

BIRMINGHAM CITY COUNCIL

EDUCATION, CHILDREN AND YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE

WEDNESDAY, 18 OCTOBER 2023 AT 10:00 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

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.

5 - 10

4 **MINUTES**

To confirm the minutes for the Education, Children and Young People Overview and Scrutiny Committee meeting held on 6 September 2023.

5 **COMMISSIONER'S REVIEW AND COMMENTS ON THE AGENDA**

To note that no comments have been received from the Commissioner on this agenda.

11 - 14

6 **ACTION TRACKER**

To note the action tracker.

15 - 88

7 **SCRUTINY OF DELIVERY OF 2023/24 BUDGET SAVINGS AND UPDATE ON THE COUNCIL'S RESPONSE TO S114 NOTICE AND FINANCIAL RECOVERY PLAN**

Sue Harrison, Strategic Director, Children and Families and Clare Sandland, Finance Business Partner – Children and Young People in attendance.

89 - 102

8 **HIDDEN CHILDREN**

Sue Harrison, Strategic Director, Children and Families, Razia Butt, Director, Children and Families, Steve Howell, Head Teacher, City of Birmingham School (COBS), Barry Bowles, Chair, COBS, Tim Boyes, Chief Executive, Birmingham Education Partnership (BEP), Alan Michell, Head of Service for School Admissions and Fair Access, David Fallows, Head of Performance, Business and Commissioning Intelligence, Edwina Langley, Lead Practitioner, Paul Mitchell, Interim Head of Attendance & Exclusions, and Diane Rhoden Director of Nursing - Safeguarding & Children in Care NHS Birmingham and Solihull in attendance.

103 - 120

9 **WORK PROGRAMME**

Members to agree the work programme.

10 **DATE AND TIME OF NEXT MEETING**

To note the date of the next meeting is 29 November 2023 at 10am in committee rooms 3 & 4.

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

To consider any request for call in/councillor call for action/petitions (if received).

12 **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

EDUCATION, CHILDREN AND YOUNG PEOPLE

OVERVIEW & SCRUTINY COMMITTEE – PUBLIC MEETING

1000 hours on Wednesday, 6 September 2023, Committee Rooms 3 & 4,

Council House

Minutes

Present:

Councillor Kerry Jenkins (Chair)

Councillors: Jilly Bermingham, Adam Higgs, Morriam Jan, Jane Jones and Shehla Moledina

Other Representatives: Osamugi Ogbe, Parent Governor

Also Present:

Councillor Karen McCarthy, Cabinet Member, Children, Young People and Families

Janie Berry, City Solicitor

Fiona Bottrill, Senior Overview and Scrutiny Manager

Andy Couldrick, Chief Executive, Birmingham Children's Trust

David Fallows, Head of Performance, Business & Commissioning Intelligence

Sarah Fradgley, Overview and Scrutiny Manager

Fiona Greenway, Interim Assistant Director, Financial Performance and Insight

Sue Harrison, Strategic Director, Children and Young People

Mohammed Sajid, Interim Head of Financial Strategy

Christian Scade, Head of Scrutiny and Committee Services

Adrian Weissenbruch, Assistant Director, Children and Young People's Travel Service

1. NOTICE OF RECORDING/WEBCAST

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

2. APOLOGIES

Apologies were received on behalf of Cllr Des Hughes, Cllr Debbie Clancy, Justine Lomas, Roman Catholic Diocese, Sarah Smith Church of England Diocese, and Rabia Shami, Parent Governor Representative.

3. DECLARATIONS OF INTERESTS

Members were reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting, and none were declared.

4. MINUTES

(See document No 1)

RESOLVED:

That the minutes of the meeting held on 19 July 2023 be confirmed as a correct record and signed by the Chair.

5. ACTION TRACKER

(See document No 2)

The Committee noted the draft SEND Sufficiency Strategy would be available by the end of the year.

RESOLVED:

That the action tracker be noted.

6. PERFORMANCE UPDATE

(See document No 3)

Sue Harrison, Strategic Director, Children and Young People and David Fallows Head of Performance, Business & Commissioning Intelligence presented the report and outlined the directorate's new performance framework for improving the collection and use of performance data.

The meeting was provided an overview of the Children and Families corporate performance indicators and during the debate the following points were raised:

Workforce Update

The Directorate was working with managers to improve data collection on staff sickness absence to reduce the number of cases recorded as 'unknown.'

Sue Harrison undertook to provide further details of the mental health element of the Employment Support Programme and also clarify whether percentage figures contained in the report for reasons for absence were the percentage of days lost, or the percentage of people sick for that reason.

Transport Service

Adrian Weissenbruch, AD, Children and Young People's Travel Service reported that 100% of the 1004 pupil transport routes had run that day, with one route recorded as late. Additional hearing dates had been arranged to speed up the transport appeals process, with the remaining 70 SEN appeals to be held over the next few weeks. The Committee thanked Adrian and the Travel Service Team for their continued efforts to improve the service.

Early Years Education Entitlement

The Committee considered suggested areas for further scrutiny and agreed to timetable a deep dive into Early Years Education Entitlement for 2 and 3-4 years olds for January 2024 as performance was currently below target. The Chair felt it was important for O&S members to understand what work was being undertaken to increase take up rates, how this work was being informed, and the impact of new strategies.

Sue Harrison advised that the team were piloting a range of activities to understand what strategies worked and learning from inner London authorities with higher take up. The Cabinet Member confirmed the work was informed by the BLASHIR report and stressed the importance of alerting parents of the opportunities and the benefits of taking up the offer of Early Years Education.

School Absence Rates

Sue Harrison reported that schools absence rates remained a concern and up to date figures were being calculated. The Directorate was working with a DFE Advisor,

supporting schools, and developing a city-wide attendance strategy with head teachers. The meeting acknowledged the range of reasons for pupil absence that would be explored as part of the Hidden Children session planned for the October committee meeting. The Child Criminal Exploitation Task and Finish Group had recently discussed the link between school absence and risk of exploitation.

Future Performance Reports

Member's views were sought on the level of detail to include in future performance reports and it was agreed that the proposed Member Data Workshop would provide the opportunity for further discussion about what data was available and how members would like that presented to Committee.

RESOLVED:

That:

- The report and presentation be noted.
- Further discussions relating to the focus and format of performance data presented to the Committee be considered at the Member Data Workshop (to be arranged).
- Information on mental health element of Employment Support Programme be provided to Members.
- An explanation be given to Members as to whether the percentage figures for the most common reason for staff sickness absence related to days lost to sickness, or the percentage of people sick for each reason.

7. FINANCIAL CHALLENGES – SCRUTINY CONTRIBUTION TO THE BUDGET SAVINGS AND RECOVERY PLAN

(See document No. 4)

The Chair announced a change to the proposed agenda item in light of the issuing of the Section 114 Notice by the Section 151 Officer.

Fiona Greenway, Interim Director of Finance and Section 151 Officer, outlined the reasons for the issuing of the S114 notice that required all non-essential spending to stop and financial spend controls would be applied to all services. The Council would honour existing contractual commitments and pay staff and contractors and key services to children and vulnerable people were not affected. In view of the new governance arrangements a process map of how the business of the council will be managed was being developed, including the role of Scrutiny.

Responding to questions from Members, Fiona Greenway advised that the Finance Control Board was working with Legal Services on defining statutory and non-statutory

services and would take into account the benefits non-statutory services had on reducing demand for and costs of statutory services.

It was suggested discussion on the savings report published with the agenda be deferred. The meeting acknowledged that work to examine budget savings was still needed but the issuing of the S114 had superseded the level of debate at the current time.

The Chair invited Sue Harrison, Strategic Director, Children's Services, and the Cabinet Member to outline the implications of the S114 Notice on the delivery of the services so they might offer some assurance to the public, service users, parents, and schools. They confirmed that all services would continue as normal, all staff were at work and contracted services would be paid. Sue Harrison praised the way staff had responded to the news and agreed to send Members a copy of her communications with head teachers and staff.

Andy Couldrick, Chief Executive, Birmingham Children's Trust reassured the meeting its services continued. The Trust was working with the Directorate to understand the implications of the notice on its Trust status and was exercising the same spending restrictions as Birmingham City Council.

The meeting expressed the importance of non-statutory early help and intervention services that helped children, young people, and families with issues before they became a crisis need that required statutory services.

Sue Harrison advised that the Directorate would continue with its planned service reviews looking creatively at how services could be delivered differently and more efficiently whilst also achieving outcomes. She felt it was important to involve the Overview and Scrutiny Committee at an early stage to help shape proposals, rather than presenting oven-ready plans. The Chair welcomed the opportunity to be part of the process to help the Directorate with this work.

RESOLVED:

- That the report presented to the committee be noted.
- The information presented to the committee regarding the issuing of the Section 114 Notice be noted.

8. WORK PROGRAMME

(See document No. 6)

The following matters were noted:

The Hidden Children item deferred this month would now be considered in October 2023.

It was agreed to add the SEND Sufficiently Strategy and the Early Years Education Entitlement Deep Dive items to January 2024.

The Child Criminal Exploitation Inquiry had expanded its evidence gathering and was expected to report to City Council in January 2024.

The Children and Young People's Mental Health Inquiry had collected a wide range of evidence to inform its recommendations.

RESOLVED:

- That the information set out in Appendix 1 be noted.
- That subject to further input from the Chair and Deputy Chair, the SEND Sufficiently Strategy and the Early Years Education Entitlement Deep Dive items be added to work programme for January 2024.

9. DATE AND TIME OF NEXT MEETING

RESOLVED:

The date of the next meeting is 18 October 2023 at 10am.

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

None.

11. OTHER URGENT BUSINESS

Reinforced Autoclaved Aerated Concrete (RAAC)

The Chair invited the Cabinet Member to provide an update on the emerging situation relating to new Government measures for Reinforced Autoclaved Aerated Concrete (RAAC) in education settings and asked whether any Birmingham schools were affected. The Cabinet Member advised the DFE had formally notified of four schools, but she expected more would be identified. She advised that the Directorate was working with the schools on practical measures, and she urged other schools to get in touch.

12. AUTHORITY TO CHAIR AND OFFICERS

RESOLVED:

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 11.12 hours.

EDUCATION, CHILDREN AND YOUNG PEOPLE O&S COMMITTEE
ACTION TRACKER 2023-24

Date	Agenda Item	Action	Update / Notes
22 Feb 2023	School Attainment and School Improvement	The recruitment and retention rates of teachers in the city in comparison to other areas.	Awaiting information.
5 April 2023	Children’s Trust	The Children’s Trust to attend a future committee meeting to discuss the review of short breaks.	An update on the review of short breaks is currently earmarked for the November 2023 committee meeting.
17 May 2023	Action Tracker	The timeline for when the SEND Sufficiency Report would be available to be provided.	The strategy is programmed for the January 2024 committee meeting.
17 May 2023	Young People’s Substance Use Service	Aquarius to provide the timeline for the Manchester Met University project.	Aquarius have met with the researchers, and they are preparing a slide deck of their initial findings. They are expecting the project to conclude by the end of the year.
17 May 2023	SEND	<p>The following to be provided via e-mail:</p> <ul style="list-style-type: none"> • The spend information for staffing within the SEND and Inclusion Service. • Information on the indicators in the APP on the Council’s website that state, ‘requires baseline.’ 	<p>E-mailed the information on 25 August 2023.</p> <p>E-mailed the response on 12 June 2023.</p>
		The Committee to provide further questions in writing for officers to provide a written response.	
14 Jun 2023	Developing the Education, Children and Young People O&S Committee’s Work Programme 2023/24	Members of the Task and Finish Group for the Child Criminal Exploitation Inquiry and the Children and Young People’s Mental Health Inquiry will be followed up.	Cllr. Debbie Clancy replaced Cllr. Simon Morrall on the CCE Inquiry T&F Group, and the Young People’s Mental Health Inquiry T&F Group.

EDUCATION, CHILDREN AND YOUNG PEOPLE O&S COMMITTEE
ACTION TRACKER 2023-24

Date	Agenda Item	Action	Update / Notes
19 July 2023	Children and Young People's Travel Service	A workshop for cultural change and the statutory guidance for the Children's and Young People's Travel Service to be arranged.	The all Councillor workshop is in the process of being arranged for Thursday, 16 November 2023.
		A breakdown of discretionary and statutory spend to be provided.	
		More information on Personal Transport Budgets to be provided.	
		More information on the new Application and Eligibility Review Panel to be provided.	
19 July 2023	SEND Tribunals	The draft SEND Sufficiency Strategy to be added to the Committee's Work Programme.	Added to the work programme for January 2024 committee meeting.
		<p>Information on the programme of training/briefings being developed regarding SEND for all Members to be provided. If the following is not covered within this, then a workshop to be organised for the Committee:</p> <ul style="list-style-type: none"> • A regular update from families going through the Tribunal process to understand the family experience and highlight any issues that may inform service improvement. • A briefing note outlining how high quality decisions are made when developing Education and Health Care Plans (EHCPs), including how learning from Tribunals is shared to improve services. 	<p>Workshops/Sessions for all Members:</p> <ul style="list-style-type: none"> • SEND (this will include Tribunals). • Schools (how Councillors can support local schools, e.g., admissions). • Safeguarding (the Chair requested whether there could be a workshop for corporate parenting, and the Cabinet Member agreed to check whether the safeguarding workshop/session could include corporate parenting).

EDUCATION, CHILDREN AND YOUNG PEOPLE O&S COMMITTEE

ACTION TRACKER 2023-24

Date	Agenda Item	Action	Update / Notes
19 Jul 2023	Performance Update	The draft attendance strategy to be brought to the committee meeting in September when discussing the Hidden Children item, and the relevant officers to be in attendance for this.	Hidden Children will now be an item at the committee meeting in October.
19 Jul 2023	Work Programme	Cllr. Debbie Clancy to be sent the dates of the evidence gathering sessions for the CCE Inquiry.	Dates forwarded to Cllr. Debbie Clancy.
		Members to e-mail details of items they wish to be added to the menu of topics/issues.	
		There were potentially three workshops to be arranged: Children and Young People's Travel Service, SEND Tribunals, and the Data Workshop.	<p>The Children's and Young People's Travel Service Workshop is currently being arranged for Thursday, 16 November 2023.</p> <p>The SEND Tribunals Workshop will not be needed as it will be covered in the workshop/sessions being arranged for all Members.</p> <p>The Data Workshop for the Committee has been arranged for Monday, 6th November 2023 at 10.30am.</p>
6 Sep 2023	Performance Update	Further discussions relating to the focus and format of performance data presented to the Committee be considered at the Member Data Workshop.	The Data Workshop for the Committee has been arranged for Monday, 6 th November 2023 at 10.30am.
		Information on mental health element of Employment Support Programme be provided to Members.	E-mailed to Members on 9 th October 2023.

EDUCATION, CHILDREN AND YOUNG PEOPLE O&S COMMITTEE
ACTION TRACKER 2023-24

Date	Agenda Item	Action	Update / Notes
		An explanation be given to Members as to whether the percentage figures for the most common reason for staff sickness absence related to days lost to sickness, or the percentage of people sick for each reason.	E-mailed to Members on 9 th October 2023.
6 Sep 2023	Financial Challenges – Scrutiny Contribution to the Budget Savings and Recovery Plan	A copy of Director’s communication to head teachers and staff following the announcement of the S114 notice be sent to Members for information.	E-mailed to Members on 20 September 2023.
6 Sep 2023	Work Programme	That subject to further input from the Chair and Deputy Chair, the SEND Sufficiently Strategy and the Early Years Education Entitlement Deep Dive items be added to work programme for January 2024.	The work programme has been updated accordingly.

Birmingham City Council

Education, Children and Young People Overview and Scrutiny Committee

Date 18 October 2023



Subject: Scrutiny of Delivery of 2023/24 Budget Savings and Update on Council's Response to Section 114 Notice and Financial Recovery Plan

Report of: Christian Scade, Head of Scrutiny and Committee Services

Report author: Sarah Fradgley, Overview and Scrutiny Manager
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1 Purpose

- 1.1 It was agreed at Co-ordinating Overview and Scrutiny Committee on 15 September 2023 that all O&S Committees will continue to scrutinise the delivery of existing 2023/24 savings. Appendix 1 sets out the red, amber, green (RAG) rated savings for 2023/24 by Committee and Directorate at the end of Quarter 1. Appendix 2 sets out the progress on delivery of savings during Quarter 2 and 3.
- 1.2 This agenda item also provides an opportunity for the Committee to consider the following and implications for the Committee's work programme:
- The report considered at City Council on 25 September on the Council's Response to the Section 114 Notice and Financial Recovery Plan.
 - The announcement made by the Secretary of State for the Department of Levelling Up, Housing and Communities in the House of Commons on 19 September and the Section 5 Notice and supplementary Section 114 Notice issued on 21 September.
- 1.3 To assist with the task above the Scrutiny Team are in the process of contacting other authorities with similar experiences. Feedback on themes identified will be provided at the meeting.

2 Recommendations

The Committee:

- 2.1 Notes the Quarter 1 2023/24 savings set out in Appendix 1.

- 2.2 Receives the update for Q2 / Q3 attached as Appendix 2 and examines progress on delivery of the 2023/24 savings within the remit of the Committee's terms of reference (outlined in the [Council's Constitution, Part B, section 11.5](#)) and agrees any comments.
- 2.3 Considers the implications of recent events (highlighted in Section 1) on the scrutiny work programme.

3 Any Finance Implications

- 3.1 Financial implications are set out in the relevant appendices.

4 Any Legal Implications

- 4.1 Legal implications are set out in the relevant appendices.

5 Any Equalities Implications

- 5.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.2 The protected characteristics and groups outlined in the Equality Act are: Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion and Belief; Sex, and Sexual Orientation.
- 5.3 The Committee should ensure that it addresses these duties by considering them during work programme development, the scoping of work, evidence gathering and making recommendations. This should include considering: How policy issues impact on different groups within the community, particularly those that share a relevant protected characteristic; Whether the impact on particular groups is fair and proportionate; Whether there is equality of access to services and fair representation of all groups within Birmingham; Whether any positive opportunities to advance equality of opportunity and/or good relations between people are being realised.
- 5.4 The Committee should ensure that equalities comments, and any recommendations, are based on evidence. This should include demographic and service level data and evidence of residents/service-users views gathered through consultation.

6 Appendices

- 6.1 Appendix 1: 2023/24 Savings Q1 Position by O&S Committee
- 6.2 Appendix 2: Update on Delivery of 2023/24 Savings During Q2 by O&S Committee
- 6.3 Appendix 3: Council's Response to the Section 114 Notice and Financial Recovery Plan
- 6.4 Appendix 4: Birmingham City Council, Letter to Chief Executive 19 September
- 6.5 Appendix 5: Section 5 Report - 21 September
- 6.6 Appendix 6: Supplementary Section 114 Notice – 21 September

23/24 Savings Q1 Position by O&S Committee

Summary

Savings by OSC Portfolio	Delivered	Low Risk	Medium Risk	High Risk	TOTAL
Co-ordinating OSC				(14,851)	(14,851)
Economy and Skills OSC		(133)	(816)	(9,595)	(10,544)
Education, Children and Young People OSC			(4,465)	(6,000)	(10,465)
Finance and Resources OSC		(1,269)	(8,799)	1,457	(8,611)
Health and Adult Social Care OSC		(700)	(9,008)	2,000	(7,708)
Homes OSC		(502)	(592)	(5,500)	(6,594)
Neighbourhoods OSC		(19)	(4,837)	(990)	(5,846)
Sustainability and Transport OSC					
TOTAL		(2,623)	(28,517)	(33,479)	(64,619)

List of Savings Projects

Directorate	O&S Committee	Savings Description	2023/24 (Saving) £'000
Adult Social Care	Health and Adult Social Care OSC	Adults Transformation Programme.	(3,700)
Adult Social Care	Health and Adult Social Care OSC	Adult Packages of Care (Reversal of previous year one-off savings)	1,000
Adult Social Care	Health and Adult Social Care OSC	Income Collection (Reversal of previous year one-off savings)	1,000
Adult Social Care	Health and Adult Social Care OSC	3% Turnover factor (Vacancy management)	(2,850)
Adult Social Care	Health and Adult Social Care OSC	Special Impact team (SIT) complex case review accelerated and expanded to cover high cost packages	(500)
Adult Social Care	Health and Adult Social Care OSC	Case load packages Review	(200)
Adult Social Care	Health and Adult Social Care OSC	Looking at ways to enhance ICS/CCG partnership to harness pooled resources more efficiently eg BCF Inflation	(1,000)
BCT	Education, Children and Young People	Children's Trust - Family and Friends Cars	(2,000)
BCT	Education, Children and Young People	Children's Trust - Stronger Families Programme	(3,000)
BCT	Education, Children and Young People	Children's Trust - Tackling Domestic Abuse to Support Families	(1,000)
Children & Families	Education, Children and Young People	Schools Balances	(328)
Children & Families	Education, Children and Young People	Education and Skill Early Retirement	(210)

Children & Families	Education, Children and Young People	3% Turnover factor (Vacancy management)	(1,921)
City Housing	Homes OSC	Reducing / Eradicating B&B Accommodation	(5,500)
City Housing	Homes OSC	3% Turnover factor (Vacancy management)	(502)
City Ops	Sustainability and Transport OSC	Street Work Permits	(100)
City Ops	Neighbourhoods OSC	Removal of Universal Superloos	(19)
City Ops	Co-ordinating OSC	Capitalise Salaries of Alexander Stadium Build (Reversal of previous year one-off savings)	40
City Ops	Co-ordinating OSC	Revenue Benefit from Capitalising the Cost of Indoor Track at Arena (Reversal of previous year one-off savings)	150
City Ops	Neighbourhoods OSC	3% Turnover factor (Vacancy management)	(3,307)
Corporate Items	Co-ordinating OSC	Localities / Public Hub (Savings from implementation of EIP Model)	(2,500)
Corporate Items	Co-ordinating OSC	BCC Target Operating Model Design Principles - Voluntary Workforce Savings Programme	(2,000)
Corporate Items	Co-ordinating OSC	B/F_BCC Target Operating Model Design Principles - Voluntary Workforce Savings Programme	(2,000)
Corporate Items	Finance and Resources OSC	Maximise the Use of Grant Funding – Identifying opportunities to use grant funding to fund existing GF spend releasing GF budgets for savings.	(1,000)
Corporate Items	Finance and Resources OSC	B/F_Maximise the Use of Grant Funding - Identifying opportunities to use grant funding to fund existing GF spend releasing GF budgets for savings.	(1,000)
Corporate Items	Finance and Resources OSC	Improvements in Debt Management – Review Debt Management Process with a view to improving collection and reducing bad debt.	(900)
Corporate Items	Finance and Resources OSC	B/F_Improvements in Debt Management – Review Debt Management Process with a view to improving collection and reducing bad debt.	(1,000)
Corporate Items	Co-ordinating OSC	Traded Services – Review of traded services with a view to greater commercialisation and reduced GF subsidy)	(1,500)
Corporate Items	Co-ordinating OSC	B/F_Traded Services - Review of traded services with a view to greater commercialisation and reduced GF subsidy)	(1,600)
Corporate Items	Finance and Resources OSC	Repayment of Borrowing Following Asset Disposal Resulting in Reduced Debt Management Costs (Reversal of one-off savings from previous years)	4,500
Corporate Items	Finance and Resources OSC	Release Highways policy contingency for one year – Accounting Adjustment (Reversal of one-off savings from previous years)	800
Corporate Items	Economy and Skills OSC	B/F_Corporate Landlord (Efficiencies in Asset Management through Consolidation and Rationalisation of Council Assets/ Buildings)	(500)
Corporate Items	Co-ordinating OSC	Automation – Use of Robotic Process Automation Technology to automate manual processes and reduce manual handling, leading to efficiencies in process and savings on time/resource required to deliver services.	(1,000)
Corporate Items	Co-ordinating OSC	B/F_Automation - Use of Robotic Process Automation Technology to automate manual processes and reduce manual handling, leading to efficiencies in process and savings on time/resource required to deliver services.	(850)
Corporate Items	Co-ordinating OSC	Reducing Workforce (Centres of Excellence) – Consolidation of similar roles and teams to reduce duplication of effort and achieve efficiency in resource/process	(1,791)

Corporate Items	Co-ordinating OSC	Automation (Voice Automation) – Use of voice automation technology to reduce volume of manual call handling, leading efficiencies and better customer services.	(1,000)
Corporate Items	Finance and Resources OSC	Automation (Oracle Optimisation) – Use of new oracle system to generate process efficiencies	(500)
Council Management	Finance and Resources OSC	Digital advertising on key assets to generate additional income	(200)
Council Management	Finance and Resources OSC	Operational Hub Programme – rationalisation of assets.	(161)
Council Management	Finance and Resources OSC	Application platform modernisation.	(11)
Council Management	Finance and Resources OSC	3% Turnover factor (Vacancy management)	(4,265)
Council Management	Finance and Resources OSC	Review all BCC leased properties and reduce cost of lease payments for assets	(460)
Council Management	Finance and Resources OSC	System Efficiencies	(600)
Council Management	Neighbourhoods OSC	Customer Services – Bereavement. Improvements in service design to deliver efficiencies	(460)
Council Management	Neighbourhoods OSC	B/F_Customer Services - Bereavement. Improvements in service design to deliver efficiencies	(250)
Council Management	Neighbourhoods OSC	Customer Services - Garden Waste. Introduce autorenewal and other process improvements to maximise levels of annual subscriptions.	(40)
Council Management	Neighbourhoods OSC	B/F_Customer Services - Garden Waste. Introduce autorenewal and other process improvements to maximise levels of annual subscriptions.	(40)
Council Management	Neighbourhoods OSC	Customer Services - Markets	(50)
Council Management	Neighbourhoods OSC	B/F_Customer Services - Markets	(50)
Council Management	Neighbourhoods OSC	Customer Services - Pest Control	(50)
Council Management	Neighbourhoods OSC	B/F_Customer Services - Pest Control	(50)
Council Management	Finance and Resources OSC	Development & Commercial - Digital advertising income and offer up of growth	(60)
Council Management	Finance and Resources OSC	Procurement - 2020/21 Expenditure Budget covered by funding	(106)
Council Management	Finance and Resources OSC	Audit - increase trading opportunities with Police, Housing Associations and Acivico	(60)
Council Management	Finance and Resources OSC	Finance - refinancing legacy systems	(700)
Council Management	Finance and Resources OSC	Personal Assistant Allocation - review use of Personal Assistant Support	(200)
Council Management	Finance and Resources OSC	Business Support Efficiencies	(50)

Council Management	Finance and Resources OSC	Customer Services Efficiencies	(50)
Council Management	Finance and Resources OSC	Review Human Resources Target Operating Model - reduce posts that are vacant	(170)
Council Management	Finance and Resources OSC	Human Resources reduce growth request in Medium Term Financial Plan (MTFP)	(113)
Place, Prosperity & Sustainability	Economy and Skills OSC	B/F_CAB Premises - excluding Council House. Reduced costs associated with Council Admin Buildings	(1,314)
Place, Prosperity & Sustainability	Economy and Skills OSC	CAB Premises - excluding Council House. Reduced costs associated with Council Admin Buildings	(2,431)
Place, Prosperity & Sustainability	Economy and Skills OSC	CAB Premises - Council House Commercialisation Income generation through improved commercial offer including banqueting and events.	(50)
Place, Prosperity & Sustainability	Economy and Skills OSC	Commercial Property - Lease Event Opportunities Review of commercial property leases – includes rent reviews and extension options	(600)
Place, Prosperity & Sustainability	Economy and Skills OSC	Commercial Property - Active Investment Additional income through investment in Public Works Loan Board (PWLB) compliant commercial property	(2,250)
Place, Prosperity & Sustainability	Economy and Skills OSC	Commercial Property - Blended Approach Investment and Lease Events Additional income generated through a combination of lease reviews and investment	(2,500)
Place, Prosperity & Sustainability	Sustainability and Transport OSC	Street Work Permits - moved directorate	100
Place, Prosperity & Sustainability	Economy and Skills OSC	3% Turnover factor (Vacancy management)	(666)
Place, Prosperity & Sustainability	Economy and Skills OSC	Review all £5-10k leases – with a view to optimising lease income.	(150)
Strategic Equals & Partnership	Finance and Resources OSC	3% Turnover factor (Vacancy management)	(116)
Strategic Equals & Partnership	Finance and Resources OSC	Efficiencies amongst non-staffing budgets	(116)
Corporate Items	Co-ordinating OSC	B/F_New Ways of Working_Fieldworker. Rolling out field worker module to allow staff working in the field to update host systems directly rather than returning to office to update	(800)
Adult Social Care	Health and Adult Social Care OSC	Fees & Charges 5%	(1,458)
Children & Families	Education, Children and Young People	Fees & Charges 5%	(2,006)
Council Management	Finance and Resources OSC	Fees & Charges 5%	(2,073)
City Ops	Neighbourhoods OSC	Fees & Charges 5%	(1,530)
City Housing	Homes OSC	Fees & Charges 5%	(592)
Place, Prosperity & Sustainability	Economy and Skills OSC	Fees & Charges 5%	(83)
		Total	(64,619)

Caveats:

- Many targets fit into multiple O&S portfolio, such as Fees & Charges, vacancy factor, thus for simplicity we have allocated to the O&S Committee where most of the target is more likely to fall.
- Some services also fall into more than one O&S portfolio – we have allocated the full target for these to the committee of higher alignment rather than split amounts.
- The total savings that need to be delivered in the 23/24 financial year may increase. Finance is currently working to close the 22/23 financial year accounts – this includes final assessment of savings delivery for the last financial year. Any further undelivered savings in 22/23 will need to be brought forward and found in 23/24 thereby increasing the overall target for 23/24.

Criteria for determining the RAG status of savings

Assessment Criteria	Delivered	Low Risk	Medium Risk	High Risk
Savings RAG	Saving or income realised and evidence provided that costs have been reduced or income increased.	Saving or income detail documented and robust plan in place to deliver agreed targets, showing when and who is responsible. - and / or - Saving / income will be delivered within agreed timeframes.	Saving or income lacks some clarity and / or not detailed at an adequately granular level, or at risk, but agreed plan in place to resolve and being actively managed. - and / or - Some risk of not delivering saving within agreed timeframe, leading to cost of slippage.	Limited confidence in agreed saving / income being delivered - and / or - Saving / income unclear and / or not specified at adequate granular level. - and / or - Inadequate plan / no plan agreed. - and / or - <i>Saving not yet agreed by Directorate / Service Manager</i> - and / or - Major risk of not delivering saving / income within agreed timeframe, leading to cost of slippage.
Headcount Example	Officer has departed, budget has been reduced and posts have been deleted from the approved establishment.	Timescales and the specific posts to be vacated / deleted have been agreed.	Budget Manager has confirmed that posts (to agreed value and timing) will be vacated and deleted from budget.	Headcount saving proposed, but no clarity RE timescales/ posts.

Appendix 2: Education, Children & Young People Committee - 23/24 Savings Position as at Q2

Summary

This report updates Education, Children & Young People OSC on the progress in delivering the 23/24 savings agreed in the MTFs 2023/26 that fall under this committee portfolio.

An extensive review process has been undertaken between Q1 and Q2 and the position reported below is as at Q2 (End of September 23).

Background

There are eight specific areas of savings in 23/24 totalling £10.465m that fall under the committee portfolio and these are listed below on page 2.

Each area has been risk rated to indicate the current level of confidence in achieving each savings target either in-year during 23/24 or over the longer term MTFs period 2023/26. Page 4 of this appendix explains the risk rating criteria.

Quarter 2 Position

Of the Total £10.465m savings in this portfolio, £0.328m has been delivered (blue), £0.210m is green with low risk to delivery, £2.282m is Amber with medium risk to delivery and £7.645m is Black indicating that these savings are highly unlikely to be realised in 23/24 and alternative mitigation will need to be developed at least to balance the 23/24 budget.

The Amber items totalling £2.282m relate to vacancy management and additional income through increased fees & charges. Currently these savings are rated Amber denoting medium risk due to the lack of monitoring information available through Oracle. Work to deliver these savings is progressing but will need to be managed and monitored carefully throughout the year to ensure the full savings targets are achieved.

The £7.645m savings that will not be realised this year relate to three proposals totalling £6m from the BCT and £1.645m in relation to additional vacancy factor targets allocated to the Children's & Families directorate in error. A brief explanation of the reasons for why the savings cannot be realised in 23/24 are included in page 3 below. Work is underway to identify alternative in-year savings as part of the wider budget recovery work to mitigate the resulting budget gap and further updates on that work will be provided in due course.

Decisions will also need to be made around the longer term deliverability of these savings and where this is no longer possible they will need to be written off and longer term alternatives developed.

List of 23/24 Savings Projects & RAG status as at Q2

Directorate	OSC Portfolio	Summary Description	Delivery Risk In-Year 2023/24 (Saving) £'000	Delivery Risk Over MTFS (Saving) £'000
Children & Families	Education, Children and Young People OSC	Schools Balances Saving associated with the repayment of borrowing from schools reserves to fund the historic Children, Young People and Families business Transformation Programme. This repayment period is coming to an end and will generate savings of £272k in 2022/23.	(328)	(328)
		TOTAL	(328)	(328)
Children & Families	Education, Children and Young People OSC	Education and Skill Early Retirement Saving resulting from the reducing cost of pensions	(210)	(210)
		TOTAL	(210)	(210)
Children & Families	Education, Children and Young People OSC	3% Turnover factor (Vacancy management)	(276)	(276)
Children & Families	Education, Children and Young People OSC	Fees & Charges 5%	(2,006)	(2,006)
		TOTAL	(2,282)	(2,282)
BCT	Education, Children and Young People OSC	Children's Trust - Family and Friends Cars This opportunity focuses on Family & Friends placement finding for every child at risk of need for a care placement. The default position should be to implement an assessment based on legal premise that every child should be able to live with a family member if they cannot live with their parents (Children Act 1989). Placing children with family and friends' carers is believed to provide better outcome for children in care and also represents a cost effective option.	(2,000)	(2,000)
BCT	Education, Children and Young People OSC	Children's Trust - Stronger Families Programme This opportunity focuses on Family & Friends placement finding for every child at risk of need for a care placement. The default position should be to implement an assessment based on legal premise that every child should be able to live with a family member if they cannot live with their parents (Children Act 1989). Placing children with family and friends' carers is believed to provide better outcome for children in care and also represents a cost effective option.	(3,000)	(3,000)

BCT	Education, Children and Young People OSC	Children's Trust - Tackling Domestic Abuse to Support Families Introducing greater multi-disciplinary focus in the social work teams to enable greater risk management and support to children and families in the community. The Children's Trust has invested in deploying a small number of Domestic Abuse specialists to work alongside social workers and this is already showing positive benefit in terms of assessment, risk management and support, diverting families where appropriate from higher-tariff intervention (Child Protection, Care etc). Increased capacity will increase the reach and enable further diversion and prevention and enable the Trust to broaden the specialist advice to include Adult Mental Health and substance misuse.	(1,000)	(1,000)
Children & Families	Education, Children and Young People OSC	3% Turnover factor (Vacancy management)	(1,645)	(1,645)
		TOTAL	(7,645)	(7,645)

Narrative for 23/24 in-year Non-Delivery

Education, Children & Young People OSC

Dir	Summary Description	2023/24 (Saving) £'000	Explanation
BCT	Children's Trust - Family and Friends Cars	(2,000)	Investment to deliver this saving of 2 x £4m was not approved by Invest to Deliver Board.
BCT	Children's Trust - Stronger Families Programme	(3,000)	Investment to deliver this saving of 2 x £4m was not approved by Invest to Deliver Board.
BCT	Children's Trust - Tackling Domestic Abuse to Support Families	(1,000)	Investment to deliver this saving of 2 x £4m was not approved by Invest to Deliver Board.
C&F	3% Turnover factor (Vacancy management)	(1,645)	There was an error in the calculation whereby C&F already had a budgeted staff turnover percentage which was not accounted for when the original allocation was applied. This has been reported as part of the £87m gap.

Caveats:

- Many targets fit into multiple O&S portfolio, such as Fees & Charges, vacancy factor, thus for simplicity we have allocated to the O&S Committee where most of the target is more likely to fall.
- Some services also fall into more than one O&S portfolio – we have allocated the full target for these to the committee of higher alignment rather than split amounts.
- The total savings that need to be delivered in the 23/24 financial year may increase. Finance is currently working to close the 22/23 financial year accounts – this includes final assessment of savings delivery for the last financial year. Any further undelivered savings in 22/23 will need to be brought forward and found in 23/24 thereby increasing the overall target for 23/24.

Criteria for determining the RAG status of savings

Assessment Criteria	Delivered	Low Risk	Medium Risk	High Risk	Potential Write-Off
Savings RAG	Saving or income realised and evidence provided that costs have been reduced or income increased.	Saving or income detail documented and robust plan in place to deliver agreed targets, showing when and who is responsible. - and / or - Saving / income will be delivered within agreed timeframes.	Saving or income lacks some clarity and / or not detailed at an adequately granular level, or at risk, but agreed plan in place to resolve and being actively managed. - and / or - Some risk of not delivering saving within agreed timeframe, leading to cost of slippage.	Limited confidence in agreed saving / income being delivered - and / or - Saving / income unclear and / or not specified at adequate granular level. - and / or - Inadequate plan / no plan agreed. - and / or - <i>Saving not yet agreed by Directorate / Service Manager</i> - and / or - Major risk of not delivering saving / income within agreed timeframe, leading to cost of slippage.	Agreed saving cannot be delivered. - and / or - Alternative saving options to be identified. - and / or - CLT should consider writing off the agreed saving.
Headcount Example	Officer has departed, budget has been reduced and posts have been deleted from the approved establishment.	Timescales and the specific posts to be vacated / deleted have been agreed.	Budget Manager has confirmed that posts (to agreed value and timing) will be vacated and deleted from budget.	Headcount saving proposed, but no clarity RE timescales/ posts.	Headcount reduction is considered unachievable.

Birmingham City Council

City Council

25th September 2023



Subject: **Response to Section 114 Notice –
Financial Recovery Plan**

Report of: **Deborah Cadman, Chief Executive**

Report author: **Richard Brooks, Director of Strategy, Equality &
Partnerships**

Does the report contain confidential or exempt information? Yes No

1 Executive Summary

- 1.1 On 5th September, the Section 151 Officer (Interim Director of Finance) issued a notice under Section 114 of the Local Government Finance Act 1988. The Council must now agree and implement a Financial Recovery Plan which balances our expenditure with our income, and funds or finances our liabilities. Our work to address the situation must be urgent, will involve hard choices about what we deliver and how we operate, and will result in a smaller organisation.
- 1.2 This report sets out the elements of our Financial Recovery Plan and how these are being taken forward. Further reports and decisions will be required as the detail is developed, including on savings and a revised Emergency Budget for 2023/24; on asset disposals; on redesigning our organisation to achieve a sustainable Medium Term Financial Plan; and on generating additional income. The Council is likely to require Exceptional Financial Support from government, including agreement to

capitalise some of our revenue liabilities and repay the associated borrowing over a period of time.

- 1.3 Developing our full Financial Recovery Plan must proceed quickly. Given the scale of the challenge, implementation is likely to be lengthy and there will need to be an extended period of rigorous spending control and tight financial constraint. We must find the best possible ways of working more effectively with our partners and more efficiently as an organisation. Throughout this we must remain focused above all on our citizens, protecting our vulnerable residents and communities, and must always put their needs first.

2 Recommendations

2.1 Full Council is recommended to:

- I. Agree to accept the Section 114 notice issued on 5th September 2023 and the views set out within it, as described in section A below and Appendix 1.
- II. Agree to continue Spending Control measures under the direction of the Section 151 Officer until such date as the Council has passed an approved balanced Budget for 2024/25, as described in section B below and Appendix 2.
- III. Endorse the following activity now underway as part of our Financial Recovery Plan and described in section C below:
 - a. Measures to reduce spending and mitigate budget pressures for 2023/24, leading to a revised Emergency Budget for 2023/24.
 - b. Organisational Redesign work to reshape our services around citizens and within our available resources, to inform the 2024/25 Budget and deliver a balanced MTFP.
 - c. A Capital Strategy and Assets Review to identify options to raise funds and minimise borrowing costs.
 - d. A review of council-controlled companies and traded services to identify options to raise funds, reduce costs and reduce risk.
 - e. An Income Review to maximise sustainable income from all sources, including Business Rates, Council Tax, Grants and other income.

- f. Measures to achieve pay equity and stop the growth of our equal pay liability, including work to reduce the value of the potential liability and fund the actual liability.
 - g. Formal dialogue with DLUHC to explore options for Exceptional Financial Support, including potential capitalisation of revenue liabilities.
- IV. Agree to receive a further report and revised Emergency Budget for 2023/24 at an Extraordinary Council Meeting in late October; to note equalities considerations; to involve Overview & Scrutiny Committees; and to undertake public consultation and engagement as described below in section D below.

3 Background, considerations and proposals

A. Section 114 Notice

- 3.1 On 5th September, the Section 151 Officer (Interim Director of Finance) issued a notice under Section 114 of the Local Government Finance Act 1988. This was on the basis of a potential liability relating to Equal Pay claims in the region of £650m to £760m. The Council does not have sufficient resources to cover this potential liability.
- 3.2 In addition, the Council has also identified a budget shortfall for the current financial year (2023/24) of £87m, which is projected to rise to £165m in 2024/25; £177m in 2025/26, £172m in 2026/27 and £180m in 2027/28. These recurrent budget gaps highlight the seriousness of the underlying financial challenges faced by the council in addition to its potential Equal Pay liability.
- 3.3 Birmingham City Council set a budget for net expenditure of £925m in 2023/34. The scale of our financial challenge, and especially our potential Equal Pay liability, is large relative to the organisation's budget.
- 3.4 At the time the Section 114 notice was issued, the Council had moved into a negative General Fund position. In addition, the Council was not able to agree a solution for funding or financing its liabilities. For these reasons the Section 151 Officer was required in line with their statutory responsibilities to issue the Section 114 notice. **Members are recommended to consider the notice at Appendix 1 and accept it and the views expressed within it.**

- 3.5 Our work to address the situation must be urgent, will involve hard choices about what we deliver, how we operate, and the shape and size of the organisation. The Council acknowledges that the current situation will create uncertainty and in some cases disruption, and unreservedly apologises. It is committed to ensuring that citizens, partners and our own staff are regularly updated on the current situation and its future implications.
- 3.6 These serious challenges will not diminish the Council's ambition in supporting the upward trajectory of the City of Birmingham. Record levels of investment continue to flow into the city, and the Council will work with our partners to ensure this remains the case.
- 3.7 The Council also remains committed to working with key stakeholders in our diverse communities across the city, taking full account of equalities issues, and using all possible means to mitigate the impacts of the current cost of living crisis on our most vulnerable citizens.

What the Council needs to do, as a result of the Section 114 notice

- 3.8 Only approve new spending if it is essential during the period in which the restrictions brought in by the Section 114 notice remain in place – the spending controls that have been implemented are described in Section D.
- 3.9 Reduce spending to tackle the current budget gap in the 2023/24 financial year and the forecast budget gap for the 2024/25 financial year – the scope of this Financial Recovery Plan is described in Section E.
- 3.10 To set a balanced budget for the 2024/25 financial year (i.e. in which expenditure is covered by income), the Council must tackle the following financial pressures:
- a. Forecast financial pressures – as laid out in the Medium-Term Financial Plan update to Cabinet on 25th July 2023); and
 - b. Equal pay pressures – to quantify and cover the costs of the new Equal Pay claims.
- 3.11 These financial pressures must be tackled in time to enable Full Council to approve a balanced budget for 2024/25 by the end of February 2024.

B. Spending controls

3.12 Spending controls were already in place prior to the issuance of the Section 114 notice. Since the Notice was issued, these controls have been strengthened in line with the requirements of the law. A Spend Control Board is in place, chaired by the Section 151 Officer, and a rigorous spend control process has been established across the organisation. No new non-essential spending is allowed, and any new essential spending must follow the agreed approval process. All financial delegations have been removed and no new agreements or commitments for expenditure are allowed without the explicit agreement of the Section 151 Officer.

3.13 To be considered essential, spending must meet one of the following criteria:

- a. It delivers a clear and referenced statutory obligation.
- b. It delivers a cashable saving compared to a current spending within a quantified time period.
- c. It is already legally committed.
- d. It is required to safeguard vulnerable citizens.
- e. Or, it is fully funded by an external grant. If partially funded, it must be considered against a-d above.

3.14 The Spending Control Manual, which sets out the full process, is included as Appendix 2. The Manual includes examples and some of the main categories of essential expenditure (version as of 18.09.23). To ensure transparency, the decisions of the Spend Control Board are published on the Council's public website (CMIS).

3.15 Continued Spending Control is an important element of the Council's Financial Recovery Plan, as all new spending creates additional pressures that must be funded. For this reason, **Members are recommended to continue Spending Control measures under the direction of the Section 151 Officer until such date as the Council has passed an approved balanced budget for 2024/25.**

C. Financial Recovery Plan

3.16 The Council's Financial Recovery Plan will be overseen by a Financial Recovery Board working alongside the Spend Control Board. These will both report to a Strategic Team chaired by the Chief Executive, which will set direction, manage risk and ensure delivery. The Strategic Team will engage with both Elected Members and external partners of the Council. A Communication and Staff Engagement group supporting this structure will ensure that we communicate openly and transparently with all our key stakeholders in a consistent way.

Approach to in-year 2023/24 savings

3.17 The Cabinet received an update on the Council's Medium Term Financial Plan (MTFP) on 25th July 2023, including Quarter 1 of Financial Year 2023/24 (see Appendix 3). The report presented forecast budget pressures and inflation forecasts over the current financial year (2023/24) and the remaining financial years that make up the MTFP. It projected an in-year budget shortfall of £87m in 2023/24, rising to £165m in 2024/25, £177m in 2025/26, £172m in 2026/27 and £180m in 2027/28. These projected budget shortfalls did not reflect any additional costs relating to Equal Pay, including potential future liabilities or the cost of implementing any scheme of job evaluation. A budget of up to £20m for implementing a scheme of job evaluation was agreed by Cabinet on 25th July 2023 and will need to be reflected in an updated MTFP.

3.18 Many of the underlying forces driving these overspends are being felt by councils across the country. These include:

- a. **Rising demand and complexity pressures in essential services**, including provision of temporary accommodation; provision of social care and SEND services for children; and provision of adult social care. In total, demand and complexity growth adds £56m to the 2023/24 budget gap.
- b. **Rising costs of inflation**, primarily general inflation on costs of premises, transport, supplies and services costs. In total, inflation adds £21m to the 2023/24 budget gap.
- c. **Undelivered savings** which were agreed as part of the 2023/24 budget process but which are now considered to be at high risk. In total, savings considered to be at high risk add £33m to the 2023/24 budget gap.

d. **Additional costs of Oracle implementation** have added to the pressures on the Budget and MTFP.

3.19 Services are now developing options for the maximum deliverable 2023-24 cashable revenue savings or additional 2023/24 income in their areas of responsibility. These may be one-off for 2023/24 or recurrent, but the more that is recurrent the more we can close the future MTFP gap. Proposals will include delivery timescales, milestones and an assessment of impact on services and citizens. Each proposal will have an identified officer below Director level to lead the development and implementation of the proposal. Savings must impact the General Revenue Fund, but within this we are not excluding any budget or service up front.

3.20 On the basis of this work, a revised Emergency Budget for 2023/24 will be presented to a further Extraordinary City Council meeting in late October.

Organisational redesign for 2024/25 onwards

3.21 The Council's expenditure is a consequence of our organisational design. The way we organise our resources to deliver services determines our cost base. Our latest review of our medium-term financial plan – with large imbalances currently forecast for all four years of the plan – demonstrates that our organisational shape and size is now out of balance with our income. We must therefore redesign our organisation around citizen needs in a way that fits our future budgets and delivers a balanced MTFP. We must also meet our Best Value duty under the Local Government Act 1999. We must be able to show that we have arrangements in place to secure continuous improvement and value for money in how we carry out our work, including our use of resources (one of seven themes in the Draft Best Value framework¹).

3.22 There are some key opportunity areas and building blocks for creating a more economical, effective and efficient organisation through organisational redesign. These include:

- a. Leaner corporate services, based on successful implementation of Oracle and associated savings.

¹ [Best value standards and intervention draft guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

- b. Leaner service structures, cutting out duplication of functions and a focus on what value each role adds.
- c. Greater clarity about our service offers to citizens.
- d. More effective early intervention to reduce demand and cut costs of failure.
- e. More effective partnership with other public, private and community sector orgs, and a reduction in our own service provision.

3.23 In reviewing the design of the organisation, we will apply some key principles:

- a. Use a Values Framework that puts citizens first to guide decisions.
- b. Use evidence about citizen needs, value for money and impact.
- c. Develop a service offer and organisational design that fits the MTFP.
- d. Plan for staff reductions and support our staff through the process.
- e. Avoid crude ring-fencing and salami slicing of budgets.

3.24 Services that are considered statutory, and spending which is considered essential, are within the scope of this work. Even where we are meeting statutory duties, we need to consider how best to do this in the interests of citizens, in the most efficient and effective way. We will put citizen needs at the heart of this process and design our organisation around them, not simply seek to make existing services more efficient. In some cases this is likely to involve transfers of services and assets to other organisations.

3.25 We recognise that this process will result in a smaller organisation that employs fewer people. We have already launched a Mutually Agreed Resignation Scheme (MARS) which allows staff to express an interest in voluntarily resigning and, if this is agreed, receiving a non-negotiable exit payment. In addition, we are identifying a range of potential savings from the use of consultancy, interim and agency staff, which will inform the revised 2023/24 Budget as well as longer term organisational design thinking. To deliver best value for our citizens it is vital that we keep the best people in the organisation and attract the best talent to the Council.

3.26 Organisational Redesign work will be taken forward through the Financial Recovery Board, drawing on all other elements of the wider Financial Recovery Plan outlined in this report. The results will inform the development of a balanced Budget for 2024/25 and the Medium-Term Financial Plan.

Limitation and funding of Equal Pay potential liability

- 3.27 Our 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. The potential liability of £650-760m is calculated as at 31st March 2025. 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 Equality Act 2010. Once we are paying all our people fairly and in accordance with the law, the liability stops accruing.
- 3.28 On 1st September 2023 the Council Business Management Committee met to consider options for 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. This is the date at which the £650-760m potential liability is assumed to end. A new PES removes job inequality and means, from that date, employees should not have a further Equal Pay claim. If our implementation of the new pay structure is delayed beyond then, the potential liability will continue to increase.
- 3.29 There have been extensive discussions between the recognised trade unions and the Council with the intention of ensuring that employee interests are properly represented and protected through this process. It is strongly in the interests of all parties to conclude the job evaluation study and implement the new pay structure without delay, and for the whole process to be robust and fair. Delays will increase financial strain for the Council, which may result in the need for further spending reductions. If the process is not robust and fair, it will be open to challenge and may generate future claims.
- 3.30 Whilst the potential liability has been estimated at £650-760m, we do not yet know with certainty the actual amount the Council will pay to settle claims. An important next stage of work will involve examining whether and how we can reduce the overall liability, for example by agreeing to pay some claims early.
- 3.31 Equal Pay claims are a revenue liability, and normally it is not allowed to use capital receipts or borrowing to fund revenue costs. Given the size of the potential liability relative to our net expenditure budget of £925m in 2023/24, we will need to seek permission from the Department for Levelling Up, Housing and Communities

(DLUHC) to capitalise some or all of the costs. See sub-section below on Exceptional Financial Support arrangements.

Asset sales and capital strategy

3.32 The Council holds a large portfolio of assets, including extensive land and buildings around the city; ownership or part ownership of companies; and financial assets. The Council holds a large portfolio of liabilities including Gross Loan Debt of £3.3bn at 31st March 2023, and budgeted debt servicing costs are £239m for 2023/24.

3.33 A Capital Strategy and Assets Review will develop options for generating capital receipts and to reduce borrowing costs. This will involve reviewing:

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

3.34 Capital receipts will be necessary to help fund the potential Equal Pay liability (on the assumption that the liability can be fully or partly capitalised). They will also reduce the need for further borrowing and will therefore reduce the strain of debt on the Council's revenue budgets, allowing us to protect services for our citizens.

Maximising income

3.35 Alongside reducing expenditure and sales of assets, the Council must consider options for maximising income. Our main sources of income are Business Rates, Council Tax, grants and other income including fees and charges. We will need to consider a wide range of options to balance income against expenditure over the period of Medium-Term Financial Plan.

Requirement for Exceptional Financial Support

3.36 Since 2020, the government has agreed to provide a small number of local authorities with support via the Exceptional Financial Support framework, following

requests from these councils for assistance with financial pressures that they considered unmanageable within the normal local government financial arrangements. Such support comes with significant conditions, including:

- a. An external assurance review focused on the council's financial position, and its ability to meet its budget gap without additional borrowing, for example through additional cost reductions.
- b. An effective response by the council to any recommendations from the external review, and regular progress reports (to DLUHC).
- c. An assumption that the council meets its own cost of exceptional financial support over time.

3.37 It is important to recognise that Exceptional Financial Support is almost never provided in the form of grant, but as permission to borrow or to apply capital receipts from asset sales. If Exceptional Financial Support is agreed, this is usually via a Capitalisation Directive from the Secretary of State. Any borrowing will then create future costs of servicing and paying off the debt.

3.38 The Council maintains regular communication with the Department for Levelling Up, Housing and Communities, and has been in discussions about a range of financial matters over recent months. This has included open and transparent discussions about our potential Equal Pay liabilities and wider financial pressures.

3.39 The Council has not up to this point formally sought Exceptional Financial Support. However, given the scale of the Equal Pay liabilities, such support is likely to be required, and this will require agreement with the Secretary of State for the Department for Levelling Up (DLUHC). Agreement of Exceptional Financial Support (EFS; likely a loan from DLUHC) is subject to negotiations. To enable the Council to set a balanced budget for 2024/25, such agreement will need to be in place (at least in principle) by the end of February 2024.

3.40 To get this agreement by end of February 2024, the Council will need to:

- a. Apply for EFS from DLUHC – including final confirmation of the Equal Pay liability, based on latest estimates.
- b. Carry out the work required to obtain an EFS – this will include review of savings, additional income (including potential additional Council Tax increases) and asset sales – to demonstrate to DLUHC that any funding

request would come after BCC had made tough choices and used existing assets.

- c. DLUHC Officials have confirmed that any EFS is only normally offered “for the residual funding amount” once a council has demonstrated a plan to reduce the amount required through savings proposals, asset sales and other activities as part of its Financial Recovery Plan.

D. Engagement with Overview & Scrutiny, public consultation and engagement

3.41 Overview and Scrutiny (O&S) is a key element of good governance and central to achieving best value for citizens. The Council’s O&S Committees have already held a round of meetings about the Section 114 notice and its implications, and have challenged specific factors contributing to our budget deficit including the non-delivery of savings. Going forward, O&S Committees will continue to have a key role both before and after decision making, challenging and improving proposals, and providing additional accountability for the effective implementation of agreed plans.

3.42 As we further develop and implement our Financial Recovery Plan, we will engage with residents and consult on how we will meet our Best Value Duty. Key opportunities for public engagement at the level of the whole local authority include setting our budgets and the medium-term financial plan. Further details of the Financial Recovery Plan will need to be developed by the end of October, to enable sufficient review and consultation prior to a draft budget for 2024/25 being completed, in time for formal consultation. In addition, there will be individual services where citizen engagement will be important as part of co-designing and changing what we do and how we do it, to best meet our residents’ needs within our available resources.

4 Legal Implications

4.1 Section 114 (3) requires that: “The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.” The process for issuing a Section 114 report and the effect of it are set out in various sections under the 1988 Act. Subsection 3(A) requires the chief

finance officer to consult, so far as reasonably practicable, the Head of Paid service and the Monitoring Officer.

- 4.2 Section 115 of the 1988 Act requires Full Council to consider and decide on the report made under Section 114 within 21 days beginning on the day the report is issued. Full Council must consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- 4.3 Section 115 (6) states that pending consideration of the report by Full Council, there is a prohibition period which runs from the date the report is made to the date of the Full Council meeting. During this period, the Council must not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority unless the chief finance officer of the authority authorises it to do so. Section 115(6A) states the chief finance officer may only give authority for the purposes of subsection (6) if he considers that the agreement concerned is likely to:
- a. prevent the situation that led him to make the report from getting worse,
 - b. improve the situation, or
 - c. prevent the situation from recurring.
- 4.4 Section 116 requires the Council to notify its external auditors of the report and the time, date and place of the full Council meeting. The external auditors also need to be informed of the outcome of the meeting as soon as practicable. The external auditors have been kept informed of the emerging financial position and the planned work. The external auditors will need to consider the implications of this report on their statutory functions and the implications for their opinion on the 2019/20 and subsequent accounts which remain unaudited at the date of this report.
- 4.5 The Council's legal duties around budget setting are set out in Section 31A of the Local Government Finance Act 1992, which states:
- a. In relation to each financial year a billing authority in England must make the calculations required by this section.
 - b. The authority must calculate the aggregate of:
 - i. the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account, other than a BID Revenue Account, for the year in accordance with proper practices.

- ii. such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices.
- iii. the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure.
- iv. such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.
- v. any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with regulations under section 97(2B) of the 1988 Act,
- vi. any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with section 97(4) of the 1988 Act; and
- vii. any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction under section 98(5) of the 1988 Act and charged to a revenue account for the year.

5 Financial Implications

5.1 Financial issues are the subject of this report and are addressed in the body text.

6 Public Sector Equality Duty

6.1 The Council is strongly committed to equality and has statutory responsibilities to comply with both the Public Sector Equality Duty and the Equality Act 2010. These duties are concurrent with the duties imposed by the Section 114 notice, and we will continue to consider equalities implications in all relevant decision making, including decisions of the Spend Control Board. All spending control decisions are supported by information about the equalities implications of proceeding or not proceeding with the spending.

6.2 Birmingham is a superdiverse city with a high level of poverty and deprivation, and poor outcomes for key measures such as health and employment are associated

with specific protected characteristics. We will use the information now available through the City Observatory to inform decision making through our Financial Recovery Plan, including by providing evidence and insight about the pattern of need to allow more accurate targeting of our resources.

7 Background Papers / Appendices

Appendix 1: Section 114 Notice issued 5th September 2023

Appendix 2: Section 114 Spending Control Manual

Appendix 3: Medium Term Financial Plan (MTFP) Refresh – update to Cabinet at Quarter 1 of the 2023/24 Financial Year (25th July 2023)

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), Birmingham City Council
Date of Report: 5th September 2023

Purpose of Report

1. Members of the Council are asked to consider this report by the Section 151 Officer (the Chief Finance Officer). The report is made under section 114 (3) of the Local Government Act 1988 because the Section 151 Officer is of the opinion that:
 - a. The Council is currently in a negative General Fund position. That is because of the cost of providing for Equal Pay claims, that the Council is now legally obligated to recognise, will result in exceeding the financial resources available to the Council. This means that spend due within that period exceeded the financial resources available to the Council in that same period.
 - b. The Council has insufficient resources to meet that expenditure and the Council is not currently able to agree a solution that will allow suitable funding or financing to be obtained for this liability.
2. This report is being issued now because of the following individual factors:
 - a. Correspondence from External Audit on 1st September 2023 which raises concerns around the provisions for Equal Pay in prior year accounts, 2020/21 and 2021/22, being materially understated which means the Council would have exhausted its General Fund balance on an accounting basis.
 - b. Further confirmation of the historic value of the potential Equal Pay liability impacting prior years, which is becoming more evident that it is unaffordable for the council based on existing available reserves. Since the announcement of the Equal Pay liability we have received additional correspondence to put the Council on notice of further litigation from recognised Trade Unions and claimant lawyers.
 - c. Correspondence from External Audit on 1st September 2023 also enquires around the likelihood of the Council being able to generate savings, additional revenue income, and/or capital receipts to mitigate the financial challenges.
 - d. A projected deficit of £87m for the 2023/24 financial year, for which the Council does not have sufficient reserves based on the Equal Pay liability above, which is forecast to grow in the 2024/25 financial year.
 - e. Concerns over the speed and effectiveness of the mitigations which have been put in place to address the in-year budget challenges, and the ability of the Council to address our financial position. We must now make challenging financial decisions and stop non-essential spending.
 - f. Extensive discussions with External Auditors, regulatory stakeholders, and leading Kings Counsel who have confirmed our assessment of our financial position (i.e. liabilities exceeding assets) and statutory position (i.e. the requirement to issue a S114). This advice has confirmed the points raised above and the case for issuing a S114 notice.
3. As a result the Council is unable to finalise the provisions for Equal Pay set out in the 2020/21 and 2021/22 draft accounts, nor can I write the supporting going concern statements for these financial years, nor can I make a Section 25 statement in the Local Government Act 2003, nor

can I approve accounts for three financial years (2020/21, 2021/22, and 2022/23). Following extensive discussions with External Auditors and other regulatory stakeholders over the last few months, I have come to this conclusion.

4. The Section 114 Notice is issued following statutory consultation with both the Chief Executive (Head of Paid Service) and the Monitoring Officer. At the date of this report that consultation has taken place. Following the issuance of the Section 114 Notice the Council has 21 days to hold a meeting of Full Council to consider the report from the Section 151 Officer and decide how it will respond.
5. The purpose of this Section 114 report is to make it clear to Members of the Council that immediate steps must be taken to mitigate the financial consequences of Equal Pay claims. This means agreeing a plan which provides a route to bringing the General Fund back to a positive position and assurance that this will be successfully delivered. This should include:
 - a. An appropriate savings plan;
 - b. Full assessment of the capital programme (including delaying existing projects and reviewing assets for sale); and,
 - c. Engagement with Central Government via the Department for Levelling Up, Housing and Communities (DLUHC), resulting in a formal request for Exceptional Financial Support (EFS).

Recommendations

6. That Elected Members of Birmingham City Council must consider this report by Fiona Greenway, Interim Director of Finance (Section 151 Officer/ Chief Finance Officer) issued under Section 114 (3) of the Local Government Finance Act 1988.
7. That this report must be considered at an extraordinary meeting of Full Council, held no later than the end of 21 days (the maximum allowable period set out within the Local Government Finance Act 1988) from the date of issue of this report.
8. That Birmingham City Council (by which this means a meeting of Full Council) must decide whether it agrees or disagrees with the views documented within this report and outline what action it proposes to take because of this report.

Summary of key issues

9. This report is being issued now for the following reasons:
 - a. Officers informed Cabinet on 28 June 2023 that the potential cost of new Equal Pay claims (brought about as a result of existing claims of job enrichment and evidence of task and finish practices taking place in some teams) would be between £650 million and £760 million. This advice made clear that the Council does not have sufficient resources to cover this potential liability. It is likely that the Council will need to recognise this liability in the current or previous financial years which will result in a negative General fund balance. This is an unsustainable financial position for the Council to be in.

- b. In Q1 of FY23/24, the Council forecasted an overspend of £87m for the financial year, which was reported to Cabinet on 25th July 2023 and sets the context of the gravity and urgency of the Council's financial challenge. In the interim period a series of mandatory 'S114 like' spending controls have been in place across the Council to restrict exceptional spend. Progress made against the projected overspend has started, however pace of delivery needs to increase.
- c. Further, work has been ongoing on developing a savings programme to address the in-year budget gap for FY23/24, which is an issue to the Council regardless of the potential Equal Pay liability.
- d. The council's external auditor has now indicated that it expects the potential EP liability to be recognised in 2020/21 and 21/22. Based on current estimates it is expected there will be a negative General Fund balance. As such the Council's expenditure is now greater than the resources available to it (including reserves).

Consequences of a Section 114 Notice

10. The issuing of the Section 114 report has the following impact on the work of the Council:

- a. Elected Members must by law agree to cease all non-essential expenditure and reduce the Council's operational and service delivery costs immediately.
- b. Financial Controls will be exercised by a S151 Spend Control Board. Based on this S114 report, from this date this S151 Spend Control Board will be chaired by the Section 151 Officer. The controls will mean that from this date:
 - i. 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.
 - ii. 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).
 - iii. The controls outlined in (i) and (ii) will apply to all services being delivered through companies controlled by the Council, or where the Council supplies funding to companies that are jointly or partly owned by the Council.
 - iv. The Financial Controls apply to all Council services, including statutory services, services delivered through controlled companies and connected entities. A framework will be set in place to ensure this happens whilst ensuring that key services to children and vulnerable people are not affected because of these controls.
 - v. Spending Controls will now remain in place for the foreseeable future, with a Financial Recovery Plan reported to Full Council on a quarterly basis moving

forwards. This is not a plan that is developed in isolation by Finance, but a plan that is created and owned by all Directorates and Members.

- vi. Due to the significant potential Equal Pay liability, and no route for financing or limiting this liability, the Council's Capital Financing Requirement will need to be reviewed and re-calculated as a potential route to financing the liability. This means that no further loans will be sought from the Public Works Loan Board (PWLB) unless these are to be applied for capital purposes for which the Council is in contract, for the replacement of existing maturing loans, the maintenance of working capital, or other specified matters agreed by the PWLB in conjunction with DLUHC and the Section 151 Officer.
 - vii. Financial controls will generally have an adverse impact on the profit and loss accounts of various accounts and entities in receipt of support from the Council. The boards of these companies may look to the Council to make up for the lost funding from revenue resources. However, based on the current financial position of the Council, and the issuance of a S114 notice, the Council is unlikely to be able to consider provision of such support.
 - viii. If Financial Controls are not adhered to, or do not achieve the required outcomes, a further S114 notice will need to be issued.
- c. The Council has already implemented Financial Controls on spending – these are detailed in the report to Cabinet on 25 July of this year (entitled Medium Term Financial Plan (MTFP) Refresh – update to Cabinet at Quarter 1 of the 2023/24 Financial Year). This report extends these controls, such that, **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.**
 - d. Depending on the outcome of the Full Council meeting, these Financial Controls may need to remain in place until a solution is found to fund the costs of these Equal Pay claims. This is because the Council will lack the resources to maintain spending in all areas moving forward.

Financial Situation

- 11. As announced on 28 June 2023, following refreshed analysis it is estimated that as of the 31 March 2023 the Council's current potential Equal Pay liability is in the region of £650-760m. Detailed calculations are now being finalised for inclusion within the accounts for the 2020/21, 2021/22 and 2022/23 financial years, but they are material enough to warrant disclosure now.
- 12. Officers have begun consultation with the Department for Levelling Up, Housing and Communities (DLUHC). Potential support could enable the Council to make local arrangements to finance the cost, but would still require the Council to set a balanced budget and therefore make significant additional savings.
- 13. To enable the Council to cover the costs of any future loans, budget savings would need to be made. To address this challenge the Council has:
 - a. **Implemented Mandatory Spending Controls** for all non-essential expenditure. Mandatory spending controls mean that no new agreements or commitments for all

expenditure (including revenue, workforce, and capital) can be made unless specific criteria are met. Individual Directorate arrangements have acted as a first line of defence for the application of criteria, with a Finance Governance Board (chaired by the Leader with a panel of Members, including Independent Financial Advisor) in place to discuss exceptional spend decisions above £200k. This has now been in place since July, and we have seen additional control over exceptional spend. However, there is still a large value of spend being incurred across the Council in relation to the delivery of services against the criteria outlined as allowable expenditure.

- b. **Developed a Robust Budget Savings and Recovery Plan** which is a multi-workstream plan to address both in-year financial challenges and the longer-term transformational changes required to reduce the cost base for delivery of services across the Council. This plan has a number of identified workstreams and Directors have commenced developing saving opportunities with their teams. However, the savings identified will not be sufficient to address the significant Equal Pay liability.

- 14. This action has not yet been sufficient enough to mitigate Equal Pay pressures or tackle a range of existing budget pressures. These budget pressures are detailed in the report to Cabinet on 25 July of this year (entitled Medium Term Financial Plan (MTFP) Refresh – update to Cabinet at Quarter 1 of the 2023/24 Financial Year).

Legal Framework

- 15. Section 114 (3) requires that: “The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.”
- 16. The process for issuing a Section 114 report and the effect of it are set out in various sections under the 1988 Act. Subsection 3(A) requires the chief finance officer to consult, so far as reasonably practicable, the Head of Paid service and the Monitoring Officer. Both of these statutory officers have been fully briefed and consulted in the preparation of this report.
- 17. Section 115 of the 1988 Act requires Full Council to consider and decide on the report made under Section 114 within 21 days beginning on the day the report is issued. Full Council must consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- 18. Section 115 (6) states that pending consideration of the report by Full Council, there is a prohibition period which runs from the date the report is made to the date of the Full Council meeting. During this period, the Council must not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority unless the chief finance officer of the authority authorises it to do so.
- 19. Subsection (6A) states the chief finance officer may only give authority for the purposes of subsection (6) if he considers that the agreement concerned is likely to: a. prevent the situation that led him to make the report from getting worse, b. improve the situation, or c. prevent the situation from recurring.
- 20. Subsection (6B) requires that authority for the purposes of subsection (6) shall:

- a. be in writing,
 - b. identify the ground on which it is given, and
 - c. explain the chief finance officer's reasons for thinking that the ground applies.
21. Subsection (8) states that if subsection (6) is not complied with, the Council shall be taken not to have had power to enter into the agreement (notwithstanding any option to do so under contract or otherwise). Therefore, the Council's actions will be deemed unlawful.
22. Section 116 requires the Council to notify its external auditors of the report and the time, date and place of the full Council meeting. The external auditors also need to be informed of the outcome of the meeting as soon as practicable. The external auditors have been kept informed of the emerging financial position and the planned work. The external auditors will need to consider the implications of this report on their statutory functions and the implications for their opinion on the 2019/20 and subsequent accounts which remain unaudited at the date of this report.
23. The Council's legal duties around budget setting are set out in Section 31A of the Local Government Finance Act 1992, which states:
- a. In relation to each financial year a billing authority in England must make the calculations required by this section.
 - b. The authority must calculate the aggregate of:
 - i. the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account, other than a BID Revenue Account, for the year in accordance with proper practices.
 - ii. such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices.
 - iii. the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure.
 - iv. such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.
 - v. any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with regulations under section 97(2B) of the 1988 Act,
 - vi. any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with section 97(4) of the 1988 Act; and
 - vii. any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction under section 98(5) of the 1988 Act and charged to a revenue account for the year.

Next Steps

24. The requirement of this S114 (3) notice is that an Extraordinary Meeting of the Full Council must happen within 21 days at which the Council must agree a response that addresses the issues outlined within this report. Full Council must consider whether it agrees or disagrees with the views contained within this report and determine action (if any) it proposed to take as a consequence. A failure to do so within the 21 days will lead to the issuance of a further s114 report.

25. As mentioned above, the Council needs to resolve funding the existing and accruing Equal Pay liability as well as address the Medium-Term Financial Plan Budget Gap for 2023/24 onwards.
26. The Financial Controls referred to in this report will operate from the date of this report. Elected Members must by law agree to cease all non-essential expenditure and reduce the Council's operational and service delivery costs immediately.
27. The timeline for activity over the coming months is as follows:
 - a. 5th September 2023 – Issue S114 Notice
 - b. Extraordinary Full Council Meeting by 26th September 2023 latest
 - c. Statutory deadline for Full Council to agree a response to this report by 26th September 2023 latest
28. Negotiations with DLUHC will continue over the coming months to determine an approach to financing the liability.

Fiona Greenway CPFA

Interim Director of Finance (Section 151 Officer), Birmingham City Council

5th September 2023

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:

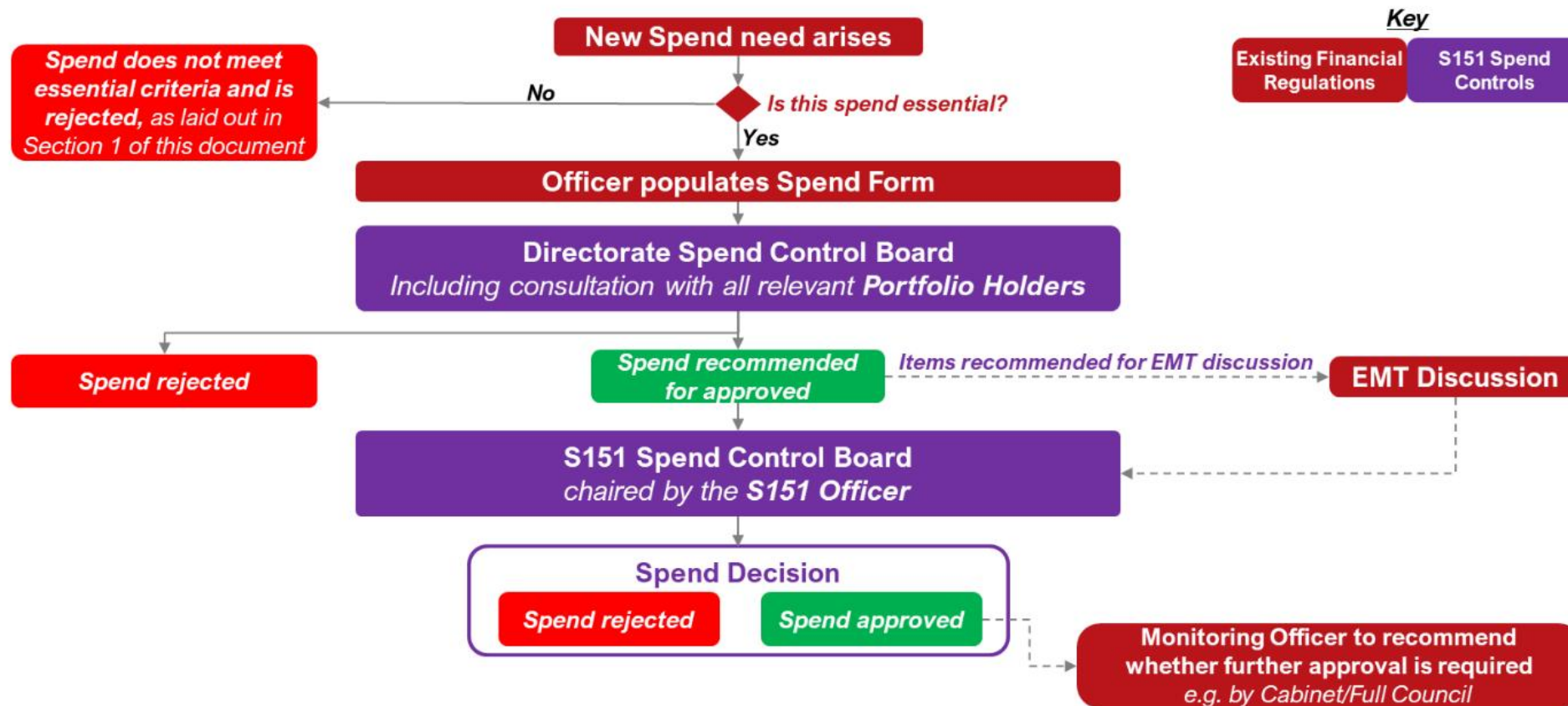
- 2.3.1. Membership:
 - Section 151 Officer
 - Head of Paid Service
 - Deputy Section 151 Officer
 - Assistant Director, Finance & Deputy Section 151 Officer
 - Monitoring Officer
 - Assistant Director, Finance Performance & Insight
 - Assistant Director, Procurement
 - Interim Director of HR
 - Secretariat 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.

Birmingham City Council – Section 114 Spend Control Manual

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
- A library service

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
- Library Buildings

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.

Birmingham City Council – Section 114 Spend Control Manual

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.

Birmingham City Council

Report to Cabinet

25th July 2023



Subject: Medium Term Financial Plan (MTFP) Refresh – update to Cabinet at Quarter 1 of the 2023/24 Financial Year

Report of: Fiona Greenway, Interim Director of Finance & Section 151 Officer

Relevant Cabinet Member: Councillor John Cotton, Leader
Councillor Sharon Thompson, Deputy Leader
Councillor Brigid Jones, Cabinet Member for Finance and Resources

Relevant O &S Chair(s): Councillor Jack Deakin, Finance and Resources Overview & Scrutiny Committee

Report author: Peter Sebastian
Head of Financial Planning (interim)
Email Address: peter.sebastian@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 011384/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1 Executive Summary

- 1.1 As part of the Council's approach to financial management, the Council provides updated forecasts across the Medium Term Financial Plan (MTFP) period to Cabinet three times a year – at Quarter One (this report); Quarter Two (in October) and at

Quarter Three (December/January, in the run up to formal budget-setting for the next financial year).

- 1.2 This report shows forecast budget pressures and inflation forecasts over the current financial year (2023/24) and the remaining financial years that make up the MTFP. It is projected that there is in-year budget shortfall of £87.4m in 2023/24, rising to £164.8m in 2024/25, reflecting the extent to which the costs of current service provision exceed the funding levels. These projected budget shortfalls do not reflect any additional costs relating to Equal Pay, including potential future liabilities as well as the cost of implementing any scheme of job evaluation.
- 1.3 Across the country, many councils are facing significant and similar budget pressures – mainly due to increased demand for services from residents, higher than forecast inflation and difficulty with delivering existing savings programmes in this current economic climate. Therefore, the current MTFP forecasts for Birmingham City Council (BCC), while serious and requiring immediate attention, are not unique.
- 1.4 What is unique, in the BCC context, is the significant and additional forecast liability for Equal Pay claims of between £650m and £760m. The Council has engaged with its External Auditors and is having ongoing discussions with the Department of Levelling-Up, Housing and Communities (DLUHC).
- 1.5 It is for this reason that this report supports the implementation of mandatory spending controls to give the Council time to further review financial pressures (including finalising the details of the Equal Pay liability) and mitigations.
- 1.6 In addition, this report recommends the implementation of a Robust Budget Savings & Recovery Plan to tackle existing budget pressures and the financial implications of the additional Equal Pay liability. This Plan sets out a series of activities that need to be delivered over the next five years to achieve financial stability within the Council, reviewing all aspects of BCC's financial management systems, processes and capability. This Plan will also seek to tackle financial pressures and rebuild corporate reserves over the medium term.

2 Recommendations

Cabinet is recommended to:

- 2.1 Note the MTFP budget pressures (inflation, savings, directorate pressures, Collection Fund update), as well as the Quarter One 2023/24 position (which provides a high-level assessment of a budget gap for this financial year) (**Section 5 of this report**);
- 2.2 Note the wider financial position of the Council, in terms of capital expenditure and available corporate resources, which demonstrate that the additional Equal Pay liability, alongside MTFP budget pressures, cannot be found within existing BCC resources (**Section 5**);

- 2.3 Note the work carried out to date to assess the potential scale of additional Equal Pay liabilities (**Section 4**);
- 2.4 Endorse the mandatory spending controls which came into effect from 5 July 2023 (**Section 6**);
- 2.5 Endorse the robust Budget Savings & Recovery Plan – to close the forecast budget gaps in the current financial year and future financial years– as per the timetable included in this report (**Section 6**); and
- 2.6 Agree the 2024/25 budget-setting timetable, including the dates for the implementation of the recommendations in this report (**Section 7**)

3 Background

- 3.1 Birmingham City Council (BCC) approved its 2023/24 annual budget and Medium Term Financial Plan (MTFP) on 28 February 2023 as part of the annual budget setting cycle. Budgets were balanced up to 2023/24 (and across the MTFP period) on the assumption that:
 - a. £97.1m of savings were to be delivered over the next four years to 2026/27 (assuming no savings are brought forward undelivered from 2022/23);
 - b. Budget managers and budget holders are diligent in working within budgetary envelopes; and
 - c. Council tax was increased by 4.99% (including 2% for social care) with income levels largely returning to pre-Covid levels.
- 3.2 This paper:
 - a. Updates the assumptions (particularly inflation) that were used to set budgets for the 2023/24 financial year and provide an initial high-level

forecast (as at Period 3; Quarter One, April – June 2023) for the 2023/24 financial year;

- b. Updates the budget assessments over the MTFP period (from 2024/25 to 2027/28) based on the most recent forecasts (particularly with regard to inflation);
- c. Provides an update on Directorate spending to identify recent spending pressures, as well as progress against the agreed savings programme within the 2023/24 Financial Plan;
- d. Provides an outline of the Robust Budget Savings & Recovery Plan, including proposals for spending controls and key workstreams;
- e. Outlines the timetable and next steps required for the budget-setting process for the 2024/25 financial year, including budget consultation and engagement;
- f. Outlines the scale of the Council's existing capital programme – including a summary of existing borrowing (a full Capital and Treasury Management will come to Cabinet later this year); and
- g. Provides an initial assessment of potentially available corporate reserves that could be used to cover potential upcoming financial liabilities. It should be noted that these reserves are currently an estimate; a full review of reserves will be completed as part of the 2022/23 outturn report that will come to Cabinet in Autumn 2023.

3.3 This paper does not cover ringfenced revenue funding in the Housing Revenue Account (HRA) or the Dedicated Schools Grant (DSG) – it solely focuses on General Fund revenue budgets. The HRA Business Plan is expected to come to Cabinet in September 2023 for review; the DSG budget position is covered as part of the usually cycle of quarterly reporting to Cabinet.

4 National & Local Financial Context

4.1 Cabinet should note that there are a significant range of challenges that this Authority, and all public bodies, are currently facing. Research by the Special Interest Group of Municipal Authorities (SIGOMA) which represents 47 urban authorities, published on 19 June 2023, found that 55% of respondents were unsure whether they would be able to meet the budgets that were approved in March 2023 for the 2023/24 financial year. Based on the updated MTFP forecasts in Section Four of this report, without immediate and urgent action, BCC is in a similar position. The macroeconomic factors that are causing financial pressures include:

- a. **The impact of inflation** – compared to February 2023 when the budget for the 2023/24 financial year was agreed, inflation looks set to be higher than forecast. This manifests itself in a number of ways, from increased pay and materials budgets to rising energy costs; for example, the 2023/24 Financial Plan included an increased budget allocation of £18 million for the Council's energy bills and a £6 million increase for our schools. Further details on the impact of inflation are detailed in Section Five of this report;
- b. **Impact of Covid** – this continues to impact in a number of ways, from increased support needs for our residents (resulting in additional pressures on public services) to the income collection, as can be seen in the movement in the Collection Fund (most notably for business rates) that is described in Section Five;
- c. **Uncertain central government funding** – the Council's net revenue budget is funded from four main sources: Business Rates, Council Tax, government grants and fees & charges. (Where necessary, corporate reserves may also be used to cover specific expenditure or cover budget shortfalls.) Fees & charges are dependent on activity levels and residents' ability to pay. While Council Tax and Business Rates are also dependent on ratepayers' ability to pay, there are a number of uncertainties over these funding streams in future. Central Government has provided some clarity for the 2024/25 financial year only – namely that current Council Tax threshold levels (i.e., the amount that rates can be increased without the need for a referendum) will remain at 3% for Council tax and 2% for the Adult Social Care precept. Future reforms to the Business Rates system are currently delayed until 2025/26 at the earliest but may have a significant impact on BCC.

4.2 At present, there are also a number of challenges that are specific to BCC:

- a. Oracle finance system implementation – as approved by Cabinet on 27 June, this MTFP refresh includes £33.7m of costs from 2023/24 onwards to fix urgent issues, and to develop a plan that will deliver the Council's vision for an optimised Oracle. The total cost is £46.5m, including £12.8m of costs that had related to the 2022/23 financial year. In addition, the time taken to fix this Oracle system has delayed the completion of the 2022/23 outturn report and final reserves position, which means that this report cannot fully consider the impact on reserves of future cost pressures. This will be done at the Quarter Two MTFP refresh report due to come to Cabinet in October.
- b. Equal Pay challenges – the additional forecast Equal Pay liability is a key driver for the recommendations in this report. As noted above, initial estimates of the potential additional Equal Pay liability are between £650m and £760m.

4.3 Before the financial implications of this Equal Pay liability can be fully quantified for the MTFP, a more detailed calculation, using individual time-series data, to assess the full extent of the Equal Pay liability is being carried out. The results of this work are expected in August.

- 4.4 The overall scale of the liability needs to be quantified to assess total costs and enable BCC to explore all options for payment. A provision for Equal Pay liability will also need to be made within all accounts that are not currently signed off by auditors – this includes the 2020/21, 2021/22 and 2022/23 financial years – to demonstrate the scale of the issue at that point in time. This provision cannot be made until a financial solution is agreed with national government and stakeholders. At that point, the accounts can be reviewed and signed off by auditors.

5 MTFP – updated forecasts

- 5.1 The key movements from the MTFP position since BCC approved the budget for 2023/24 (and forecasts for future years) in February 2023 are shown in the table below. The projections identify a significant in-year budget shortfall of £87.4m in 2023/24, rising to £164.8m in 24/25, reflecting the extent to which the costs of current service provision exceed the funding levels:

	2023/24	2024/25	2025/26	2026/27	2027/28
	£'000	£'000	£'000	£'000	£'000
Total Net Expenditure (as per 2023/24 Financial Plan)	925,078	1,018,314	1,035,612	1,049,934	1,083,206
Total Resources (as per 2023/24 Financial Plan)	(925,078)	(1,018,314)	(1,035,612)	(1,049,934)	(1,079,093)
Budget gap as (as per 2023/24 Financial Plan)	-	-	-	-	4,113
Expenditure					
Budget Pressures					
Staffing	3,844	3,973	4,070	4,170	4,273
Demand/Complexity Growth	55,586	37,736	44,027	42,240	39,840
Statutory Requirement	-	-	-	-	-
Borrowing costs, investment etc	-	-	-	-	-
Budget Pressures Subtotal	59,430	41,709	48,097	46,410	44,113
Corporately Managed Budgets	(4,240)	(4,097)	(3,935)	(4,154)	(5,461)
Pay Inflation	-	-	(2,532)	(5,178)	(7,943)
Contract Inflation	1,042	27,346	51,904	55,348	58,666
Other Inflation	19,875	28,352	35,367	42,593	50,063
Fees and Charges Inflation	-	(357)	(365)	(372)	(378)
Inflation Sub-total	20,917	55,341	84,374	92,391	100,408
Savings					
High Risk Savings	35,141	56,274	75,374	75,374	75,374
Savings Subtotal	35,141	56,274	75,374	75,374	75,374
Total Net Expenditure Movements	111,248	149,227	203,910	210,021	214,434
Resources					
Business Rates	-	14,100	(27,677)	(40,165)	(41,052)
Council Tax	-	2,019	-	-	-
Other Grants Excl DSG & ABG	-	-	-	-	-
Top Up Grant	-	-	-	-	-
Other income	5,044	2,589	2,589	2,589	2,589
Net Payment to/(from) Reserves	(28,907)	(3,096)	(1,687)	-	-
Total Resources Movement	(23,863)	15,612	(26,775)	(37,576)	(38,463)
MTFP Budget Gap at July 2023	87,385	164,838	177,135	172,445	180,084

- 5.2 These projected budget shortfalls do not reflect any additional costs relating to Equal Pay, including potential future liabilities as well as the cost of implementing

any scheme of job evaluation. Full detail on these projections is included in paragraphs 5.3 – 5.15 below.

- 5.3 **Budget Pressures & Policy Choices** – this is made up of two elements:
- a. **Staffing** – this includes the correction of a previous budget issue that relates to the 1.25% planned increase in National Insurance contributions (and therefore pay costs) which was subsequently scrapped in September 2022. This planned increase was removed from base budgets, leaving a shortfall (£3.4m in 2023/24) to cover the forecast pay award.
 - b. **Demand / Complexity** – this covers a range of directorate-specific spending pressures. The four largest areas of cost pressures are:
 - i. Oracle costs (assumed £33m from 2023/24 to 2025/26);
 - ii. Temporary Accommodation (assumed pressure of £8.6m in 2023/24, rising to £18.2m in 2024/25; based on the recent proposal to June Cabinet to purchase additional temporary accommodation which was approved);
 - iii. Children & Families pressures (£6.7m in 2023/24 and £3.9m in 2024/25), driven by demographic pressures requiring care (particularly in Unaccompanied Asylum Seeking Children) and home-to-school transport support, as well as an additional liability relating to Birmingham’s Children’s Trust pension liabilities for 2023/24 only (all of which will be further reviewed at Quarter Two); and
 - iv. Adult Social Care demand pressures (forecast £6.2m in 2023/24 and £8.9m in 2024/25) relating to increased numbers seeking care and increased placement costs (i.e. additional demand for more expensive residential care).

- 5.4 **Corporately Managed Budgets** – this includes a forecast reduction in borrowing costs of £3.9m in 2023/24 and £2.3m in 2024/25, as delays in the capital programme have led to lower than forecast loan debt (and therefore lower Treasury costs).

Inflation

- 5.5 **Other inflation** – this line covers General Price inflation on premises, transport, and supplies and services costs. The assumptions used in the 2023/24 Financial Plan have been reviewed in light of the latest Bank of England Consumer Price Index (CPI) forecasts from May 2023. The updated forecasts are based on the following assumptions:

	2023/24	2024/25	2025/26
Apr-Jun	8.2%	3.4%	1.1%
Jul-Sep	7.0%	2.9%	1.0%
Oct-Dec	5.1%	2.3%	1.0%
Jan-Mar	4.4%	1.5%	1.1%
Average CPI Inflation	6.2%	2.5%	1.1%
MTFP refresh assumptions used:	6.2%	2.5%	2.0%
Assumptions used in 2023/24 Financial Plan:	0.0%	0.0%	0.0%

Source for MTFP refresh assumptions: Bank of England CPI forecasts, May 2023

Note: for the 2025/26 financial year and future financial years, MTFP forecasts are assumed to be 2.0% - a slight increase from Bank of England forecasts to ensure the MTFP is calculated on a prudent basis

5.6 As noted above, the increase in forecast inflation is due to the increase compared to the 2023/24 Financial Plan, in which assumptions were made that Directorates would not receive any inflationary uplift for premises, transport and supplies & services costs and would need to manage pressures within existing budgets.

5.7 **Contract inflation** – this relates to areas of spend which are tied to specific contracts, and so require specific inflation assumptions. The largest area of spend – and therefore the largest impact on the MTFP – relates to Adult Social Care (packages of care; estimated £18.6m increase in inflation forecasts in 2024/25) and Children’s Social Care (third party payments to the Birmingham Children’s Trust for care packages; estimated £7.3m increase in inflation forecasts in 2024/25). This is based on the following assumptions:

	2023/24	2024/25	2025/26
<u>Adult Social Care packages</u>			
Assumptions used in the 2023/24 Financial Plan:	7.5%	0.6%	0.0%
MTFP refresh assumptions used:	8.7%	6.5%	4.9%
<u>Children's Social Care third party payments</u>			
Assumptions used in the 2023/24 Financial Plan:	7.4%	0.6%	0.0%
MTFP refresh assumptions used:	7.4%	6.5%	4.9%

Source for MTFP refresh assumptions: Analysis of future ASC care package costs as at end of May 2023

Note: for Children’s third-party payments, it is assumed that they will track ASC inflation movements in 2024/25 and 2025/26. The 2023/24 figures have not yet been updated and will form part of the next MTFP Refresh paper to Cabinet in October

5.8 **Pay inflation** – at present, pay inflation budgets look broadly accurate. The Financial Plan 2023/24 assumed 5.0% increase in 2023/24, 2.5% in 2024/25 and in future years. Based on Bank of England forecasts, this update revises this forecast to 2.0% from 2025/26 onwards.

5.9 **Savings** – progress against the savings agreed in the 2023/24 Financial Plan has been reviewed. Based on the table below, it is estimated that a total of £35.1m of savings are at high risk (i.e., assessed as unlikely to deliver). These are described in paragraphs 5.10-5.11 (£33.2m of savings at risk within the agreed corporate savings programme) and 5.12 (an additional £1.9m of savings that had been incorrectly applied).

- 5.10 From the agreed corporate savings programme, as laid out in the 2023/24 Financial Plan approved by Cabinet in February, the Financial Sustainability Programme Board is currently forecasting that £33.2m of savings are at high risk (i.e., assessed as unlikely to deliver) in 2023/24 with a further £21.1m unlikely to be delivered in 2024/25:

£'000	2023/24	2024/25	2025/26	Total	% of Target
MTFP Target 23/24 to 25/26	(55,165)	(28,137)	(19,544)	(102,846)	92%
Previous Undelivered Savings	(9,454)			(9,454)	8%
Total Target	(64,619)	(28,137)	(19,544)	(112,300)	100%
Delivered					
Low Risk	(2,623)	(1,116)	(84)	(3,823)	3%
Medium Risk	(28,517)	(5,888)	(360)	(34,765)	31%
High Risk	(33,479)	(21,133)	(19,100)	(73,712)	66%
To Be Confirmed					
Potential Write-Off					
Total Forecast	(64,619)	(28,137)	(19,544)	(112,300)	100%

- 5.11 The following points should be noted about this savings forecast:
- This assumes that, in addition to the £55.2m of budgeted savings in the MTFP for 2023/24, there will be £9.5m of undelivered savings in 2022/23 that will need to be rolled forward for a total savings target of £64.9m in 2023/24. This will need to be confirmed as part of the outturn report for 2022/23 (and the number of undelivered savings could rise or fall).
 - The projects that are not expected to deliver target savings in 2022/23 include: Workforce savings (£2m); Traded Services (£1.6m); Council Admin Buildings Premises (£1.3m); Automation (£0.85m); Fieldworker / new ways of working (£0.8m); and Customer Services (£0.4m).
 - An initial high-level review of savings projects by the Financial Sustainability Programme Board, as at mid-May, suggests that approximately £33m (50%) of the total £64.9m required in 2023/24 is currently at risk of slippage/non-delivery. Key projects currently at high risk of slippage/non-delivery include: Children's Trust Savings - £6m; Reducing Bed and Breakfast spend - £5.5m; Commercial Investment/Property - £4.7m; Workforce Savings - £4m; CAB Premises - £3.7m; Traded Services - £3.1m; EIP/Localities Hub - £2.5m; Automation - £1.850m; Centres of Excellence - £1.8m; Customer Services - £0.990m; and Fieldworker - £0.8m
 - Work is currently progressing to review the risk levels and options for mitigation. Further information will be provided in subsequent reports to Cabinet on the 2022/23 outturn and the Quarter Two MTFP Refresh in October.
- 5.12 In addition to the savings above, this MTFP includes an additional £1.95m of vacancy factor savings (i.e., holding staff positions vacant as people leave) that

had been incorrectly applied to Children & Families and City Operations. These had been applied on top of existing 3% savings across all Directorates.

5.13 **Resources** – this paper also considers a range of factors affecting future income. These include:

- a. **Business rates** – based on the draft 2022/23 outturn position for the Collection Fund, it is forecast that there is a deficit in business rates income of £27.8m due to a challenging economic environment for businesses (resulting in lower than forecast collection rates), a delay in enforcement activity (due to Oracle implementation issues) and an increase in business rates appeals (as this is the last year of the six year period in which businesses can query the latest set of rateable valuations (i.e. tax due) which were carried out in 2017).
- b. Under statutory guidance, the 2022/23 Collection Fund deficit will be charged to the General Fund for the next financial year (i.e. in 2024/25). However, this is offset by additional forecast income from business rates of £13.8m in 2024/25 and in subsequent years. Business rates are calculated by multiplying the rateable value of the property by the “non-domestic multiplier” which is adjusted to reflect the Consumer Price Index inflation figure for the September prior to the billing year. As Bank of England forecasts for CPI are expected to be higher than the forecasts used in the Financial Plan for 2023/24, this could result in additional income for the Council in future years.
- c. **Council tax** – as with Business Rates, there is projected to be a £2.0m deficit for 2022/23 in Council Tax income due to a reduction in collection rates. This will also be charged to the General Fund for 2024/25. It is worth noting that collection rates across Council Tax and Business rates fell in 2022/23, relative to 2021/22. For Council Tax, in year collection fell from 92.9% to 90.2%; for Business Rates, in year collection fell from 95.8% to 90.1%.
- d. **Grants** – there are two main categories of grant: 1) those used to fund wider Council services (e.g., Top Up Grant, Business-rates related Section 31 grants); and 2) those ringfenced to fund specific services (e.g., the Social Care Grant). At present, there is not sufficient information from central government to update forecasts for grant funding in 2024/25 and beyond. Further information is expected later in the 2023/24 financial year.
- e. **Other income** – this includes a range of pressures including a pressure of £1.5m on parking income (due to reduced demand with the city) and £1.5m on business waste collection income (again likely due to reduced office usage across the city).
- f. **Reserves** – at present, the only use of reserves assumed is to cover the additional expenditure required to support the remediation of the Oracle

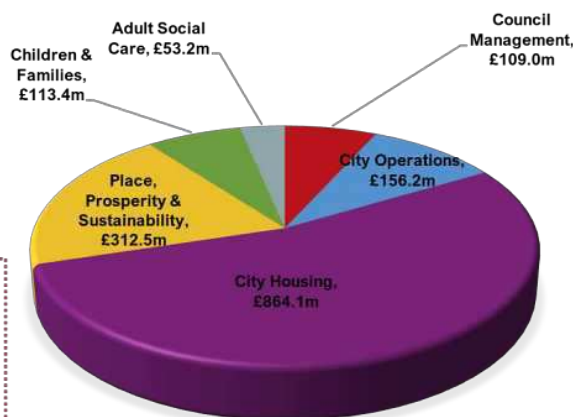
finance system. A further review of reserves will be provided to Cabinet as part of the 2022/23 outturn report in the Autumn.

- 5.14 **Additional risks** – there are a range of other possible service pressures that are being reviewed by officers. For the purposes of this paper, only pressures that are 1) viewed as more than 50% likely to take place and 2) can be quantified are included in this report. Others will be reviewed and may be quantified as part of the Quarter Two refresh of the MTFP for Cabinet in October. This could include the potential cost implications relating to the current Private Finance Initiative (PFI) contract between the Council and Birmingham Highways Limited – a procurement exercise for a new sub-contractor is currently ongoing, so it is not possible to quantify any additional costs at this stage.
- 5.15 **Equal Pay** – further to the description in Section Four of this report, and for the purposes of this paper, a high level estimate of the potential financing costs has been made for information purposes. It is not yet included in the MTFP forecasts in this paper, as the work to finalise the figures is ongoing.

Capital Programme

- 5.16 **Size** – a review of the Capital programme is needed in light of the current financial situation with a view to add, reprioritise, accelerate, defer and descope the programme. This will need to be looked at across all Directorates within scope of the Capital Programme.
- 5.17 The current approved capital programme is for £1.6 billion of spending over this MTFP period:

	2023/24 to 2026/27
Directorate	£m
Council Management	£109.0m
City Operations	£156.2m
City Housing	£864.1m
Place, Prosperity & Sustainability	£312.5m
Children & Families	£113.4m
Adult Social Care	£53.2m
Total	£1,608.3m



Core City Comparison		
City	4yr Programme (£m)	HRA (£m)
Birmingham	1,608	821
Manchester	1,104	105
Leeds	1,978	520
Bristol	1,118	700
Liverpool	345	0

- 5.18 The capital spend by Directorate includes:
 - a. City Housing includes £820m for the Housing Revenue Account: investment in current housing stock as well as new social housing;
 - b. Council Management includes £54m transformation projects and £30m Corporate Contingency over four years;

- c. The above figures do not include the proposed £400m investment in the Council's Temporary Accommodation strategy, approved by Cabinet on 25 June; and
- d. Place, Prosperity & Sustainability includes £52.9m Enterprise Zone funded by borrowing to be repaid by the retention of future Enterprise Zone business rates.

Corporate Reserves

- 5.19 At present, officers are reviewing corporate reserves to finalise the outturn position for the 2022/23 financial year. These will need to be compared to the MTFP budget gap included in this paper and additional costs as a result of additional Equal Pay claims.
- 5.20 Using corporate reserves will, of course, significantly reduce the financial resilience of the council against future pressures. Once reserves have been used, they need to be rebuilt from existing budgets (i.e., through future savings that can be contributed to reserves). Once reserves have been spent, they are no longer available. That is why it is worth pursuing a savings programme first and retaining reserves to enable the authority to have some protection against future budget pressures. The method for pursuing these savings will be the Robust Budget Savings & Recovery Plan – outlined in the next Section of this report.

6 Robust Budget Savings & Recovery Plan

Background

- 6.1 The financial challenges being faced by the Council are of a sufficient size that they require immediate and sustained action to control. There is no doubting the scale of the financial challenge. There is a significant budgetary challenge arising, which includes:
 - a. The sizeable MTFP budget gaps identified in Section Five of this report; and
 - b. Additional financing costs for any future Equal Pay costs.
- 6.2 The Robust **Budget Savings & Recovery Plan** is made up of:
 - a. **Mandatory spending controls** – to enable the Authority to pause non-essential spending and to enable time to tackle the budget gap; and
 - b. **Detailed workstreams** – including Oracle Remediation, MTFP and Budget, and Workforce.

Mandatory Spending Controls

- 6.3 Based on the rationale in this report, **Mandatory Spending Controls** were implemented on 5 July.

6.4 **Mandatory spending controls mean that:**

- a. **No new agreements or commitments for expenditure can be made, without engagement with the three statutory officers.**
- b. Temporary measures will be brought in to ensure all **new** non-essential expenditure will stop with immediate effect.

6.5 **The only allowable expenditure permitted under an emergency protocol includes the following categories:**

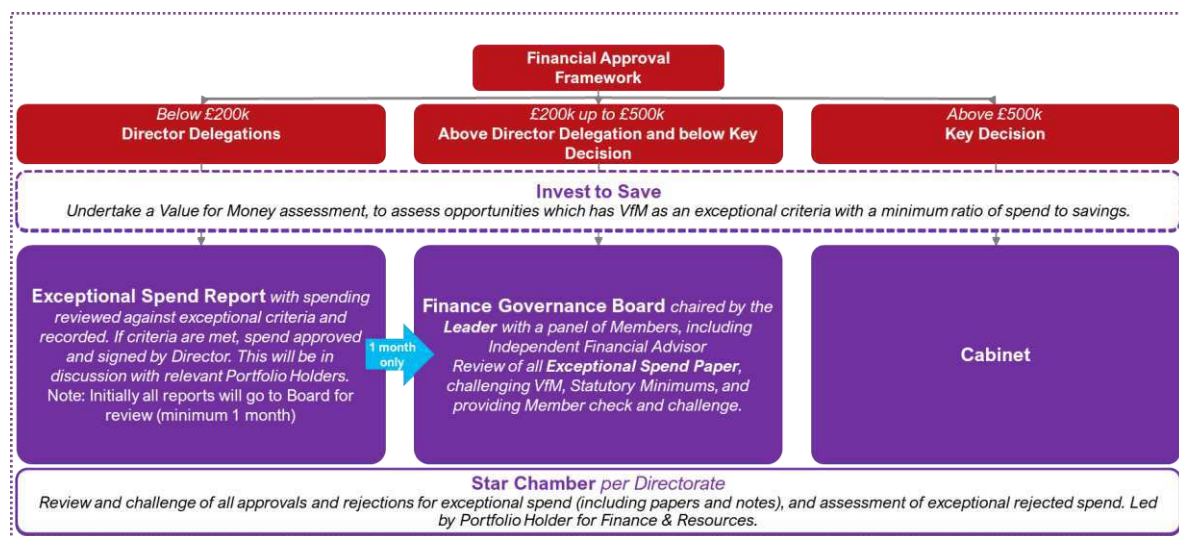
- a. Existing staff **payroll** and **pension** costs
- b. Expenditure required through **existing legal agreements and contracts**
- c. Expenditure on **goods and services** which have **already been received**
- d. Expenditure required to deliver the council's **provision of statutory services**
- e. Urgent expenditure required to **safeguard vulnerable citizens**
- f. Expenditure to address **services** which are **under regulation**
- g. Expenditure funded through **ring-fenced grants**
- h. Expenditure necessary to achieve **value for money** and / or **mitigate additional in year costs**
- i. Expenditure necessary to achieve **value for money** and / or **mitigate additional in year costs**
 - i. *Robust business case with short payback period required, i.e., less than 24 months;*
 - ii. *Value-for-Money Framework to be developed; and*
 - iii. *Business Cases to be reviewed by a group (to be established by Chief Executive)*

Robust Budget Savings & Recovery Plan

6.6 **Governance Arrangements – three governance forums will be used to challenge spend within the Council:**

- a. **Director Delegations with Exceptional Spend Report** – To review spend against exceptional criteria and take delegated decisions against spend thresholds. In discussion with relevant Portfolio Holder.
- b. **Finance Governance Board** – To review spend above certain thresholds based on exceptional criteria, utilising senior stakeholders to challenge spend, and regularly review Director delegated decisions.
- c. **Star Chamber** – To review and challenge all approved exceptional spend (including papers and notes) and an assessment of exceptional rejected spend.

- 6.7 This will be implemented in line with a temporary scheme of delegation, aligned to the Finance, Procurement and Contract Governance Rules in Part D of the constitution:



*Notes: All forums will occur on a weekly basis to ensure spend is agile and responses to Directorate needs. This will apply to all spend over £500 as a de-minimus level. All spend must adhere to Council Procurement Governance. This includes spend and call-offs from frameworks. This includes **Capital and Ring-Fenced Grant Spend**. Consideration will be given to the volume of reports, needs to split by General Fund and Housing Revenue Account spend, and the timeliness of reporting and governance. This covers increase in spend **and** decrease in income.*

- 6.8 **Work plan** – this plan will inform the roadmap of activities that need to be delivered over the next five years to achieve financial stability within the Council.
- 6.9 There are nine activities which form this plan, split into Strategic and Operational Activities. The Strategic work streams are:
- a. **Organisational Spending Review** – Review all spending for Value for Money and Outcome Focus across all services and budgets, including General Fund, Housing Revenue Account, Capital and external funding, Companies, Traded Services (i.e. Schools);
 - b. **Equal Pay Resolution** – Roadmap of activities to understand and resolve the Equal Pay challenges, including detailing the potential costs over the next 5 years;
 - c. **MTFP and Budget** – Quantification and remediation of the budget gap, revising the MTFP (next four financial years, Long-Term Financial Plan (next ten financial years), and Budget setting process. This will include the identification and delivery of savings, to be owned by the Corporate Leadership Team and Cabinet; and

- d. **Workforce** – Ensuring recruitment and retention is not at risk within the workforce, and developing contingency, creating capacity and flexibility, and exploring staff and people costs, including agency and interim costs.

6.10 The Operational work streams are:

- a. **Mandatory Spend Controls** – Implementation of mandatory spend controls, as outlined above, and the delivery of in-year spending savings through these controls, including Collection/Recovery of Income, balance sheet controls and use of Minimum Revenue Provision;
- b. **Oracle Remediation** – Activities to achieve Safe and Compliant, Stabilisation, and Optimisation of the Oracle Fusion implementation;
- c. **Governance and Controls Framework** – Review and remediation of governance and key financial controls, including but not limited to Internal Audit, Procurement, Value-for-money, Risk Management, Annual Governance Statement;
- d. **Closure of the Accounts** – Activities to deliver accounts for the Council across all financial years that remain open with External Auditors, including any further investigations and assessments; and
- e. **Finance and Governance Capacity and Capability** – Strengthened finance and governance knowledge, capability and capacity to deliver the planned improvements, including development of a Service Improvement Programme.

6.11 Work is already underway against a number of these areas. Each of the nine pillars above has a detailed plan of activities with responsible owners, risks, timelines, and allocated resources against each step.

6.12 The Robust Budget Savings & Recovery Plan will be reported to, and monitored by, the Finance Governance Board.

7 Next Steps

7.1 Significant work is required over the next few weeks to deliver on the proposed Budget Savings & Recovery Plan. A further update will come to Cabinet in October to update the MTFP position and assumptions over the medium term, in advance of the formal budget-setting process for 2024/25.

7.2 The timetable for the 2024/25 budget-setting process is as follows:

Activities	Date
Spending Controls implementation	5 July 2023
Implementation of Budget Savings & Recovery Plan	25 July 2023
Quarter Two Update on MTFP assumptions, budget position to Cabinet	10 October 2023

Budget engagement on resource prioritisation	Mid October – December 2023
Scrutiny of budget development proposals and Scrutiny review of Budget Savings & Recovery Plan for 2024/25 budget	November/December 2023
Provisional Local Government Settlement	Mid December 2023 (TBC)
Cabinet – setting of council tax and business rate tax base	16 January 2024
Final Local Government Settlement	January/February 2024 (TBC)
Cabinet consideration of the 2023/24 budget and Financial Plan	13 February 2024
Full Council approval of 2023/24 budget and setting of Council tax	28 February 2024

8 Next Steps

- 8.1 The Council believes that it is important that it engages with citizens and business when planning activity and the financial implications of those plans. An engagement plan is currently in development, focusing on gathering the views of Council Tax and Business Rates payers to feed into the 2024/25 budget setting process.

9 Risk Management

- 9.1 There remains significant uncertainty in respect of public spending levels and the level of funding for local government and therefore the assumptions outlined in this report will be subject to continual review over the coming months to ensure that the Council's short term and medium term financial stability can be protected and critical services delivered.

10 Compliance Issues:

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

- a. The Robust Budget Savings and Recovery Plan is an essential part of the Medium Term financial planning process. This will be informed by the priorities that led to its implementation, namely to provide a stable footing for the future financial position of the Council. In doing so, the Robust Budget Savings and Recovery Plan will seek to support the delivery of the Council's priorities, as laid out in the Council Plan, wherever possible within current and potential financial constraints. The

MTFP must remain focused on social justice, frontline services and the needs of residents and communities of the city.

10.2 Legal Implications

- a. A local authority is required under the Local Government Finance Act 1992 to produce a balanced budget.

10.3 Financial Implications

- a. The detailed financial implications have been covered throughout the report.

10.4 Procurement Implications (if required)

- a. There are no procurement issues arising directly from the contents of this report. Any procurement implications will be identified as specific budgets are developed.

10.5 Human Resources Implications (if required)

- a. There are no specific human resources implications arising from this report. Any Human resource implication will be identified as specific budgets are developed.

10.6 Public Sector Equality Duty

- a. In compliance with the Council's duties on equality, changes in the budget that impact on the provision of services will need to be properly assessed. An Equalities Impact Assessment will be undertaken on proposals as they are developed where this is considered necessary to do so.



Department for Levelling Up,
Housing & Communities

Max Soule

Deputy Director, Local Government Stewardship

**Department for Levelling up, Housing and
Communities**

Fry Building, 2 Marsham Street
London SW1P 4DF

www.gov.uk/dluhc

Deborah Cadman OBE
Chief Executive
Birmingham City Council

By email

19 September 2023

Dear Deborah

I am writing to invite your Authority, if it wishes, to make representations to the Secretary of State about the intervention package that he is proposing. This letter will be published on www.gov.uk.

The Secretary of State has carefully considered the evidence available. He is satisfied that your Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the Best Value duty, due to the Authority's handling of its significant equal pay liabilities, governance concerns and systematic service weakness.

On that basis, he is considering exercising the powers of direction sections 15(5) and (6) of the 1999 in relation to your Authority to secure its compliance with the Best Value duty. The proposed intervention package is formed of two complementary parts: the first is a series of Directions which are set out at Annex A accompanied by a summary of the evidence that has led the Secretary of State to conclude that intervention is necessary and expedient to secure compliance with the best value duty. The proposed Directions provide Commissioners with the Authority's functions concerning governance and scrutiny of strategic decision making, all functions associated with the strategic financial management of the Authority, all functions relating to the appointment, designation and dismissal of persons to positions as statutory officers, all functions associated with the Authority's operating model and all functions pertaining to the performance management framework for officers holding senior positions and their recruitment. As well as this the Directions require the Authority to prepare an improvement plan within 6 months and report to Commissioners on said plan.

The second part is that the Secretary of State proposes to direct a local inquiry, which could consider the more fundamental questions around how Birmingham got to this position, assessing the Authority's ongoing management of issues identified in the Kerslake review of the Authority in 2014 and the subsequent non-statutory intervention, and considering options for how it can become a sustainable organisation moving forward that secures best value for its residents.

Both parts share a common goal, which is to protect the interests and services of the people of Birmingham.

Your Authority is now invited to make such representations as it wishes about the Secretary of State's proposals. All such representations should be sent to interventions@levellingup.gov.uk, or in hard copy to the postal address above marked for my attention, to be received on or before **Tuesday 26 September 2023**. They will then be carefully considered by the Secretary of State. The Secretary of State considers the exceptional level of financial issues, significant governance concerns and the risks that these pose to your Authority's services and stability to be sufficiently urgent to carry out a shorter representations period than standard.

I am copying this letter to your Authority's Interim Section 151 Officer and Monitoring Officer.

Yours sincerely,

Maxwell Soule
Deputy Director, Local Government Stewardship

ANNEX

PROPOSED INTERVENTION PACKAGE

1. The Secretary of State is considering exercising his powers of direction under section 15 of the Local Government Act 1999 (“the 1999 Act”) in relation to Birmingham City Council (“the Authority”) to secure its compliance with the best value duty. He has considered the evidence, including the serious governance and service delivery concerns raised by three independent sources (the Local Government and Social Care Ombudsman, the Housing Ombudsman and the Department for Education’s Commissioner for Special Educational Needs and Disability at the Council); the flawed implementation of a new financial ledger system, Oracle; and the Authority’s handling of its significant equal pay liabilities, alongside the Section 114 notice issued on 5 September 2023.

2. The Authority has been beset by systemic failings over several years including poor culture, weak governance, a challenging relationship with trade unions and ineffective service delivery. These failings have been exacerbated by instability and churn at senior officer level. The Authority was in non-statutory intervention from 2015-2019 with an Advisory Panel, following the Kerslake report into the Trojan Horse affair. This found failings in governance, transparency, and financial management. The evidence from independent sources outlined above, alongside the Section 114 notice, highlight failings of great seriousness and provide evidence of significant and systemic best value failure. In light of this evidence, the Secretary of State is minded to implement the intervention package set out below. The Secretary of State believes the proposed intervention is necessary and expedient to secure compliance with the best value duty.

3. The Secretary of State has set out his proposals in order to assist the Authority to formulate any representations it may choose to make. He acknowledges that, save in cases of urgency, the Authority has a statutory right to make representations if the Secretary of State is considering making a direction. The Secretary of State considers the exceptional level of financial issues, significant governance concerns and the risk that these pose to the Authority’s services and stability to be sufficiently urgent to carry out a shorter representations period than standard. He will carefully consider those representations in deciding whether to make any and if so what Directions. He specifically reserves his ability to make further or revised Directions after implementing this, or any, intervention package (if that is what he decides to do).

Overall purpose and approach

4. The starting point is the evidence which highlight serious financial and governance concerns:

- On governance, whilst the Authority have commissioned an independent review which is due to report in the next few weeks, the seriousness and scale of the Equal Pay liabilities and failed implementation of the Oracle financial ledger system (estimated to be up to £100 million) highlight critical weaknesses in the Council’s broader internal control environment. There are also media reports of an internal report by the Labour Party that found a ‘dysfunctional’ climate amongst members, with associated implications for good governance and effective scrutiny.

- On financial governance, concerns have been present since the original intervention in 2015 and have been recently precipitated by the Authority's handling of the issues relating to Equal Pay and Oracle. The Section 114 notice was issued due to several factors, including correspondence from the external auditors Grant Thornton raising concerns around the provisions for Equal Pay in prior year accounts. Their assessment was that the size of the revised estimated Equal Pay (which the Authority currently estimates to be up to £760 million) means that the 2020/21 and 2021/22 accounts were materially misstated, and that the Authority did not have sufficient reserves to mitigate the cost of the liability due for these years. In addition to the acute financial position stemming from equal pay, the Authority is dealing with other difficulties. These include the costs of resolving the Oracle implementation, estimated at £100m, and the Authority's lack of progress in delivering planned savings – and that is before accounting for the potential liability relating to equal pay.
- On culture and leadership, the Authority has experienced extremely high levels of churn of senior staff in recent years. In the eight years prior to 2022, and following the 2014 Kerslake report, there had been nine chief executives and nine directors of children services. The Kerslake review also highlighted a culture of sweeping problems under the carpet or blaming them on others, rather than tackling them head-on.
- On services, the Authority has historic issues with its waste services as shown in the non-statutory intervention and recent cases considered by the Local Government and Social Care Ombudsman; a Department for Education Special Educational Needs and Disabilities intervention is in place; and the Local Government Social Care Ombudsman and Regulator of Social Housing have recently raised significant concerns with the Council about service delivery. The ongoing Equal Pay dispute is also causing continued friction with Trade Unions and there are risks of industrial action and impacts to service delivery.
- On capacity or capability to improve, the Kerslake review found that successive administrations had failed the City. It warned that the Authority lacked a clear vision, had failed to tackle deep-rooted problems such as low skills and was not doing enough to provide consistently good quality services. These problems have endured as highlighted by the Equal Pay liability issue and failed implementation of the Oracle financial ledger system.

5. The Secretary of State considers that given the evidence of financial and governance concerns, and the scale of the equal pay liabilities, intervention is necessary and expedient to address the circumstances of the Authority.

Draft Directions

6. The proposed package is centred on the appointment of Commissioners who would assume functions, as described in the enclosed draft Directions. The Commissioners will be backed by Directions, also enclosed in draft, issued to the Authority requiring them to take specific actions as a necessary and expedient action to secure compliance with their Best Value Duty.

7. Ministers will reflect on Commissioner appointments during the 'minded to' period to ensure they are fit for purpose to support the Authority moving forward. Given the scale of the issues the Secretary of State proposes that Directions to the Authority should be in place for five years, noting that the Authority's situation is severe, and the improvement and recovery journey is likely to take a number of years. If the Secretary of State considers at any time that it would be appropriate to change Directions or withdraw them, then he will do so. His concern will be to ensure that the Directions operate for as long, but only as long, and only in the form, as he considers it should operate in order to secure the objectives set out above.

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings –

“the Authority” includes the Leader of the Council, Cabinet Members, any committee or sub-committee; and any other person who has responsibility for the matter in question.

The actions to be taken by the Authority are:

1. Prepare and agree an Improvement Plan, which considers actions to secure continuous improvement and restore public trust across all the Authority’s functions with a particular focus on housing, waste, finance, HR, governance and corporate services; to the satisfaction of the Commissioners (which may include or draw upon improvement or action plans prepared before the date of these Directions), within 6 months, with resource allocated accordingly.
2. In the first 12 months to review the provision and operation of corporate services, (including HR, legal, internal audit, risk management, IT and systems, procurement and the PMO), to enable and support the effective delivery of front-line services and the smooth running of the authority, and to implement any required changes thereafter to the satisfaction of Commissioners.
3. To secure as soon as practicable that all the Authority’s functions are exercised in conformity with the best value duty thereby delivering improvements in services and outcomes for the people of Birmingham.
4. To report to the Commissioners on the delivery of the Improvement Plan at 6 monthly intervals, or at such intervals as Commissioners may direct.
5. To undertake in the exercise of any of its functions any action that the Commissioners may reasonably require to avoid so far as practicable incidents of poor governance, poor financial governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.
6. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
 - a. to any premises of the Authority;
 - b. to any document relating to the Authority; and
 - c. to any employee or member of the Authority.
7. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions.

8. To pay the Commissioners reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
9. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.
10. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS

In this Annex –

“The Authority” includes the Leader, Cabinet Members, any committee or subcommittee; and any other person who has responsibility for the matter in question.

“Statutory Officer” means any of: the Head of Paid Service designated under section 4(1) of the Local Government and Housing Act 1989; the Chief Financial Officer designated as having responsibility for the administration of the Authority’s financial affairs under section 151 of the Local Government Act 1972; the Monitoring Officer designated under section 5(1) of the Local Government and Housing Act 1989; and the Scrutiny Officer designated under section 9FB of the Local Government Act 2000 (and the expressions “statutory officer” and “statutory office” are to be construed accordingly).

“Senior positions” are defined as the Chief Executive, direct reports to the Chief Executive and their direct reports – tiers one, two and three.

The Commissioners shall exercise:

1. All functions associated with the governance and scrutiny of strategic decision making by the Authority.
2. All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority.
3. The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority’s financial affairs, and all functions associated with the strategic financial management of the Authority, to include:
 - a. providing advice and challenge to the Authority on the preparation and implementation of a detailed action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;
 - b. providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy (MTFS) for the Authority, strictly limiting future borrowing and capital spending;
 - c. scrutiny of all in-year amendments to annual budgets;

- d. the power to propose amendments to budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty;
 - e. providing advice and challenge to the Authority on the preparation of sustainable and affordable capital, investment and treasury management strategies; a strict debt reduction plan; and a revised minimum revenue provision (MRP) policy;
 - f. providing advice and challenge to the Authority on a suitable scheme of delegations for financial decision-making; and
 - g. ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.
4. All functions relating to the appointment and dismissal of persons to positions the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers, to include:
- a. The functions of designating a person as a statutory officer and removing a person from a statutory office;
 - b. The functions under section 112 of the Local Government Act 1972 of –
 - i. Appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and
 - ii. Dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.
5. All functions to define the officer structure for the senior positions, to determine the recruitment processes and then to recruit the relevant staff to those positions.
6. All functions associated with the Authority's operating model and redesign of services to achieve value for money and financial sustainability.
7. All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions.

Report to all Elected Members of Birmingham City Council
Under
Section 5 of the Local Government and Housing Act 1989
By

Janie Berry, City Solicitor and Monitoring Officer, Birmingham City Council

Date of Report: 21st September 2023

Purpose of Report

1. Members of the Council are asked to consider this Report prepared by the Monitoring Officer. This Report is prepared under Section 5 of the Local Government and Housing Act 1989. I am concerned that the Council has, at the date of this Report, failed to secure a decision relating to the implementation of a job evaluation programme (also known as Pay Equity System [PES]).
2. It is my duty as the Monitoring Officer to prepare a Report to the authority, if at any time it appears to them that:
 - a. *“any proposal, decision or omission by the authority, has given rise to or is likely to or would give rise to a contravention of any enactment or rule of law or of any code of practice made or approved by or under any enactment.”*
3. This includes the proposals, decisions or omissions by any committee or subcommittee of the authority, by any person holding any office or employment under the authority or by any joint committee on which the authority is represented.
4. This Report is published following statutory consultation with both the Chief Executive (Head of Paid Service) and the Interim Director of Finance and s151 Officer.
5. The purpose of this Report issued by the Monitoring Officer is to make it clear to Members of the Council that immediate steps must be taken to secure a robust PES which:
 - a. Is objective, robust and can be consistently applied and be Equality Act 2010 compliant so as to remove the risks of job enrichment, sex discrimination and cannot be open to legal challenge and thus incur future potential equal pay liability; and
 - b. Can mitigate the accruing potential equal pay liability published in June 2023, in the region of £650m-£760m with a monthly accruing liability of between £5m-£14m.

Recommendations

6. That Elected Members of Birmingham City Council consider this Report by Janie Berry, City Solicitor and Monitoring Officer issued under Section 5 Local Government and Housing Act 1989.
7. That this Report be considered at a meeting of Full Council, held no later than the end of 21 days (the maximum allowable period set out within the Local Government and Housing Act 1989) from the date of issue of this Report.
8. That Birmingham City Council (by which this means a meeting of Full Council) decide whether it agrees or disagrees with the views documented within this Report and outline what action it proposes to take because of this Report.

Summary of key issues

9. A number of issues have arisen over an extended timeline:

Context

- a. The context to the decision around a PES can be found within the Council Business Management Committee papers, dated 1st September 2023. The decision of this committee was to agree to proceed with Option 2 as outlined within the appendices to this Report.
- b. The decision by the Council Business Management Committee was required in order to limit the ongoing accrual of a potential liability in relation to Equal Pay which is current estimates to be £650m-£760m, and is accruing at a rate of between £5m-£14m per month after the 1st April 2025. Any extension to the timeline to deliver a PES by this date would incur additional liability.
- c. The quantum of this estimated liability was first shared in February 2023. This demonstrates the significant time period over which this issue has been known.

Timeline

- d. Following a Cabinet Meeting on the 25th July 2023 the funding envelope for a PES was agreed, with the delegated decision for a new PES given to Council Business Management Committee to be agreed at the earliest date.
- e. Council Business Management Committee were initially due to meet on the 17th August 2023. This was reconvened due to a delay in the publishing of papers for this committee, which was driven by the involvement of the Local Government Association in delivery of additional negotiations between Officers and Elected Members.
- f. Council Business Management Committee were subsequently due to meet on 29th August 2023 at an extraordinary meeting. This was opened and adjourned due to the receipt of a letter from Minister Rowley informing the Council of the need to ensure Best Value considerations were suitably included within any decision made by the Council.
- g. Council Business Management Committee met on 1st September 2023, and the Report to be considered excluded two of the four options on the grounds of unlawfulness as a conclusion and under the Council's Best Value duty.

Decision

- h. The decision made on 1st September 2023 to proceed with Option 2, as outlined within the appendices of this Report, was conditional on the agreement of the addendum by the three recognised Trade Unions by 09:00 on Monday 11th September 2023.
- i. At the time of writing this Report, two of the recognised Trade Unions have responded confirming that they are unwilling to accept the proposed addendum and the third has not responded in the time allowed or at all.
- j. I have as such notified the Leader of the Council (and Chair of the Council Business Management Committee) of the potential options to progress a subsequent decision by the committee. Notifications had been made on 11th September 2023 and 12th September 2023.
- k. Following consultation with the Leader on Friday 15th September 2023, the Leader agreed that a Council Business Management Committee would be scheduled to propose approval of Option 4 by the Committee.
- l. I have since received a request on Wednesday 20th September 2023 from the Leader of the Council that Council Business Management Committee does not meet at this time.

- m. As a result of this, currently there is an omission to act or make a decision on the part of the Chair of the Committee.

Consequences of a Section 5 Report

10. The effect of a Report issued by the Monitoring Officer is that the decision in question shall be suspended until the end of the first business day following consideration of the Report by an Extraordinary Meeting of Full Council.
11. During the period between issuing of the Report and the Extraordinary Meeting of Full Council no steps can be taken which give effect to any proposal or decision relating to the issue in question.

Legal Framework

12. In preparation of this Report and pursuant to the Local Government and Housing Act 1989, the Monitoring Officer is required to consult with the Head of Paid Service and the S151 Officer and has done so.
13. Section 5 of the Local Government and Housing Act 1989 requires an extraordinary meeting of Full Council to consider and decide on the contents of this Report within 21 days beginning on the day the of the Report being issued.
14. Further legal implications can be found within the Cabinet and Council Business Management Committee papers which are appended to this Report.

Next Steps

15. The requirement of this S5 Report is that an Extraordinary Meeting of the Full Council must happen within 21 days at which the Council must agree a response that addresses the issues outlined within this Report. Full Council must consider whether it agrees or disagrees with the views contained within this Report and determine action it proposes to take as a consequence.
16. As mentioned above, the Council must make a lawful decision such that a process commences to deliver a Pay Equity Scheme that concludes by 1st April 2025.
17. The timeline for activity over the coming months is as follows:
- a. 21st September 2023 – Issue S5 Report
 - b. Extraordinary Full Council Meeting by 12th October 2023 latest
 - c. Statutory deadline for Full Council to agree a response to this Report by 12th October 2023 latest

Appendices

- i. Cabinet Report – 25th July 2023
- ii. Council Business Management Committee Report – 1st September 2023
- iii. S114 Report – 5th September 2023

Janie Berry

City Solicitor and Monitoring Officer, Birmingham City Council

21st September 2023

Report to all Elected Members of Birmingham City Council
Under
Section 114 (2) of the Local Government Finance Act 1988
By
Fiona Greenway CPFA
Interim Director of Finance (Section 151 Officer), Birmingham City Council
Date of Report: 21st September 2023

Purpose of Report

1. Members of the Council are asked to consider this Report by the Section 151 Officer (the Chief Finance Officer). The Report is made under section 114 (2) of the Local Government Act 1988 because the Section 151 Officer is of the opinion that:
 - a. The omission of a decision by the Council Business Management Committee has resulted in (a) a decision which involves the authority incurring additional expenditure which is unlawful, and (b) the course of action (i.e. inaction) if pursued to conclusion would be unlawful and cause a loss or deficiency on the authority.

2. This Report is being issued alongside a Section 5 Report from the Monitoring Officer, dated 21st September 2023, because:
 - a. The Council Business Management Committee agreed, on Friday 1st September 2023, to proceed with Option 2, on the basis that a signed addendum would be returned to the Council by the three recognised Trade Unions by 09:00 on Monday 11th September 2023.
 - b. On Monday 11th September 2023 two of the recognised Trade Unions responded confirming that they are unwilling to accept the proposed addendum, and the third has not responded to date.
 - c. As a result, the decision made by Council Business Management Committee on Friday 1st September 2023 is no longer valid.
 - d. The Monitoring Officer has since informed the Leader of the Council and Chair of the Council Business Management Committee of the options to move forwards, on Monday 11th September 2023 and Tuesday 12th September 2023.
 - e. A date for the Council Business Management Committee has not been agreed, with no intention to set a date or make a decision as a result.
 - f. There is currently no methodology proposed to resolve the Equal Pay challenges facing the Council, and hence no process to limit the accrual of additional liability past 1st April 2025 (as the current estimates of potential liability of £650m to £760m assume that a new Pay Equity System is implemented on 1st April 2025; at present, the potential liability is accruing at a range of £5m-£14m per month).
 - g. Further details of this omission can be found within the Section 5 Report from the Monitoring Officer dated 21st September 2023.

3. As a result of the omission of a decision by the Council Business Management Committee, and since the liability will now continue to accrue, it is my opinion that the Council is now (a) accruing additional unlawful expenditure in the form of a growing liability, and (b) making a decision (by omitting a decision) that will result in a loss or deficiency for the Council and council tax payers. As such this triggers a notice under section 114 (2) of the Local Government Finance Act 1988.

4. The Section 114 Notice is issued following consultation with both the Chief Executive (Head of Paid Service) and the Monitoring Officer. Following the issuance of the Section 114 Notice the

Council has 21 days to hold a meeting of Full Council to consider the Report from the Section 151 Officer and decide how it will respond.

5. The purpose of this Section 114 Report is to make it clear to Members of the Council that immediate steps must be taken to mitigate the additional liability being accrued in relation to Equal Pay after the 1st April 2025. This means a suitable decision must be made such that a process commences to deliver a job evaluation programme (also known as Pay Equity System [PES]) that concludes by 1st April 2025.

Recommendations

6. That Elected Members of Birmingham City Council must consider this Report by Fiona Greenway, Interim Director of Finance (Section 151 Officer/ Chief Finance Officer) issued under Section 114 (2) of the Local Government Finance Act 1988.
7. That this Report must be considered at an extraordinary meeting of Full Council, held no later than the end of 21 days (the maximum allowable period set out within the Local Government Finance Act 1988) from the date of issue of this Report.
8. That Birmingham City Council (by which this means a meeting of Full Council) must decide whether it agrees or disagrees with the views documented within this Report and outline what action it proposes to take because of this Report.

Summary of key issues

9. Regarding the potential Equal Pay liabilities, there are two significant issues that the Council has to address:
 - a. The scale of the potential Equal Pay liabilities – this requires a Financial Recovery Plan to ensure the Council can pay for these liabilities. This was the subject of the S114 Report issued on the 5th September 2023 under section 114 (3) of the Local Government Finance Act 1988.
 - b. Ending the liabilities – by implementing a PES which would prevent the financial liability continuing to grow in the future. This is the subject of this S114 Report, issued as a supplementary document on the date shown, under section 114 (2) of the Local Government Finance Act 1988.

Consequences of a Section 114 (2) Notice

10. The issuing of the Section 114 (2) Report has the following impact on the work of the Council:
 - a. During the 21 day prohibition period the course of conduct which led to the Report being made shall not be pursued.

Legal Framework

11. Section 114 (2) requires that: “The chief finance officer of a relevant authority shall make a Report under this section if it appears to him that the authority, a committee or a joint committee on which the authority is represented—:
 - a. has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,

- b. has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
- c. is about to enter an item of account the entry of which is unlawful.”

Next Steps

12. The requirement of this S114 (2) Report is that an Extraordinary Meeting of the Full Council must happen within 21 days at which the Council must agree a response that addresses the issues outlined within this Report. Full Council must consider whether it agrees or disagrees with the views contained within this Report and determine action it proposed to take as a consequence. A failure to do so within the 21 days will lead to the issuance of a further S114 Report.
13. As mentioned above, the Council must make a lawful decision such that a process commences to deliver a PES that concludes by 1st April 2025. A failure to do so will lead to the issuance of a further S114 Report.
14. The timeline for activity over the coming months is as follows:
 - a. 21st September 2023 – Issue S114 Report
 - b. Extraordinary Full Council Meeting by 12th October 2023 latest
 - c. Statutory deadline for Full Council to agree a response to this Report by 12th October 2023 latest

Fiona Greenway CPFA

Interim Director of Finance (Section 151 Officer), Birmingham City Council

21st September 2023

Birmingham City Council

Education, Children and Young People Overview and Scrutiny Committee

18 October 2023



Subject: Hidden Children

Report of: Razia Butt, Director Thriving Children and Families

Report authors: Paul Mitchell, Interim Head of Attendance & Exclusions
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Alan Michell, Head of Service Admissions, Fair Access
and Pupil Tracking
Alan.michell@birmingham.gov.uk

1. Purpose

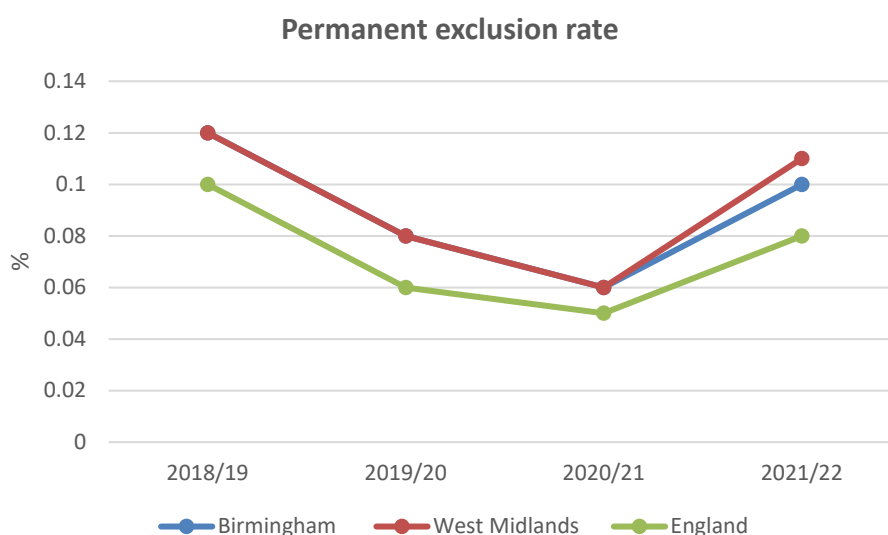
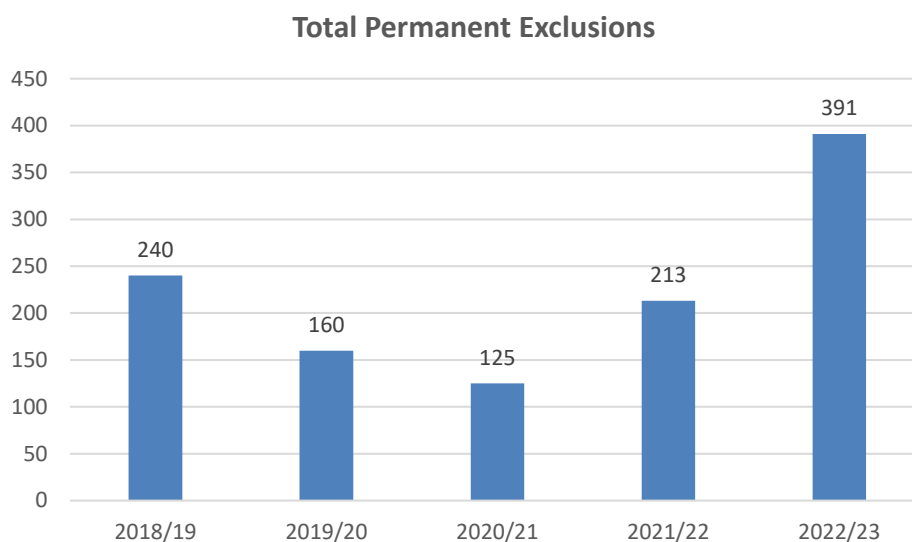
- 1.1. This report updates the Committee on hidden children and provides information on exclusions, suspensions, part-time timetables, elective home education, absence rates and the impact of period poverty on pupils' attendance during their periods.
- 1.2. The report provides information on how the council, schools, Birmingham Children's Trust and health colleagues retain oversight of these children.
- 1.3. The embedded links provide published and management information data on these groups of children.

2. Recommendations

- 2.1. That the Committee notes this report and provides feedback.

3. Exclusions

- 3.1. A permanent exclusion from school is where a pupil is no longer allowed to attend a school in response to a serious breach or persistent breaches of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupils or staff in the school.
- 3.2. There was a significant reduction in permanent exclusions from Birmingham schools during the covid pandemic period but in academic year 21/22 levels of permanent exclusions in the city began to return to pre-pandemic levels.



- 3.3. Data indicates that permanent exclusion rates are increasing nationally, we expect this to continue in the new academic year.
- 3.4. From our consultations with Birmingham schools on the reasons for the increase in the levels of permanent exclusions, responses from schools have included;
- worsening levels of behaviour following the pandemic
 - pressure on schools' budgets leading to less spend on specialist and pastoral staffing,
 - Some schools have indicated that changes to the DfE (Department for Education) guidance on exclusions has led to a different approach to permanent exclusions.
- 3.5. City of Birmingham School (COBS) provides education for children permanently excluded from school to support the local authority in meeting the requirement to *'make arrangements for suitable full-time education for pupils permanently excluded from school from the sixth day following a pupil's permanent exclusion'* (Education Act 1966).

- 3.6. Additional places at COBS have been commissioned by Birmingham City Council in the last two years to respond to the rising demand for places, funded from the High Needs Block.
- 3.7. In response to the sharp rise in permanent exclusions in the last academic year council officers held meetings with COBS to seek to project the pressure on places in the new academic year (23/24).
- 3.8. Current projections based on recent permanent exclusion rates of eight per week indicate a risk of insufficient places being available at COBS for permanently excluded children in this academic year.
- 3.9. COBS was asked to explore the possibilities to increase their current capacity in preparation for the expected continued increase in demand from September 2023. The Headteacher of COBS has produced a proposal to re-organise the COBS sites to accommodate more children.
- 3.10. Meetings have taken place between COBS and Education Infrastructure colleagues to scope out the proposal further and produce a plan of work and a timeline to achieve this.
- 3.11. It is anticipated that the proposed changes to the COBS sites will allow an increase in secondary provision of 80 additional places. The current major pressure for places is in the secondary sector.
- 3.12. 20 of the increased secondary places will be achieved by reallocating from the existing primary places to secondary (at no extra cost) and an additional 60 new places would be established at an additional annual cost of £1,232,400. We would anticipate COBS having some of these places available from November 23 onwards.

4. Prevention of Exclusions

- 4.1. Alongside the short-term need to increase capacity within COBS to ensure we meet our statutory duties; work continues to develop more preventative strategies. We have recently modelled a 'team around the school' process, supporting a secondary school with 20 children at high risk of exclusion through an integrated service offer from the Youth Service, SAFE Taskforce, Violence Reduction Partnership, BEP, BCT Early Help and other agencies, working together to provide universal and targeted support. This has demonstrated effective bridging and brokering of services and will form a blueprint for future working arrangements.
- 4.2. Partnerships to prevent exclusions are progressing with the Police and Crime Commissioner's Office. Proposed restructuring within the Children and Families Directorate will provide new dedicated and focused staffing resource to mainstream exclusion prevention and the coordination of alternative education provision (AP) places.
- 4.3. We are exploring ways to work more effectively with the secondary Local Sharing Panels both to improve the level of reintegration back into mainstream from COBS

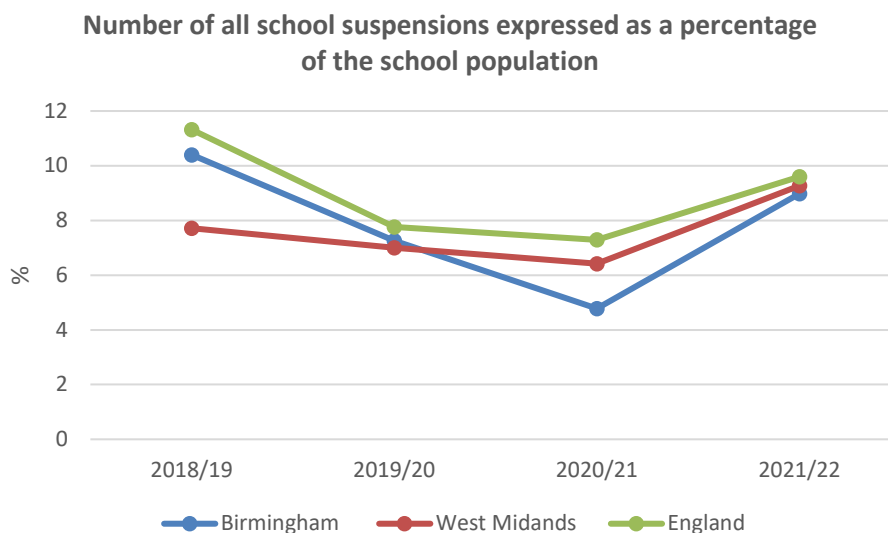
and to improve the success rate of 'managed moves' between Birmingham schools. This will ensure join up between BCC and partner agencies to support children and families.

- 4.4. Accessing new preventative short term and sessional places may be possible by encouraging the AP Free schools to expand their offer in the city.
- 4.5. It is proposed that the next COBS SLA reflects the council's focus on the flexible use of places, short stay interventions and outreach support to reintegrate children back to mainstream, which is essential to build 'fluidity into the system. It would prove beneficial for the COBS SLA to be extended over several years to allow for longer-term planning for COBS leadership and to allow new prevention strategies to be developed by BCC in partnership with school leaders. Once implemented these strategies it is anticipated that it will take some time to gain traction and become embedded.
- 4.6. 'In Year' exclusions data is being collected, our data collection is being used to create an exclusion dashboard for strategic and child-level use, enabling effective multi-professional collaboration and rapid response based on meaningful, regular exclusions data rather than census data that does not provide an up-to-date picture.
- 4.7. This data gives us a picture of the equity issues facing particular groups of Birmingham children and will inform a more targeted response to service delivery.
- 4.8. A new Alternative Provision working group has been established to seek to understand the AP landscape in Birmingham. Jointly led by the directors for SEND and Thriving Children and Families it is currently setting out key performance indicators:
 - Sufficiency - do we have enough preventative places and services – are they effective?
 - Equity – do we know how fair the system is for children and young people?
 - Pathways - are the pathways to provision in place and is access fair and equitable?
 - Governance – do we have good oversight and management of the 'AP System' in Birmingham?
- 4.9. Permanent exclusions from a school are a decision by the Headteacher and the school governing body, the council's statutory role is around the permanent exclusion process in ensuring compliance.
- 4.10. The council's ambition is to work with schools to develop the 'AP System' and marketplace, share good practice and shape services to support our schools and help prevent permanent exclusions of children in Birmingham.
- 4.11. It is expected that Birmingham will continue to experience a high level of permanent exclusions in the next academic year, it will take time for new systems and strategies to be agreed with education system leaders in the city and for new ways of working to be implemented and embedded. A new 'Preventing Exclusions' strategy will be co-produced with Birmingham headteachers later this term, this

will involve engaging with headteachers, professionals, parents and pupils through a series of workshops to inform our approaches in this area.

- 4.12. There are significant financial pressures on the High Needs Block (which funds COBS) which are being factored into BCC's financial planning.

5. Suspension



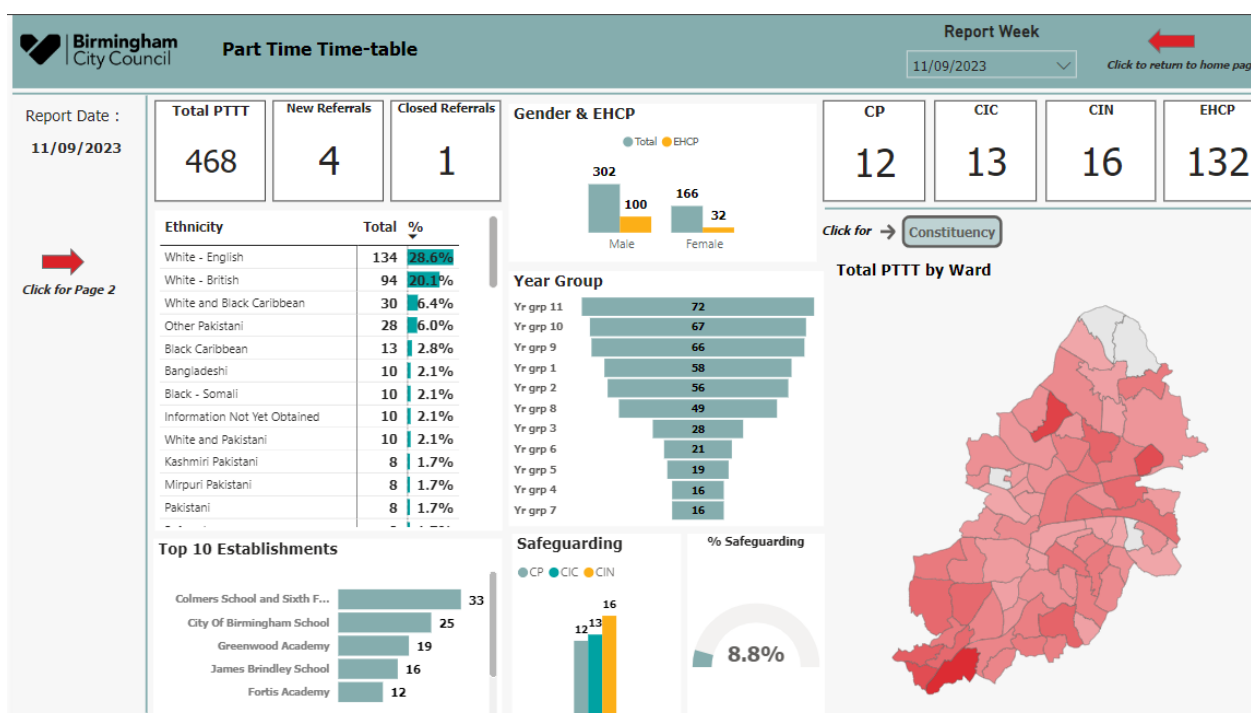
- 5.1. A suspension is where a pupil is temporarily removed from school for a fixed period of time and is used by schools as part of their behaviour policy to provide a clear signal of what is unacceptable behaviour and show that current behaviour is putting them at risk of permanent exclusion.
- 5.2. 'In Year' data collection of data on suspensions from Birmingham schools will be used to create a Suspensions Data Dashboard for strategic and child-level use, enabling effective multi-professional collaboration and rapid response based on meaningful & regular suspensions data. The new staffing resource planned for the Thriving Children and Families division will focus on preventing exclusions and will use this improved suspensions data to plan interventions for children at risk of exclusion.

6. Part-time timetables

- 6.1. Part-time timetables are only permissible if they are short term (no more than six weeks) and are used to meet the needs of the child rather than the school. This approach should be used to integrate/reintegrate children who have had longer term absence/exclusion from school.
- 6.2. Data shows that approximately 85% children in receipt of part-time/reduced timetables have a SEND (Special Educational Needs and Disabilities) need. The data has been incomplete with not all schools notifying the local authority as required.
- 6.3. To improve the data and identify trends required for action planning, the part-time/reduced timetable guidance for schools has been revised and is now available

to schools. The online notification forms have been amended to give the local authority access to the most up to date part-time/reduced timetable data.

- 6.4. This should allow officers to have close to real time data on current pupils not in receipt of full-time education. Part-time timetables have been included in the transformation plans related to attendance as outlined by the DfE Guidance 'Working together to improve school attendance'.
- 6.5. Under the guidance, local authorities are required to allocate single points of contact to meet with every school termly. New posts have been designed to reflect those requirements which will include discussions on strategies to prevent and address part-time provision.

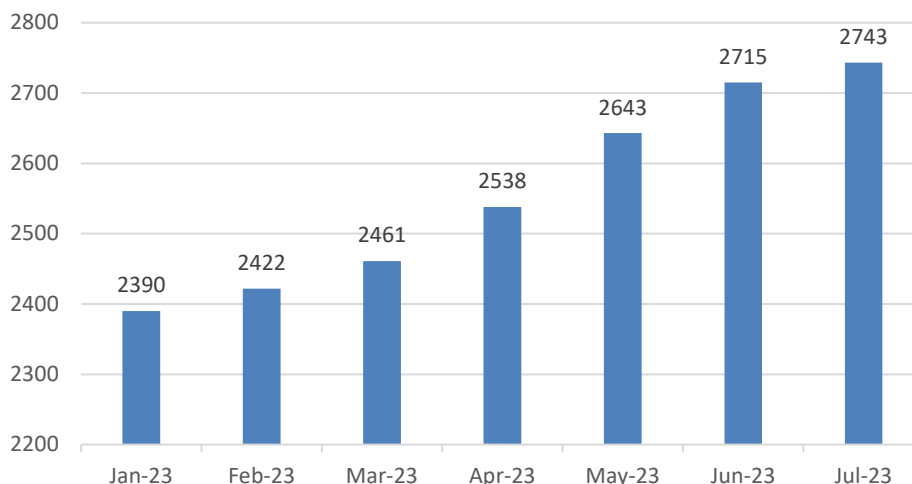


7. Elective Home Education

- 7.1. The Elective Home Education (EHE) Team fulfils the council's obligation to ensure that home educated children are receiving suitable full-time education.
- 7.2. There are currently 2500 children who are known to be home educated in Birmingham (Sept 23).
- 7.3. The law does not currently require parents/carers to notify the local authority of the intention to home educate. However, the local authority does have a legal duty to ensure its resident children are in receipt of a suitable education.
- 7.4. In January 2023, an Elective Home Education Project Group was established with oversight from Birmingham Safeguarding Children Partnership (BSCP) to ensure robust arrangements are in place for children and young people who are electively home educated. A rigorous triage process was introduced to identify any children at risk, and supervision and support from BCT CASS is in place.

- 7.5. BCC and BCT officers met with the Elective Home Education team from DfE in January to share social policy evidence that emerged from the deep dive into 800 children's records. The findings of that triage underpin BCC's improvement plan to address emerging themes in EHE. This includes children being removed from school roll for a range of reasons:
- Following safeguarding disclosures where a statutory threshold was not met, or consent was withheld, to avoid risk of further disclosures when in school
 - issues with bullying in school and ineffective strategies to manage this
 - behaviour concerns where EHE is used to avoid permanent exclusion
 - parents with adult mental health/social care intervention requiring support from children resulting in children becoming young carers,
 - children with SEND, emotionally based school avoidance
 - the use of unregistered and unregulated tuition centres and over-representation of groups of children, linking to faith/RSHE
- 7.6. The EHE team has delivered a series of awareness raising sessions through the Corporate Safeguarding Group, the Practitioner Forum, CASS/MASH and health, and has produced a 'one-minute read' to assist frontline workers to get information about how to get advice about children they may be worried about.
- 7.7. BSCP has updated 'Right Help, Right Time' to include risks for children who may be home educated, thereby mainly out of sight of services, to strengthen the local policy position that the best place for almost all children is in school. We have introduced a ten-day cooling off period to allow parents/carers time to consider removing children from school where mediation may be preferable.
- 7.8. Particular attention is being paid to children known to Birmingham Children's Trust to ensure that children subject to CIN/CP are in school.
- 7.9. Children in EHE are a cohort of interest for the Children Out of Sight Group. This group is chaired by health and seeks opportunities for integrated agency outreach to engage families.
- 7.10. A series of community conversations has been carried out to offer confidence to parents/carers, particularly when the reason for withdrawal from school is related to Relationships Education.
- 7.11. We have commissioned a specialist teacher to engage with Somali heritage families to act as a broker for a range of health and education services and to support children to return to school.

Total number of children home educated



Electively Home Educated
Report Week

Report Date : 11/09/2023
11/09/2023
[Click to return to home page](#)

Report Date : 11/09/2023

[Click for Page 2](#)

Total EHE	New Referrals	Closed Referrals
2,501	3	11

Gender & EHCP

Total	EHCP
Male: 1,256	Female: 1,245
Male: 45	Female: 26

CP	CIC	CIN	EHCP
18	6	13	71

[Click for → Constituency](#)

Ethnicity

Ethnicity	Total	%
Information Not Yet Obtained	1,029	41.1%
White - English	396	15.8%
White - British	161	6.4%
Other Pakistani	115	4.6%
Black - Somali	73	2.9%
White and Black Caribbean	69	2.8%
Black Caribbean	52	2.1%
Pakistani	52	2.1%
Arab Other	42	1.7%
Mirpurī Pakistani	40	1.6%
Kashmirī Pakistani	31	1.2%
Other Mixed Background	30	1.2%
Bangladeshi	27	1.1%

Year Group

Yr grp 11	408
Yr grp 10	350
Yr grp 9	302
Yr grp 8	301
Yr grp 6	231
Yr grp 7	226
Yr grp 5	187
Yr grp 4	171
Yr grp 3	161
Yr grp 2	108
Yr grp 1	56

Total EHE by Ward

Referral Source

School	1,751
Parent	242
Elke	93
Adm	55
Supps	50
Ougen	29
Elther	16
Pctm	14
Out	13
Apple	12
Olea	6
(Blank)	6
Evo	5
Eyot	5
ASV	4
Senar	4

Safeguarding

CP_Count	18	13
	6	

% Safeguarding

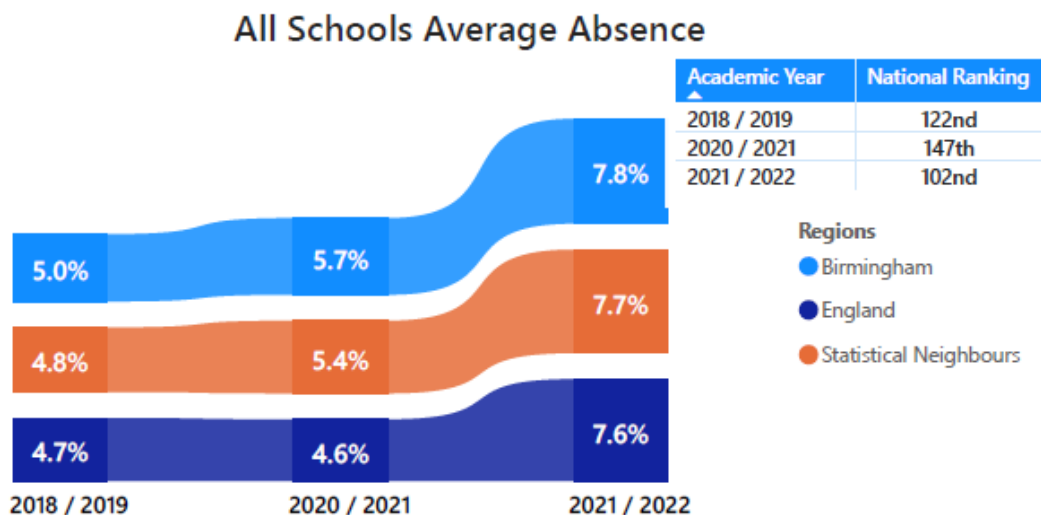
1.5%

8. Attendance

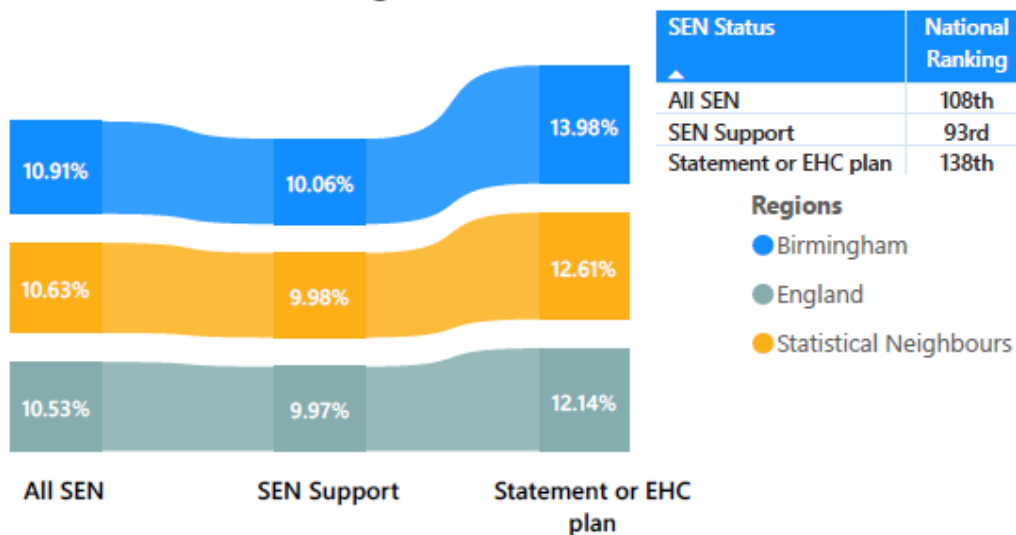
- 8.1. DfE Census data for Birmingham shows that for 2021/22 pupil absence was higher than national average for several groups of pupils such as children with SEND needs, children with Child in Need/Child Protection Plans.
- 8.2. To meet the new requirements from the DfE guidance 'Working Together to Improve School attendance the local authority is re-designing the attendance function that will sit within the Thriving Children and Families division, this will provide a new

focussed staff resource to work with Birmingham schools to support improving attendance in the city.

- 8.3. There is no data on emotionally based school avoidance but anecdotally, the DfE and local authorities in England believe that numbers have substantially increased following the pandemic.



All Schools Average Absence - SEN Status



- 8.4. A recent report by [Public First](#), 'Listening to, and learning from, parents in the attendance crisis', presents a range of push and pull factors that shows the impetus to attend every day has been lost as parents wrangle with the cost-of-living crisis, their children's fragile mental health, unmet special educational needs and post-Covid 'new normal' society. The report captures the voices of parents, many of whom are disgruntled with aspects of educational policy or school management.

- 8.5. To develop this work and to meet our statutory duties in this area the local authority is holding a series of co-production events with parents, schools, Birmingham Children's Trust, other Children and Family services, parent advocates and pupils to identify the priorities for a Birmingham School Attendance Strategy, which has the theme 'improving school attendance is everyone's business'. Additional funding has been allocated to enable service transformation so the local authority can meet its obligations under the 'Working together to Improve School Attendance' guidance with an emphasis on providing a single point of contact for schools; working with schools from their data to ensure support is offered to those children with high levels of absence, particularly children with severe absence (50% or more absence) which will include children who are still on roll of a school but haven't attended since the pandemic); and support with guidance to schools ensuring best practice in reducing absence in every school in the city. The Inclusion Strategy launched in June 2023, with attendance as a thread throughout the strategy as a key area for improvement. Key performance indicators on reducing pupil absence have also been set for all schools taking part in the Developing Local Provision initiative across the city, with training and support offered by the Lead Attendance Officer as required.
- 8.6. Live attendance data is now being collected from all but one school in Birmingham, significantly above the DfE's national collection rate of 85%. Our data collection will be used to create an attendance dashboard for strategic and child-level use, enabling effective multi-professional collaboration and rapid response based on meaningful, regular attendance data rather than census data that does not provide an up-to-date picture. Further work is in place to ensure that Birmingham also has live attendance data from all AP Free schools.

9. Period Poverty

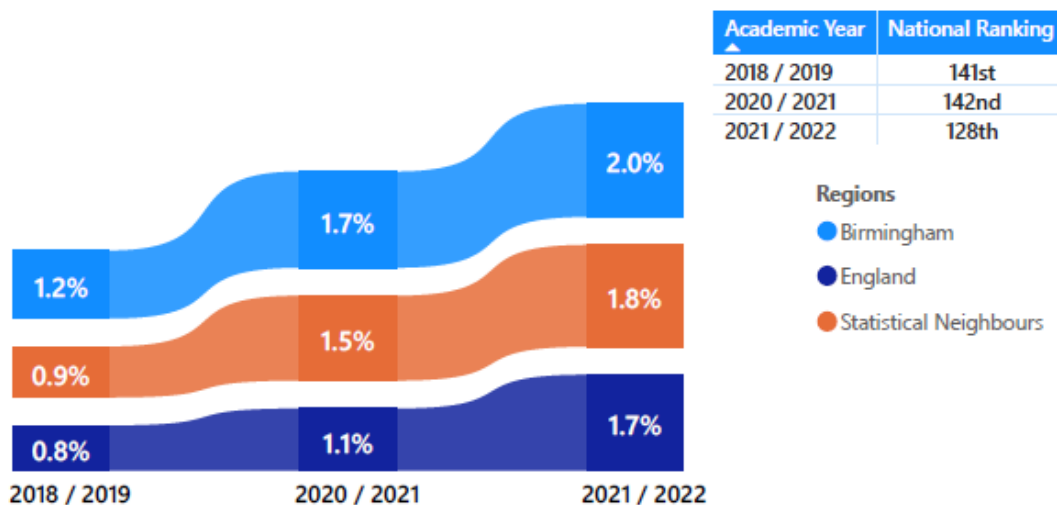
- 9.1. A meeting of the City Council on 4th December 2018 approved a resolution asking Scrutiny to investigate the issue of period poverty in Birmingham. The report that followed, 'Tackling Period Poverty and Raising Period Awareness,' made a series of recommendations including that the Council should work more closely with schools and teachers to educate students about period poverty.
- 9.2. This is well embedded in schools and forms part of the public health approach to health and wellbeing. Menstruation is addressed through the Birmingham Approach to Relationships Education pack and through the secondary curriculum. Period products are available in schools and advice and support is offered for children and young people in a sensitive and culturally appropriate way.

10. Children not returned after the Pandemic

- 10.1. The Centre for Social Justice report '[Lost and Not Found](#)' together with the Education Select Committee inquiry '[Persistent absence and support for disadvantaged pupils](#)' have both highlighted the issues of large rises in both persistent and severe absence nationally.

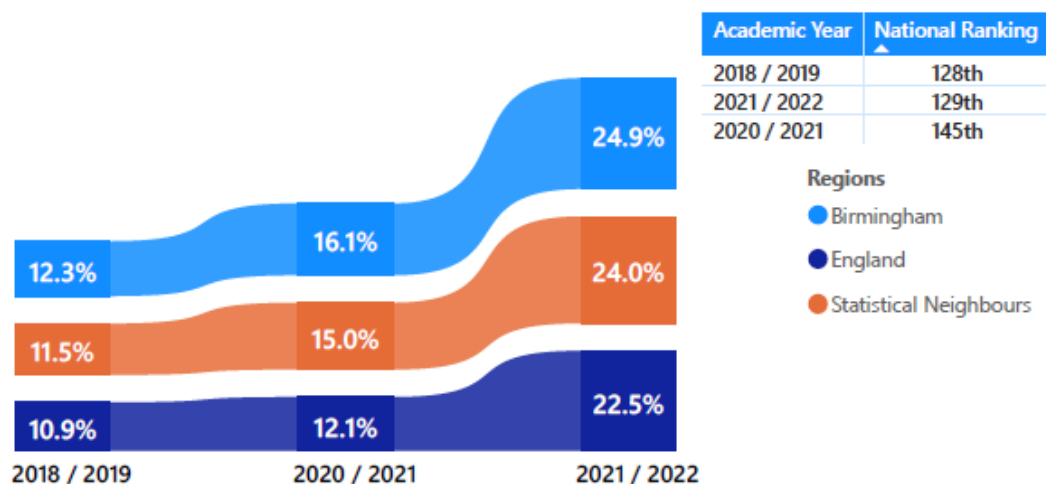
10.2. Severe absence is defined as when pupils have missed at least 50% of sessions in school. These children are absent more often than they are present.

All Schools Severe Absence



10.3. Persistent absence is defined as when pupils are missing 10% or more of sessions in school. This is the equivalent of missing one afternoon every week.

All Schools Persistent Absence



11. Securing improvement

11.1 Birmingham has a designated DfE Attendance adviser who is helping us to develop a strategic plan to support schools and families to improve school attendance, including how we embed the new [‘Working together’ guidance](#) into our practice and begin to address the issues highlighted by the Centre for Social Justice.

11.2 A new staffing resource is being put in place as part of the Thriving Children and Families division re-design and will support Birmingham schools to improve attendance, through locality support networks including Early Help and Education Safeguarding.

11.3 Developments will include:

- Providing every school with a named point of contact who can support with queries and advice
- Promoting opportunities for schools to share good practice across all Birmingham schools
- Holding termly conversations with every Birmingham school to identify attendance issues and provide advice, support and challenge.
- Ensuring identified pupils and families have access to the right services
- Promoting good practice through whole school attendance policies and audits
- Working strategically, using local attendance data, with school improvement system leaders to support schools to develop and embed good attendance practice
- Developing new strategies and embed good practice around emotionally based school avoidance and develop an improved offer for children who are educated 'other than at school'.

12. Equalities Implications of Hidden Children

12.1 Improved data collection in Birmingham and the production of data dashboards for Attendance, Exclusions, Suspensions, Elective Home Education & Part time timetables is a real step forward as it is allowing detailed 'live' interrogation of 'in year' data, the data is highlighting intersectional inequalities for disadvantaged children, children from global majority backgrounds, children with SEND and children in alternative provision. This school-by-school and pupil level analysis will allow better multi agency targeted responses to these equity issues and will inform our service delivery and design in the future.

12.2 Current actions to secure improvements in relation to hidden children include:

- The co-production of new strategies in relation to attendance, exclusions and AP
- Weekly hidden children triage
- Fortnightly identification and review of children of concern out of full-time education for rapid response
- Review of our response to emotionally based school avoidance
- Use of dashboard data to focus our practice and help redesign services

13. Any Finance Implications

13.1 There are no direct financial implications from this report. The services detailed in this report are budgeted within the Thriving Families General Fund budget.

14. Any Legal Implications

14.1 Education Issues

The Local Authority's (LA) duty in respect of hidden children stems from the Education Act 1996. Whilst the primary duty to secure a child's education rests with the parents (s7), the LA has a duty to intervene (S437) if it appears that the child is not receiving a suitable education.

- For children missing education the Education (Pupil Registration) (England) Regulations 2006 requires schools to inform their local authority when a pupil is removed from the admission register under certain grounds, one of which being exclusion.
- When a child is permanently excluded the LA has a duty to provide alternative education from the sixth school day of the exclusion.
- Pursuant to the Children and Families Act 2014, the LA has a duty to identify and support children with special educational needs (SEN).
- When a parent elects to educate the child at home, the LA has a duty to ensure the child is receiving a suitable education and have also have the powers of intervention when necessary.
- The LA is obliged to follow the Department for Education's (DFE) statutory guidance on how the LA implements its legal duty to identify children not receiving a suitable education and how to intervene.

14.2 Safeguarding issues

- The Children Act 1989 provides the legal framework for the protection and welfare of children. S17 places a duty on local authorities to safeguard and promote welfare of children – the general duty of safeguarding.
- Working together to Safeguard Children is a key government guidance document setting out how organisations and individuals should work together to safeguard and promote the welfare of children.
- The Care Act 2014 has implications for child safeguarding, especially where there are transitions between child and adult services.
- The Counter-Terrorism and Security Act 2015 introduced the "Prevent" duty as part of the LA's broader safeguarding responsibilities.

16.0 Appendices

None

Birmingham City Council

Education, Children and Young People Overview and Scrutiny Committee

18 October 2023



Subject: Education, Children and Young People Overview and Scrutiny Committee's Work Programme

Report of: Christian Scade, Head of Scrutiny and Committee Services

Report author: Sarah Fradgley, Overview and Scrutiny Manager
Sarah.fradgley@birmingham.gov.uk
07927665829

1 Purpose

- 1.1 This report sets out the proposed work programme for the Education, Children and Young People Overview and Scrutiny Committee for 2023-24, based on the Committee's meeting in June 2023. Appendix 1 outlines the topics identified, aims and objectives and the preferred method of scrutiny to achieve these objectives.
- 1.2 The report also refers to other topics, which the Committee has identified, for future consideration, and this will be continuously updated during the year.

2 Recommendations

- 2.1 That the Committee:
 - Notes the information set out in Appendix 1 and identifies if any further topics need to be added to the menu of topics for the Committee to explore over the coming year.
 - Agrees, subject to further input from the Chair and Deputy Chair, the issues that the Committee will consider during November 2023 – January 2024, the proposed aims and objectives and the preferred method of scrutiny.
 - Notes, subject to further input from the Chair and Deputy Chair outside of the meeting, its proposed work programme will be submitted to Co-ordinating O&S to enable work to be planned and co-ordinated throughout the year.

3 Background

- 3.1 The [statutory guidance for local government overview and scrutiny](#) sets out the role it can play in holding an authority's decision makers to account. This makes it fundamentally important to the successful functioning of local democracy.
- 3.2 Effective Overview and Scrutiny should:
- Provide constructive 'critical friend' challenge.
 - Amplify the voices and concerns of the public.
 - Be led by independent people who take responsibility for their role.
 - Drive improvements in public services.
- 3.3 The role and functions of Overview and Scrutiny Committees are outlined in [The City Council's Constitution | Birmingham City Council](#) They will:
- Make reports and/or recommendations to the full Council, the Executive and/or other organisations in connection with the discharge of the functions specified in their terms of reference.
 - Consider any matter covered in their terms of reference that may affect or be likely to have an effect on the citizens of Birmingham; relevant to the Council's strategic objectives; relevant to major issues faced by officers in managing a function of the Council; and likely to make contribution to moving the Council forward and achieving key performance targets.
- 3.4 Effective scrutiny needs to add value. A well planned and timely work programme enables Overview and Scrutiny Committees to be involved at the right time and in the right way, and ensure their involvement is meaningful and can influence the outcome.
- 3.5 Members often have a number of topics suggested to them and are therefore required to **prioritise** matters for consideration. The Scrutiny Framework sets out the following factors to be considered:
- Public interest: concerns of local people should influence the issues chosen.
 - Ability to change: priority should be given to issues that the Committee can realistically influence.
 - Performance: priority should be given to areas in which the Council and Partners are not performing well.
 - Extent: priority should be given to issues that are relevant to all or a large part of the city.
 - Replication: work programme must take account of what else is happening to avoid duplication.

Looking Ahead

- 3.6 Overview and Scrutiny Committees will identify a ‘menu’ of issues (including policy development, policy review, issues of accountability and statutory functions) at the start of the year. Each Committee should then regularly review their ‘menu’ and decide which issues need to be examined further, and how that work would be undertaken. Scrutiny activities should be thorough and undertaken in a timely manner.

Scrutiny Methods

- 3.7 There are a range of ways to undertake scrutiny. The approach for 2023-24 enables flexible scrutiny and outlines a shift from monthly formal meetings to a combination of approaches. The Committee will choose the most effective scrutiny method to achieve the desired aims and objectives for each topic.
- 3.8 Based on Statutory Guidance published in 2019, different scrutiny methods include (but are not limited to):
- A single item, or items, on a committee agenda – this method fits more closely with the “overview” aspect of the Scrutiny function and provides limited opportunity for effective scrutiny. It is most appropriate for specific issues where the committee wants to maintain a watching brief.
 - A single item meeting, either as the committee or a more limited number of Members. It has the capacity to enhance the previous option by taking evidence from a number of witnesses.
 - A task and finish day - provided that these are properly focused, they ensure Councillors can swiftly reach conclusions and make recommendations and are effective even for complex topics.
 - A task and finish review – this is an enhancement of the previous option being held over four or six meetings spread over a limited number of months.

Education, Children and Young People Overview and Scrutiny Committee

- 3.9 The Committee’s Terms of Reference is to fulfil its functions as they relate to any policies, services and activities concerning:
- Education and children’s social care.
 - The safety and wellbeing of children, including safeguarding with statutory partners.
 - The needs of all children and young people, families and carers (children’s services).
 - Oversight of the Children’s Trust.
 - Early years health and wellbeing.
 - Looked after children, corporate parenting.

- Special Education Needs and Disability.
- School improvement, school places and travel to and from school.
- Youth engagement and youth services.
- Development of 14-19 career pathways, enterprise and entrepreneurship in Birmingham schools.

3.10 The Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- a) Church of England diocese representative (one).
- b) Roman Catholic diocese representative (one).
- c) Parent Governor representatives (two).

3.11 The Committee is chaired by Cllr Kerry Jenkins, and its membership comprises Cllrs: Jilly Bermingham, Debbie Clancy, Adam Higgs, Des Hughes, Morriam Jan, Jane Jones, and Shehla Moledina, and statutory co-optees: Sarah Smith, Justine Lomas, Osamugi Ogbe and Rabia Shami.

4 Work Programme 2023-24

4.1 Appendix 1 sets out the topics the Committee will consider over the next few months, and also outlines future items for consideration.

4.2 The Committee may decide to add further items to the work programme during the course of the year. When considering this, the Committee is advised to consider where it can best add value through scrutiny, and how it can prioritise topics for consideration based on the Scrutiny Framework referred to in 3.5.

4.3 The Council's latest [Forward Plan](#) may assist Members in identifying future topics. The following reports are of particular relevance to this Overview and Scrutiny Committee:

ID Number	Title	Proposed Date of Decision
	None at present.	

4.4 Overview and Scrutiny Chairs are advised to maintain regular engagement with Cabinet Members to enable flexibility to be built into the Overview and Scrutiny work programme, so as to respond to the Council's policy priorities in a timely way.

4.5 The work programme, set out in Appendix 1, also cross references the work of the Committee with the Council's Corporate Priorities 2022-26. During the period June – January 2024 the work of this Committee will contribute to Corporate Priority 8 – Support and enable all children and young people to thrive and Corporate10 – Protect and safeguard vulnerable citizens.

5 Any Finance Implications

- 5.1 There are no financial implications arising from the recommendations set out in this report.

6 Any Legal Implications

- 6.1 There are no legal implications arising from the recommendations set out in this report.

7 Any Equalities Implications

- 7.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2 The protected characteristics and groups outlined in the Equality Act are Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion and Belief; Sex, and Sexual Orientation.
- 7.3 The Committee should ensure that it addresses these duties by considering them during work programme development, the scoping of work, evidence gathering and making recommendations. This should include considering how policy issues impact on different groups within the community, particularly those that share a relevant protected characteristic; whether the impact on particular groups is fair and proportionate; whether there is equality of access to services and fair representation of all groups within Birmingham; and whether any positive opportunities to advance equality of opportunity and/or good relations between people are being realised.
- 7.4 The Committee should ensure that equalities comments, and any recommendations, are based on evidence. This should include demographic and service level data and evidence of residents/service-users views gathered through consultation.

8 Appendices

- 8.1 Appendix 1: Education, Children and Young People Overview and Scrutiny Committee's Work Programme 2023-24.

9 Background Papers

- 9.1 [Birmingham City Council Constitution](#)

Birmingham City Council Overview and Scrutiny Framework April 2021

Education, Children and Young People Overview and Scrutiny Committee Work Programme 2023/24

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
July	Children and Young People's Travel Service Corporate Priorities: 8	Assurance to the Committee and public that everything is on track for September. Overview of KPIs, performance and finance. Policy development including travel services for under statutory school age and over 16 year olds, including how decisions are made and what criteria is used. Independent travel training, including the views of young people, and how this has been informed and received by the children, parents and carers. Concerns that have been identified and how these will be addressed. The Committee to agree any comments / recommendations.	Committee Meeting single item: 19 July 2023 at 10am Venue: Committee Rooms 3 and 4, Council House Paper/Presentation Deadline: 10 July 2023	Adrian Weissenbruch, AD, Children and Young People's Travel Service	Stephen Hughes, Interim Deputy Operations Manager Marie Nicely, Travel Assist Supervisor Abdulahdi Mehraj, PMO Manager John Wood, Change Manager Linda Sutton-Howard, IT Project Manager	Outcome Update / Assurance: The Committee were updated on the preparation for the Children and Young People's Travel Service for start of the 2023/24 academic year and independent travel training. It was agreed that a workshop will be held for all city councillors. This is being planned for 16 th November 2023.
July	SEND Tribunals Corporate Priorities: 8	To update members to on the process for SEND tribunals including data.	Committee meeting single item: 19 July 2023 at 10am	Helen Ellis, Director, SEND and Inclusion	Kate Harvey, Head of SEND Resolution, SENAR	Agreed at Committee meeting October 2022 (CMIS Link). Outcome:

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
		The Committee to agree any comments / recommendations.	Venue: Committee Rooms 3 and 4, Council House Paper/Presentation Deadline: 10 July 2023			Update / Assurance: The Committee were updated on the SEND tribunal process. It was agreed to hold a workshop for all Councillors.
July	Performance Update Corporate Priorities: 8	Report on Children's Services Improvement Plan and data. The Committee to agree any comments / recommendations.	Committee meeting standing item: 19 July 2023 at 10am. Venue: Committee Rooms 3 and 4, Council House. Paper/Presentation Deadline: 10 July 2023	Sue Harrison, Strategic Director, Children and Families	Fayth Skeete, Head of Strategic Governance & Planning	Outcome: Update / Assurance: The Committee were updated on the Children's Services Improvement Plan.
September	Performance Update Corporate Priorities: 8	The report will include statutory and non-statutory services, and how performance contributes to efficiencies, such as interims and permanent appointments. The Committee to agree any comments / recommendations.	Committee meeting – standing item: 6 Sep 2023 at 10am Venue: Committee Rooms 3 and 4, Council House	Sue Harrison, Strategic Director, Children and Families	David Fallows, Head of Performance, Business and Commissioning Intelligence	Outcome: Update/ informed work programme: Updated on performance methodology. Scrutiny of data informed decision to deep dive into early years take up (Jan 2024) and school attendance data (hidden children Nov 2023).

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
			Paper/Presentation Deadline: 25 Aug 2023			<p>Further discussions on the focus and format of performance data to be considered at Committee Data Workshop on 6th Nov 2023.</p> <p>Additional information on mental health element of Employment Support Programme to be provided to Members.</p> <p>Clarification sought on staff sickness absence percentage figures (days lost to sickness, or the percentage of people sick for each reason).</p>
September	Financial Challenges - Scrutiny Contribution to the Budget Savings and Recovery Plan	To consider the implications of Equal Pay and the Medium Term Financial Plan for the Committee's work programme including agreed savings for 2023/24.	<p>Committee meeting – standing item: 6 Sep 2023 at 10am</p> <p>Venue: Committee Rooms 3 and 4, Council House</p>	Sue Harrison, Strategic Director, Children and Families	<p>Councillor Karen McCarthy, Cabinet Member, Children, Young People and Families</p> <p>Janie Berry, City Solicitor</p> <p>Andy Couldrick, Chief Executive,</p>	<p>Outcome: Members were informed of the Q1 budget savings position 2023/24 for areas relating to the Committee remit.</p> <p>Members discussed with Director, Cabinet Member, S115 Officer and BCT Chief Executive the potential impact of S114 notice and</p>

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
			Paper/Presentation Deadline: 25 Aug 2023		Birmingham Children's Trust David Fallows, Head of Performance, Business & Commissioning Intelligence Fiona Greenway, Interim AD, Financial Performance and Insight Sue Harrison, Strategic Director, Children and Young People Mohammed Sajid, Interim Head of Financial Strategy Adrian Weissenbruch, AD, Children and Young People's Travel Service	financial challenges on service provision and spending.

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
October	Scrutiny of Delivery of 2023/24 Budget Savings and Update on the Council's Response to S114 Notice and Financial Recovery Plan	<p>For the Committee to consider a report on current and future Budget Savings and Recovery Plan and implications for Education, Children and Young People Overview and Scrutiny Committee</p> <p>Quarter 1, 2 and 3 2023/24 savings to be presented to enable the committee to examine progress of delivery of the 2023/24 savings within the remit of the Committee's terms of reference.</p> <p>Committee invited to consider the implications of Council's response to the Section 114 Notice and Financial Recovery Plan, Secretary of State DLUHC statement to House of Commons, Section 5 Notice and supplementary Section 114 Notice on the scrutiny work programme.</p>	<p>Committee meeting standing item: 18 October 2023</p> <p>Presentation/Paper Deadline: 9 Oct 2023</p> <p>Venue: Council House, Committee Rooms 3 and 4 at 10am</p>	Sue Harrison, Strategic Director, Children and Families	Clare Sandland, Finance Business Partner	
October	Hidden Children Corporate Priorities: 8 and 10	To update the Committee on hidden children including exclusions, suspensions, part time timetables, elective home education, findings of the Inquiry on period poverty regarding attendance during their periods, and information on children that	<p>Committee meeting standing item: 18 October 2023</p> <p>Presentation/Paper Deadline: 9 Oct 2023</p>	Sue Harrison, Strategic Director, Children and Families	<p>Razia Butt, Director, Children and Families</p> <p>Steve Howell, Head Teacher, City of Birmingham School (COBS)</p>	<p>Duty on local authorities to progress recommendations linked to improving school attendance in Government White Paper by Sept 23</p> <p>Working together to improve school attendance (publishing.service.gov.uk)</p>

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
		<p>have and have not returned following the pandemic.</p> <p>To consider information and data on the equalities implications of hidden children.</p> <p>The Committee to agree any comments / recommendations.</p>	Venue: Council House, Committee Rooms 3 and 4 at 10am		<p>Barry Bowles, Chair, COBS</p> <p>Tim Boyes, Chief Executive, Birmingham Education Partnership (BEP)</p> <p>Alan Michell, Head of Service for School Admissions and Fair Access</p> <p>David Fallows, Head of Performance, Business and Commissioning Intelligence</p> <p>Edwina Langley, Lead Practitioner</p> <p>Paul Mitchell, Interim Head of Attendance & Exclusions Diane Rhoden Director of Nursing - Safeguarding &</p>	Relevant performance information to be included in the report to enable the committee to conduct a deep dive.

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
					Children in Care NHS Birmingham and Solihull	
November	Scrutiny of Delivery of 2023/24 Budget Savings and Update on the Council's Response to S114 Notice and Financial Recovery Plan	For the Committee to consider a report on current and future Budget Savings and Recovery Plan and implications for Education, Children and Young People Overview and Scrutiny Committee To examine progress of delivery of the 2023/24 savings within the remit of the Committee's terms of reference.	Committee meeting standing item: 29 November 2023 Presentation/Paper Deadline: 20 November 2023 Venue: Council House, Committee Rooms 3 and 4 at 10am	Sue Harrison, Strategic Director, Children and Families	TBC	
November	Performance Update Corporate Priorities: 8	Report on Children's Services Improvement Plan and data. The Committee to agree any comments / recommendations.	Committee meeting standing item: 29 Nov 2023 Presentation/Paper Deadline: 20 Nov 2023 Venue: Council House, Committee Rooms 3 and 4 at 10am	Sue Harrison, Strategic Director, Children and Families	David Fallows, Head of Performance, Business and Commissioning Intelligence	Data workshop with members to be arranged beforehand to shape the focus of the report. This will take place on 6 th Nov 2023.

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
November	Update on the review of short breaks when it has been completed (Completion date TBC) Corporate Priorities: 8	To provide an update on the review of short breaks The Committee to agree any comments / recommendations.	Committee meeting single item: 29 Nov 2023 Presentation/Paper Deadline: 20 Nov 2023 Venue: Council House, Committee Rooms 3 and 4 at 10am	Andy Couldrick, Chief Executive, Children's Trust	Lisa Jamieson Interim Director, Commissioning and Corporate Parenting Birmingham Children's Trust	
January	Scrutiny of Delivery of 2023/24 Budget Savings and Update on the Council's Response to S114 Notice and Financial Recovery Plan	For the Committee to consider a report on current and future Budget Savings and Recovery Plan and implications for Education, Children and Young People Overview and Scrutiny Committee To examine progress of delivery of the 2023/24 savings within the remit of the Committee's terms of reference.	Committee meeting standing item: 17 January 2024 Presentation/Paper Deadline: 8 January 2024 Venue: Council House, Committee Rooms 3 and 4 at 10am	Sue Harrison, Strategic Director, Children and Families	TBC	
January 2024	Birmingham Safeguarding Children's Partnership (BSCP) Annual Report Corporate Priorities:	To update the Committee on the children's safeguarding arrangements in the city.	Committee meeting single item: 17 January 2024	Penny Thompson, Independent Chair, BSCP	Simon Cross, Business Manager, BSCP	

Month	Item/Topic	Aims and Objectives	Scrutiny Method	Cabinet Member/ Lead Officer	Other Witnesses	Additional Information and Outcome*
	8 and 10		Presentation/Paper Deadline: 8 Jan 24 Venue: Council House, Committee Rooms 3 and 4 at 10am			
January 2024	Early Years Education Entitlement Corporate Priorities: 8 and 10		Committee meeting single item: 17 January 2024 Presentation/Paper Deadline: 8 Jan 24 Venue: Council House, Committee Rooms 3 and 4 at 10am	Sue Harrison, Strategic Director, Children and Families		Project to increase uptake of early years and profile of families and data on variation of uptake: BCC Early Years - NESTA project Birmingham City Council
January 2024	Draft SEND Sufficiency Strategy Corporate Priorities: 8 and 10		Committee meeting single item: 17 January 2024 Presentation/Paper Deadline: 8 Jan 24 Venue: Council House, Committee Rooms 3 and 4 at 10am	Sue Harrison, Strategic Director, Children and Families		

*Outcome: This will be populated once the item/topic has been completed. It will identify the added value and impact.

Menu of Issues for Consideration

The following items had been identified as potential topics for future consideration. This approach enables the Overview and Scrutiny Committee to remain flexible and respond in a timely manner to emerging issues.

This is a live work programme. New items may be added, or items removed during the course of the year. Proposed aims and objectives as well as scrutiny methodology may also be subject to change.

Item/Topic	Proposed Aims and Objectives	Proposed Scrutiny Method	Additional Information
Child Poverty			
SEND Commissioner	To provide an update on the work of the SEND Improvement Board and identify key areas across SEND services where further work is needed.		
Regular updates on SEND			
SENDIASS	To provide an update on the Improvement plan to meet statutory compliance.		
TBC: Visit for Committee to a school to inform future work.			
UNICEF Child Friendly City			
Post 16		This could be a joint piece of work with the Economy & Skills OSC	
School Attainment (may be February or March)			
Children's Travel Service Workshop	To provide information about the service to aid understanding of the policy and process.	An all Councillor workshop is being arranged for 16 th November 2023.	
A Data Workshop	To understand what performance and measurement data is used across the portfolio to enable committee to make	A workshop for the Committee has been arranged for 6 th November 2023.	

Item/Topic	Proposed Aims and Objectives	Proposed Scrutiny Method	Additional Information
	an informed decision on the focus of performance presented to the committee		

Scrutiny Method Options:

Committee meeting - single item, Committee meeting - single theme, Committee meeting – standing item, Task and Finish Group (outline number of meetings), On location, Other - (describe).

Corporate Priorities, Performance and Outcomes

Corporate Priorities 2022 – 26:

- | | |
|--|---|
| 1 Support inclusive economic growth | 11 Increase affordable, safe, green housing |
| 2 Tackle unemployment | 12 Tackle homelessness |
| 3 Attract inward investment and infrastructure | 13 Tackle health inequalities |
| 4 Maximise the benefits of the Commonwealth Games | 14 Encourage and enable physical activity and healthy living |
| 5 Tackle poverty and inequalities | 15 Champion mental health |
| 6 Empower citizens and enable citizen voice | 16 Improve outcomes for adults with disabilities and older people |
| 7 Promote and champion diversity, civic pride and culture | 17 Improve street cleanliness |
| 8 Support and enable all children and young people to thrive | 18 Improve air quality |
| 9 Make the city safer | 19 Continue on the Route to Zero |
| 10 Protect and safeguard vulnerable citizens | 20 Be a City of Nature |
| | 21 Delivering a Bold Best in Class Council |

Information on the Corporate Priorities, Performance and City Outcomes was reported to the Education and Children’s Social Care OSC in June 23:
[Document.ashx \(cmis.uk.com\)](https://cmis.uk.com/Document.ashx)

