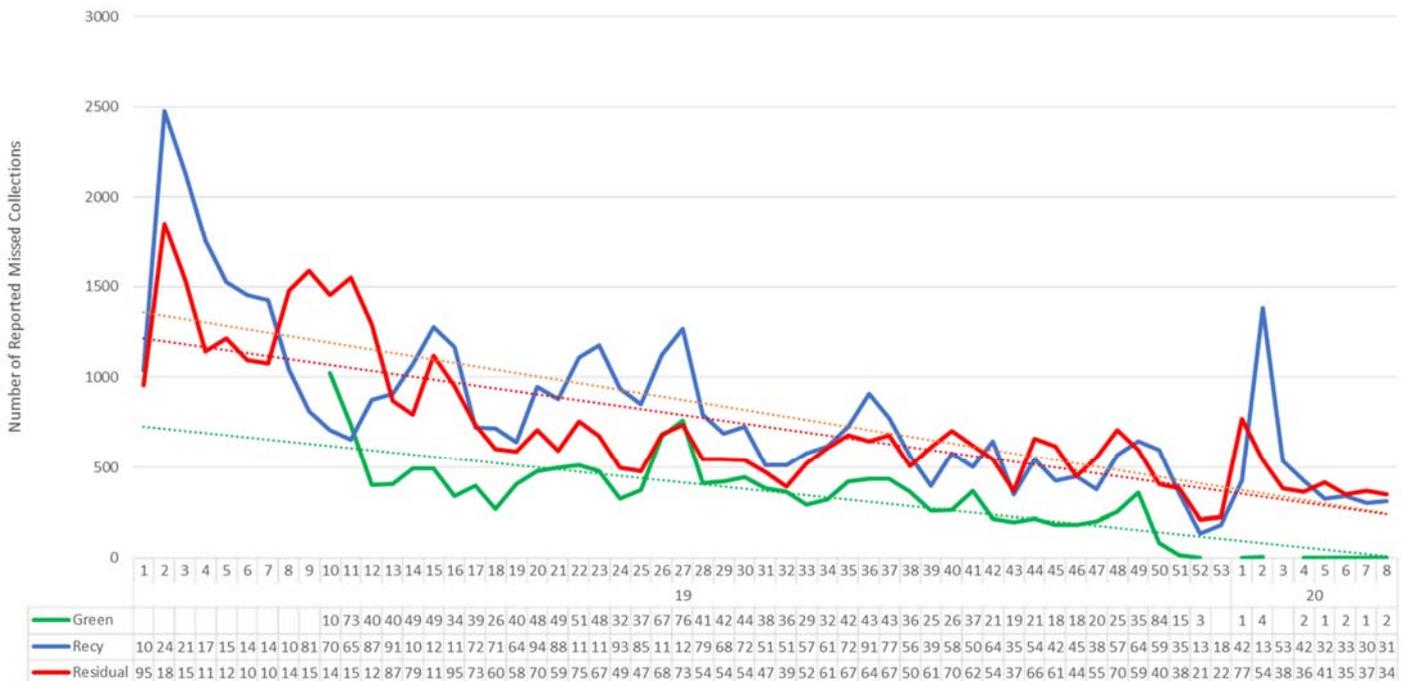


Table 2

Missed Roads reported by Crews

This table shows the total outstanding roads.

Week ending	31 st May	29 th June	27 th July	31 st Aug	27 th Sept	25 th Oct	29 th Nov	27 th Dec	31 st Jan	21 st Feb*
Total	1001	1294	463	566	132	217	377	44	73	7

*Most recent

5.21 The above demonstrates that the service has become more stable since July 2019. Issues that are in the process of being resolved relate to the replacement of vehicles and the recruitment of full time members of staff to replace agency employees.

There have been many benefits of the WRCO role on the rounds as follows:-

- a. Contamination levels are being recorded
- b. Education on what can be recycled has been increased
- c. Bin assessments take place quicker
- d. Collection points have been reviewed
- e. Safety has been maintained and accidents are reducing
- f. On the job training has been carried out for the new recruits
- g. Street inspections have increased, fly tipping and street cleansing issues have been identified and reported
- h. Broken bins and missing pods are reported

Improvements in Waste Management Governance Arrangements

5.22 The following improvements have been made to the Waste Management governance arrangements as follows:

- a) All decisions relating to financial aspects of the service have been reported to Cabinet as detailed in this paper;
- b) Cabinet has taken decisions on all of the options relating to industrial disputes and industrial action;
- c) Investment into the service for vehicles has been included in capital proposals;
- d) Performance of the service, whilst unacceptable during the dispute and following the commencement of the new working arrangements has been improving in recent months;
- e) Relations with the trade unions and the workforce are improving and this has been brought about by effective consultation through the Joint Service Improvement Board;
- f) The appointment of the Non-Executive Advisor on 30 July 2019 is proving to be advantageous. The Advisor is working with the Director of Neighbourhoods in relation to:
 - The Government's waste strategy
 - The Defra and WMCA waste review
 - Information provided for the independent review

6 A new 'Progressive Model of Assurance'

- 6.1 Following the Kerslake Review of the Council's governance arrangements in 2014, the Birmingham Independent Improvement Panel (BIIP) was set up in 2015 to provide external challenge and support to the Council to effect the improvements recommended in the Kerslake report. The Panel provided challenge and support to the Council for four years and stood down at the end of March 2019.
- 6.2 Prior to standing down, Cabinet received the Panel's stocktake report detailing the final formal assessment of the Council's improvement journey, which was submitted for consideration by the Secretary of State for Housing, Communities and Local Government in April 2019.
- 6.3 Whilst the report recognised continuing improvement, it was clear that there was still much to do. In response, an innovative model of 'progressive assurance' was designed to ensure a relentless and determined focus on improvement under the Council's own direction. The model was built on analysis of assurance and improvement models in use across different sectors with the aim of providing all stakeholders with confidence that the improvement work is proceeding with appropriate pace and quality in delivery including foresight regarding future risks and third-party support and challenge.
- 6.4 The model entailed the formation of a quarterly Strategic Programme Board (SPB) and the invitation of specialist Non-Executive Advisers (NEAs), aligned to specific risk and professional areas of focus, alongside the Council Leadership Team for twelve months in 2019-20. Those areas of focus are:
- Waste management and industrial relations;
 - Outcomes for vulnerable adults and children;
 - Financial resilience;
 - Risk management;
 - Good governance and culture change; and
 - Peer support to the Chief Executive and Cabinet in leading this transformation process.
- 6.5 The Council has proactively sought to appoint industry heavyweights to the NEA role with an expectation that they would bring independent judgement, external perspectives and advice on issues of strategy and performance in relation to the key areas of improvement.

Appointments to the role have been made as follows:

Waste Management and Industrial Relations – Sean Hanson, CEO of Local Partnerships

Outcomes for Vulnerable Adults and Children – Javed Khan, CEO of Barnardos

Financial Resilience – Rob Whiteman, CEO of Chartered Institute of Public Finance and Accounting

Risk Management – Max Caller, former Local Authority Chief Executive, Boundary Commission Chair and London Borough of Tower Hamlets Commissioner

Good Governance and Culture Change – Donna Hall, former Local Authority Chief Executive and current New Local Government Network Chair

- 6.6 The model and appointment of NEAs was formally approved by Cabinet on 30 July 2019 with agreement to submit voluntary reports on progress to the Secretary of State in Autumn 2019 and Spring 2020.
- 6.7 A report was taken to Cabinet on 29 October 2019 to present the progress made to date using the new Model of Assurance. The Cabinet report included a copy of the first update report on progress from the NEAs to the Secretary of State (see attached background papers).
- 6.8 The NEAs have highlighted the openness in which the Council has approached their involvement and willingness to take on board constructive challenge and that all elected members and officers have fully embraced the new improvement process. Work will continue in line with the agreed workstreams and further formal updates will be provided in March and July 2020.
- 6.9 The willingness of Government to allow a transition away from an improvement panel model to a 'lighter touch' model of assurance designed to allow the organisation to take its improvement journey back into its own hands, is an acknowledgment of the progress that has been made to date and the clear commitment of the Council's leadership to taking the necessary steps to achieve the significant improvements that are required.

Background Papers:

Birmingham City Council Waste Management Governance Review, December 2018

https://www.birmingham.gov.uk/news/article/346/findings_of_independent_review_into_2017_waste_management_dispute

Birmingham City Council Assurance Framework 2019-20 (Reference: 007126/2019)

https://birmingham.cmis.uk.com/birmingham/Decisions/tabid/67/ctl/ViewCMIS_Decision_Details/mid/391/Id/8df762b4-fa99-49db-a790-39b588c36d3e/Default.aspx