

Draft Report under Section 25 of the Local Government Act 2003

**Fiona Greenway, Director of Finance and Section 151 Officer, pursuant to
Section 151 of the Local Government Act 1972**

27 February 2024

1. Introduction

- 1.1. Section 25 of the Local Government Act 2003 stipulates that the Section 151 Officer must report on the following matters in line with budget calculations:
 - a) The robustness of estimates made for the purposes of the calculations, and
 - b) The adequacy of the proposed financial reserves.
- 1.2. This document contains my professional opinion as your Section 151 Officer, under Section 25 of the Local Government Act 2003, and advises Cabinet, and subsequently Full Council, of my recommendations when considering the 2024/25 budget. Cabinet and all Councillors must be fully mindful of the contents and conclusions set out in this report.
- 1.3. This report should be read in consideration of Section 31A of the Local Government Finance Act 1992, in relation to the calculations the Council must make on an annual basis as a billing authority. Further, when reading this report, Cabinet should be aware of the statutory notices issued in relation to the Council over the 2023/24 financial year. In particular:
 - a) Section 114 (3) notice of the Local Government Finance Act 1988, dated 5th September 2023, issued in relation to potential Equal Pay liabilities and an emerging in-year budget gap;
 - b) Section 5 notice of the Local Government and Housing Act 1989, dated 21st September 2023, issued in relation to omission of a decision in relation to a new Pay Equity Scheme;
 - c) Section 114 (2) notice of the Local Government Finance Act 1988, dated 21st September 2023, issued in relation to omission of a decision in relation to a new Pay Equity Scheme resulting in a loss or deficiency for the Council;
 - d) Statutory Recommendations under Schedule 7 of the Local Audit and Accountability Act 2014, dated 29th September 2023, in relation to Equal Pay, Oracle, Savings, Financial Sustainability and Statutory Accounts;

- e) Directions made under section 15(5) and (6) of the Local Government Act 1999, dated 5th October 2023, in relation to the appointment of Commissioners.

1.4. My report, as the Council's Section 151 Officer, is set out below.

2. Summary

- 2.1. The Council is in a precarious financial position. Alongside the well-publicised potential Equal Pay liabilities, there is a significant budget gap of £225.9m for the 2024/25 financial year, and £67.4m for the 2025/26 financial year. This budget gap takes into account identified savings proposals of £149.8m for the 2024/25 financial year, and an additional £76.3m for the 2025/26 financial year. This means that the Council's net expenditure budget for the 2024/25 financial year is 24% higher than the £925.0m of Council Tax and Business Rates income expected for 2024/25.
- 2.2. Without Exceptional Financial Support (EFS) from the Department for Levelling Up, Housing and Communities (DLUHC), I would not be able to present nor recommend that the Council approves a lawful budget for the 2024/25 financial year. Members should not assume that EFS is an easy option to take. The EFS regime only provides the ability to capitalise revenue expenditure and is unfunded, requiring capital receipts generated by asset disposals to be realised to pay for it. Greater use of EFS has an impact on the asset base of the Council and its ability to retain operational sites.
- 2.3. This Section 25 report outlines the issues driving the current challenging financial position, including the reasons for the significant budget gap. I also describe the current risks – both local and national – that may impact the delivery of this budget. This Section 25 report also lays out the ways in which the risks can be mitigated.
- 2.4. Financial mismanagement is deep rooted within Birmingham City Council, with overreliance on the use of reserves, growing liabilities, imprudent estimates in relation to financial planning, a historical inability to deliver savings, and a number of open prior year accounts back to 2020. Alongside this, the flawed implementation of the Enterprise Resource Planning (ERP) system (Oracle) has

eroded the fundamentals of prudent financial management, resulting in a lack of financial clarity in decision making.

- 2.5. Given the scale of the financial challenge, Commissioners have set Council a challenge of presenting a balanced budget for the next two financial years, 2024/25 and 2025/26, taking both years together. As such, the budget reports being presented will set out a two-year budget. The Council must find a way of living within its means; that is, being financially sustainable and not placing reliance on the use of reserves unnecessarily, as has been the practice over prior years. This is the only way to avoid future Direction from the Commissioners or even more stringent Government intervention and protect the residents of this City from further and deeper budget savings. While it is not possible to present a budget for the 2024/25 financial year without EFS from DLUHC, the intention is that the Council will work towards a balanced budget for the 2025/26 financial year.
- 2.6. The 2024/25 budget has to:
- a) Re-base and re-state the budget for 2023/24, which was fundamentally flawed in its construction, through a full review of budget lines and the assumptions behind the existing budget forecasts for the 2024/25 financial year (as laid out in the 2023/24 Financial Plan), as described in Section Five below;
 - b) Lay out the full range of budget pressures that have been forecast by officers across the Council;
 - c) Present a new, credible and deliverable savings programme, accompanied by meaningful delivery plans;
 - d) Address the structural budget issues identified within the re-base exercise;
 - e) Ensure that the fiduciary duty of the Section 151 Officer to local taxpayers is satisfied and that the decisions on reserves and balances represent proper stewardship of public funds.
- 2.7. Delivering this budget will be extremely challenging. Alongside the very difficult choices that impact residents, there will need to be a significant culture change within the Council. Over the past few years, there has been poor organisational leadership and culture, including inadequate financial management and controls with a lack of focus on the short and medium term financial sustainability of the

Council. There has also been a demonstrated lack of ability to deliver transformation programmes across the Council. This will require new ways of working and, where possible, additional skills and capacity across the Council. This is the absolute premise upon which this budget is set. Savings proposals have been defined and risk assessed as credible, however the ultimate measure of success will be in the delivery itself.

3. Introduction

3.1. In order to form a view on the robustness of the estimates and adequacy of reserves for Birmingham City Council, the following items will be considered within this report:

- Section 4: Birmingham City Council Context (Pages 5 to 12 refer);
- Section 5: Local risks relevant to budget setting for the 2024/25 financial year (Pages 12 to 17 refer);
- Section 6: Wider risks relevant to budget setting for the 2024/25 financial year (Page 17 refers);
- Section 7: Risk Assessment (Page 18 refers);
- Section 8: Adequacy of Reserves and Balances (Page 19 refers);
- Section 9: Support from the Department for Levelling Up, Housing and Communities (DLUHC) for the 2024/25 financial year (Pages 20 to 21 refer).

4. Birmingham City Council Context

- 4.1. On the 14th February 2023, Cabinet considered a draft Financial Plan for the period 2023-2027 which outlined a balanced Medium Term Financial Plan (MTFP) for the four financial years. This plan outlined the financial context for delivery of the vision and priorities of the City Council, as considered within the Corporate Plan for 2022-2026 which was agreed in October 2022.
- 4.2. At the commencement of the 2023/24 financial year, the Council uncovered the true extent to which the failed Oracle ERP system implementation in April 2022 had undermined financial management. Reliance could not be placed on the most basic of financial information from the system, with Directorates unable to receive monitoring reports which reflected the true in-year financial position. Further, the fundamentals of a financial control framework embedded into the Oracle system were not implemented. As a result, there was no assurance that the financial information provided at the commencement of the 2023/24 financial year provided a sound basis for decision making, nor can any reliance be placed on the Section 25 report presented alongside the budget for the 2022/23 financial year, and this challenges the assumptions of the equivalent report for 2021/22.

Potential Equal Pay Liabilities – Section 114 (3) Notice

- 4.3. During the 2023/24 financial year there have been a number of significant statutory interventions and announcements in relation to the Council's financial position.
- 4.4. During the early stages of the 2023/24 financial year, refreshed analysis of the Council's potential Equal Pay liabilities identified an increased potential liability in the region of £650-760m. The Council announced this refreshed analysis on 28th June 2023, outlining that the Council would not be able to afford the liabilities from existing resources including reserves. This is one of the biggest financial challenges that the Council had ever faced, and it means that significantly less resources are now available for the 2024/25 financial year.
- 4.5. In the Quarter One update on the 2023/24 financial position, presented to Cabinet on 25th July 2023, it was projected that there was an in-year budget shortfall of £87.4m in the 2023/24 financial year, rising to £164.8m in 2024/25 (against the

forecasts included within the 2023/24 Financial Plan), reflecting the extent to which the costs of service provision exceeded funding levels. This was the first formal reported indication of the in-year financial challenges being faced by the Council.

- 4.6. On the 5th September 2023 I, as the Council's Section 151 Officer, issued a Section 114 (3) notice under the Local Government Finance Act 1988. Within this report I outlined that the Council was currently in a negative General Fund position because the cost of providing for potential Equal Pay liabilities, that the Council was legally obliged to recognise, resulted in exceeding the financial resources available to the Council. This meant that the spend due to fall within the 2023/24 financial year would exceed the financial resources available to the Council in the same period.
- 4.7. Further, not only did the Council have insufficient resources to meet that expenditure, but the Council was not in a position to be able to agree a solution that would allow suitable funding or financing to be obtained for this liability. This position was confirmed through extensive discussions with External Auditors, regulatory stakeholders, and leading King's Counsel who confirmed my assessment of the financial situation.
- 4.8. In addition, the Council's in-year financial position was deteriorating. A lack of action following the Quarter One update on the 2023/24 financial position had exacerbated the forecast overspend for the 2023/24 financial year. Insufficient in-year savings proposals had been presented to remediate the financial situation, and informal spend control arrangements had not stemmed the flow of overspend within Directorates.
- 4.9. As a result, in my role as the Council's Section 151 Officer, I was unable to finalise the provisions for potential Equal Pay liabilities set out in the 2020/21 and 2021/22 draft accounts, nor could I write the supporting going concern statements for these financial years, nor could I make a Section 25 statement under the Local Government Act 2003, nor could I approve the accounts for the three financial years (2020/21, 2021/22, and 2022/23).
- 4.10. On the 19th September 2023 the Secretary of State for Levelling Up, Housing and Communities Michael Gove made an oral statement to Parliament. In this statement Secretary of State outlined that the Government was minded to intervene at Birmingham City Council in order to protect the residents and

taxpayers of Birmingham. This was in response to the Section 114 (3) notice, the admission of backdated potential Equal Pay liabilities, an in-year budget deficit, and the costs of implementing an ERP system, all of which were too significant for the Council to manage financially.

Job Evaluation Programme – Section 5 and Section 114 (2) Notices

- 4.11. On the 21st September 2023 the Monitoring Officer issued a Section 5 notice under the Local Government and Housing Act 1989. As a result, on the 21st September 2023 I, as the Council's Section 151 Officer, issued a Section 114 (2) notice under the Local Government Finance Act 1988. These reports were triggered by the omission of a decision in relation to the implementation of a job evaluation programme (also known as a Pay Equity System [PES]). Without an agreement to implement a new PES by 1st April 2025, the total potential Equal Pay liability would continue to grow. Moving one of the key assumptions to the calculation of the Council's total potential Equal Pay liability, would cause a further deficit to the Council.
- 4.12. In response to the two Section 114 notices and the Section 5 notice, two extraordinary meetings of the City Council were held in order to consider and respond to the reports.
- 4.13. On the 25th September 2023, an Extraordinary meeting of the City Council considered the "Response to Section 114 Notice – Financial Recovery Plan" report. This report set out the elements of the Council's Financial Recovery Plan and how these would be taken forwards. This included asset disposals, redesigning the organisation to achieve a sustainable MTFP, and generating additional income. Within this report, the Chief Executive outlined that the Council would likely require Exceptional Financial Support (EFS) from Government, including agreement to capitalise the potential Equal Pay revenue liabilities, and explore options to repay the associated borrowing costs over an agreeable period of time. This report and the Section 114 (3) notice were accepted at this meeting, and agreement was given to implement Spending Control measures under my direction as the Section 151 Officer until such a date as the Council has passed an approved balanced budget for the 2024/25 financial year.

External Auditor – Statutory Recommendations

4.14. On the 29th September 2023 the Council's External Auditor Grant Thornton issued Statutory Recommendations under Schedule 7 of the Local Audit and Accountability Act 2014. This report set out 12 statutory recommendations across a wide range of areas where they considered urgent actions was needed by the Council. This was due to the significance of the matters referred to within the Section 114 and Section 5 reports, announcements by the Secretary of State, and the External Auditor's own investigations. Grant Thornton also noted that further application of formal audit powers may be warranted if the Council does not deliver an appropriate job evaluation process, does not secure its financial stability, does not ensure its financial reporting system is adequate for its needs, does not ensure appropriate governance arrangements, or if its response to the statutory recommendations in the report are not adequate.

Commissioner Intervention – Section 15(5) and (6) Directions

4.15. On the 5th October 2023 the Secretary of State for Levelling Up, Housing and Communities issued Directions under Section 15(5) and (6) of the Local Government Act 1999. The Directions implemented an intervention package which included the nomination of Commissioners and political advisors to the Council. These Directions enabled the Commissioners to exercise functions associated to governance and the scrutiny of strategic direction, financial governance and financial decision making, administration of the Council's financial affairs and financial management, appointment and dismissal of holders designated as statutory officers, structure for senior positions and to determine the recruitment processes, the Council's operating model and redesign to achieve Value for Money (VfM), and development, oversight and operation of enhanced performance management of officers in senior positions.

4.16. On the 12th October 2023 City Council considered the Section 5 and Section 114 (2) notices, alongside the report titled "Pay Equity System". Within this report, City Council was updated on the outcome of an extended period of consultation with the recognised Trade Unions on a renewed PES. Further to this report, a Supplemental report was issued, of the same name "Pay Equity System", which delegated the authority to the Head of Paid Service to agree the terms of a revised

addendum on behalf of the Council with its three recognised Trade Unions on or before 4pm 22nd October 2023.

4.17. Further to this report, the deadline of the 22nd October 2023 was met, and as such agreement to proceed with Option 2, which was to use an adapted version of the NJC Gauge methodology in order to secure a new PES. This was a key step to limit the ongoing growth of the potential liabilities in relation to Equal Pay.

Centre for Governance and Scrutiny – Independent Governance Review

- 4.18. An independent governance review, at the request of DLUHC, was completed by the Centre for Governance and Scrutiny (CfGS). This report was completed in November 2023, and the findings presented to Cabinet on 12th December 2023. This report provided an independent review around how decisions are made, how members and officer work together to make those decisions, and how information and insight is used to support that decision making.
- 4.19. The report highlighted the fact that the unique issues faced by the City Council are symptoms of a wider problem in relation to governance and accountability which, to date, remains largely unaddressed even though the Council, and others, had been aware of it for some time. The report also stated that the Council does not function as one organisation, there is not a “whole Council” approach to identify priorities, and that profound cultural and behavioural change is necessary.
- 4.20. Relevant to the budget and this Section 25 report, the report highlighted a lack of capacity to do more, to do it more quickly, and to deliver the change that everyone knows is needed. There is doubt cast over the deliverability of improvement plans, the limited capacity to deliver these improvements, and the lack of accountability for the challenges and complexity the Council faces.
- 4.21. The findings of this report must be considered when looking at the deliverability of the budget presented for the 2024/25 financial year, and steps must continue to be taken to address the highlighted challenges.

Section 151 Officer Updates on the Financial Position of the Council

- 4.22. Further to additional reporting on exceptional financial management events to the Council, in my role as the Council's Section 151 Officer I commenced a series of "Section 151 Officer Update on the Financial Position of the Council" reports to Cabinet on a monthly basis. This was recommended following the commencement of Commissioner led intervention, and supplemented the fortnightly Commissioner Finance Board at which I present updates on the financial position to Officers, Members and Commissioners.
- 4.23. On the 14th November 2023, the first S151 Officer report on the Financial Position was issued to Cabinet. Within this report, I outlined the significant underlying financial challenges of the Council. This included an update on the projected budget gap for the 2024/25 financial year which stood at £164.8m (against the forecasts included within the 2023/24 Financial Plan), the Council's negative reserves position which stood at (£677.9m), and the substantial savings targets that had been issued to the Councils Corporate Leadership Team (CLT) to develop sustainable savings plans for the 2024/25 and 2025/26 financial year.
- 4.24. On the 12th December 2023, the second S151 Officer report on the Financial Position was issued to Cabinet. Within this report, I outlined an updated assessment of the savings programme for the 2023/24 financial year and an update on the financial position for 2024/25 and 2025/26. At this stage, due to confirmed non-delivery of savings in the 2023/24 financial year, a total of £39.9m of savings were effectively written off. In addition, due to the lack of expediency in delivery of new savings to address the in-year budget gap, the Council was left in a position with little option but to address the overspend through the use of one-off mitigations. This caused further deterioration in the medium term financial stability of the Council.
- 4.25. At the time of writing the report, the Council was performing a re-basing exercise of the 2023/24 budget, the outcomes of which can be found within in **Section 5 of this Section 25 report** on 'Local Risks' section of this report. At this stage the two year savings target for the Council was circa £300m. At the time of writing the report a total of £149.8m of savings had been identified for the 2024/25 financial year.

4.26. On the 16th January 2024, the third S151 Officer report on the Financial Position was issued to Cabinet. Within this report I provided an update on the overall financial position and savings programme for the 2024/25 and 2025/26 financial years. At this stage the Council had identified £149.2m of savings for the 2024/25 financial year, and a further £81.8m of additional savings for the 2025/26 financial year. At this stage the Council confirmed it was in a position where formal requests would now be required to be issued to DLUHC to explore EFS for enable setting of a balanced budget for the 2024/25 financial year. The letters issued to DLUHC will be explored within **Section 9 of this Section 25 report** on 'Support from DLUHC'.

Impact on the 2024/25 Financial Year

4.27. The budget presented for the 2024/25 financial year must be seen in the context of the timeline above, my interventions as the Council's Section 151 Officer, and statutory interventions from the Monitoring Officer, External Auditor, and Secretary of State.

4.28. The Council has severe financial challenges which have arisen over a period of several financial years and have been masked by inadequate financial management. The challenges themselves are outlined in **Section 5** of this Section 25 report, however the impact of these challenges is that the Council does not currently have an adequate reserves position without Government intervention. Without placing reliance on the receipt of Exceptional Financial Support from DLUHC, I would not be able to write this Section 25 statement in my role as the Council's Section 151 Officer.

4.29. The acute nature of the financial challenges of the Council is highlighted by the fact that, without EFS from Government, I cannot:

- a) Present a budget to Council for the 2024/25 and 2025/26 financial years, as the current funding envelope would mean that the budget presented would have an in-year deficit for these financial years;
- b) Write a Section 25 Statement under the Local Government Act 2003, in my role as the Council's Section 151 Officer, due to inadequate reserves to cover all potential liabilities owed by the Council which are recognised within its accounts;

- c) Close prior year accounts currently in draft with External Auditor Grant Thornton for the 2020/21, and 2021/22 financial years due as I am unable to write an adequate going concern statement;
- d) Present draft accounts for the 2022/23 financial year to the External Auditor Grant Thornton, as I cannot write an adequate going concern statement.

4.30. This is an unprecedented financial situation which has a profound impact on the ways of working for the City Council, for the services it provides to its residents, and will impact the daily lives of thousands within the City.

5. **Local risks relevant to budget setting for the 2024/25 financial year**

5.1. In addition to the general risks affecting the sector as a whole, which are set out in **Section Six** below, there are a number of specific local risks that need addressing in order to develop a sustainable financial strategy. The below list outlines the financial risks and associated mitigations:

- a) The **potential Equal Pay liabilities**, that led to the issuance of a Section 114 (3) notice in September 2023. The Council must limit the growth of any liabilities by implementing a new system of pay and grading to remove any future potential Equal Pay liabilities and do so by the 1 April 2025 (which is the target date assumed by current estimates); and settle any potential existing Equal Pay liabilities.

Mitigation:

The Council must focus on implementing a new system of pay and grading and settling potential existing liabilities. This will limit the financial impact of liabilities, and also address uncertainties in these liabilities by realising their true value;

- b) While the Section 114 (3) notice was issued as a result of potential Equal Pay liabilities, the Council was already facing a significant **in-year budget gap**. This budget gap has increased as result of the rebasing work to review

and address flaws in the existing budget pressures and budget forecasts for the 2024/25 and 2025/26 financial years. A range of issues has been uncovered and is reflected in the budget report for 2024/25. These issues include reviewing a range of unfunded commitments and providing funding for these where the Council is committed to them; reviewing and uprating inflation forecasts, particularly for general price inflation and third party payments to Adults and Children's social care providers; and reviewing and writing off the entirety of the existing savings programme on the basis of under-delivery and the lack of meaningful delivery plans to achieve delivery.

Mitigation

The budget presented for the 2024/25 financial year has identified and corrected all known issues uncovered through this rebasing exercise. For issues that are not yet known, contingencies have been set aside and a Strategic Reserve has been created to address items that the Council did not, or could not, have known at the time of setting this budget. Further, in order to facilitate prudent financial management, the Section 151 Officer Spend Control Board, and local Directorate arrangements, will remain in place during the 2024/25 financial year until such a time as I can assure the organisation that sufficient financial management is in place.

- c) There is concern around the Council's **ability to deliver the new savings programme**. The Council does not have a track record of savings delivery, and was unable to deliver the existing savings programme (as per the 2023/24 Financial Plan). This resulted in a complete write off and overhaul of the entire savings programme. The ability to deliver savings is a significant concern to Officers, Members and Commissioners.

Mitigation

Each of the new savings proposals has a detailed Delivery Plan and where necessary an Equality Impact Assessment, both of which have received significant review in the development stage. These Delivery Plans will be subject to continuous monitoring, and should be challenged by Members to ensure delivery is achieved. All Directors must live within their budgeted

means, and as such compensate non-delivery of savings with sufficient savings of an equivalent value in-year. It is recommended that work on the 2025/26 budget setting process is started as soon as the 2024/25 budget is set.

- d) The Council has collected less Council Tax and Business Rates income than had been forecast in prior years, resulting in a **Collection Fund deficit**. As a result, there is a combined £64.3m deficit across Council Tax and Business Rates income. This not only impacts on Birmingham City Council as an authority, but also other precepting authorities with whom we share the losses of a Collection Fund deficit. Some of this deficit is attributed to economic issues, particularly in Business Rates where the number of businesses in the City have not grown as much as previously forecast. This is also attributed to issues common to other Councils, as a large number of appeals against Business Rates valuations were received in March 2023 which was the deadline by which businesses could submit a challenge to their previous business rates valuations from 2017. However, an element of this deficit is attributed to the new Oracle ERP system. From implementation of the Oracle system in April 2022 until January 2023, debt enforcement activity was effectively paused across the Council. This work has accelerated since January 2023 and significant progress has been made to clear the backlog of outstanding debt. Notwithstanding this activity the Council's debt levels, and therefore its bad debt provisions (for estimated debt to be written off), have increased.

Mitigation:

The Council will invest in additional staff to carry out debt enforcement activity, as well as continuing to refine future income forecasts, with the help of specialist independent experts. Council Tax collection rates have been reset to 97.4%, from 97.1% in prior years. The Council has approximately £152.4m out of year Council Tax arrears spread over 351,600 accounts, and £111m of business rates arrears over 31,000 accounts. A proportion of these accounts currently have recovery action being taken against them that is covered by existing resource, however additional resource is being identified

via proposed savings to address 78,000 accounts with a combined debt value of approximately £85m (out of £263.4m).

- e) More broadly, the issues with the **Oracle ERP system** have had a wider impact on this budget. Whilst the finance system is working practically in many instances (e.g. paying staff, suppliers), difficulties remain around the integrity of the finance ledger. At the most basic level, I have been unable to place reliance on the most elementary financial information from the system. The flawed ERP implementation eroded the very foundations upon which sound financial management could have been based. As a result, there has been no assurance that financial information provides a sound basis for decision making. This has made it difficult for Directors and Finance Business Partners to forecast future demand and cost pressures, on which this budget (or any budget) is based. There are also wider issues around fundamentals of a financial controls framework embedded in to Oracle, and this must be addressed to return the Council to a sound financial footing.

Mitigation:

The Council has relied upon the best available information and experience from across the Council to enable forecasts to be as accurate as possible. As noted above, where unforeseen events occur, contingencies have been built into this budget and held within reserves. Most importantly, the Oracle Stabilisation and Recovery Plan continues to tackle the root causes of the system issues, overseen by a new governance structure. Action to address the bank reconciliation and income management system must accelerate to remediate issues in the quickest possible timescale.

- f) If the Council is to live within this budget, and not require further EFS from Government in future, a critical part of this will be to **deliver on the planned programme of asset disposal**. Commissioners have been clear that our objective must be to have no new borrowing for the Capital Programme by the end of the 2025/26 financial year. The scale of this programme is extremely large and there is a risk, particularly in the current economic environment, that the Council will find it difficult to secure sales at favourable

rates. This is particularly acute due to the volume of assets proposed to be sold. The current size of the Council's asset base for the proposed sale of assets, to generate the required capital receipts to fund EFS, is limited by the size of the operational asset base. This means that operational assets, such as schools, parks, and highways, cannot be sold to generate receipts. As such, concentrated Council activity is required to minimise the value of the capitalised expenditure through: delivery of all identified savings for the 2024/25 and 2025/26 financial years; identification of new savings to close the current budget gap in 2025/26; implementing a new pay and grading structure; and, delivering a negotiated settlement in relation to potential Equal Pay liabilities.

Mitigation:

The Council has established a Cabinet Property Sub-Committee to focus on the programme of asset sales, and a programme management framework for asset disposals is being set up. This will support generating the capital receipts required to address the capitalised revenue expenditure under any approved EFS arrangement.

- g) At present, External Audit has not signed off the Council's **accounts for the 2020/21 and 2021/22 financial years**. Any required changes to these accounts will have a resultant impact on the 2024/25 budget; in particular, the levels of forecast reserves and balances that are held corporately. These audits are currently ongoing.

Mitigation:

A close relationship with External Audit is being maintained, in order to accelerate responses to queries and support the conclusions of audits in relation to previous financial years.

- h) As a result of the range of issues faced by the Finance team in recent months, as highlighted in this report, the current finance team is **heavily dependent on interim support**, particularly at the senior level, which is unsustainable in the medium term. Whilst a re-structure of the Directorate is

being planned, this reliance on interims will continue, at least in the short term, in 2024/25.

Mitigation:

A succession plan is being developed in order to replace interim resources within the Finance team, and ensure there is sufficient capability and experience held by substantive employees alongside a comprehensive training and development plan.

5.2. It should be noted that these problems relate primarily to the Council's General Fund. The Housing Revenue Account is not seeking any EFS to cover potential Equal Pay liabilities. The Dedicated Schools Grant is not currently in deficit, as is the case in a range of other authorities.

6. Wider risks relevant to budget setting for the 2024/25 financial year

- 6.1. Due to increasing demand, relative to available funding, there are pressures impacting Birmingham that are also felt across other Councils. In particular, increasing demand pressures across adults and children's social care and temporary accommodation represent the biggest services pressures for Birmingham.
- 6.2. Further to this, there is always the potential for more legislative change that could place additional financial burdens on the sector. This will need to be monitored throughout the year and reported periodically to Cabinet.
- 6.3. Finally, there is no certainty on future Government funding allocations beyond the 2024/25 financial year, this has an impact on the level of contingencies and reserves the Council needs to set in the 2024/25 financial year.

7. **Risk Assessment**

- 7.1. As the largest local authority in Europe by population size, and a unitary Council, Birmingham provides a broad range of services and has an inherently higher level of risk than many other authorities simply due to the complexity and nature of the services it provides. The scale of the operations exacerbates the challenges noted in **Section Four** of this report.
- 7.2. There are areas of risk that remain subject to volatility. These include:
- a) **The scale of demand for demand-led services** – across social care, the issue is not just the number of people seeking support but also the complexity of the support needs, which appear to be growing in recent years and are forecast to continue to grow. Meanwhile, as residents continue to face financial difficulties, demand for hardship support is likely to increase.
 - b) **Income sources** – the Council has a wide range of income sources, including fees, charges and rents. Forecasting income across a huge range of different sources is necessarily complex and each element is driven by a range of factors.
 - c) **Council's risk as an employer** – which has and will require the Council to budget for the cost of redundancy packages incurred in the delivery of the required budget savings, service transformation and restructuring. There are further risks from other employee related claims.
 - d) **Risks related to the organisation's culture and its ability to deliver its strategy** – as highlighted in detail within the report by the Centre for Governance and Scrutiny and the concerns raised within the External Audit Statutory Recommendations. Both of these reports highlighted significant issues with the Council's capability, competence, relationships, turnover, corporate memory, and overall ability to secure the Council's future.
 - e) **Risk of claims arising from the implementation of budget savings** – the Council has considered, through Equality Impact Assessments, the need for citizen consultation on the implementation of new savings proposals. However, there continues to be the risk of Judicial Review.

8. **Adequacy of Reserves and Balances**

- 8.1. Without the receipt of EFS from DLUHC, the Council would exhaust its existing reserves and still require additional support. The scale of the potential Equal Pay liabilities and 2024/25 budget gap is such that reserves are insufficient. EFS would enable the Council to ensure reserves can be maintained at a prudent level.
- 8.2. The prudent level of reserves a Council should maintain is a matter of judgement. As noted in the budget report, I have sought to increase General Fund Balances to £57.6m for the 2024/25 financial year, which is 5% of the net expenditure budget (which has traditionally been seen as an adequate level of reserves) and create a new Strategic Reserve. The Strategic Reserve is to be used for Strategic challenges faced during the financial year which could not have been foreseen as part of the annual budgeting process.
- 8.3. The Council also holds a range of other reserves that can be used to mitigate specific future pressures or risks the Council faces, including the Highways PFI reserve (to mitigate future highways costs) and the Business Rates Volatility Reserve to protect against future losses.
- 8.4. It is noted that in relation to the Highways PFI, the Council has commenced formal Judicial Review proceedings in relation to the Council's PFI arrangements. The Judicial Review is to challenge the Department of Transport decision in November 2023 to cease the £50m per year PFI Credits which underpin the Council's Highways Maintenance Contracts for next 12 years. Without this subsidy the Council will not be able to afford the current specification of works. This is now subject to ongoing legal proceedings and therefore, it would be inappropriate at this stage for further comments in respect of this matter to be made pending the outcome of the Court's decision.
- 8.5. In setting the budget for 2024/25, estimates have been made of the required level of reserves and provisions, and these have been included in the Council's request for EFS from DLUHC. Provisions relate to known events, which have occurred and that have given rise to potential liabilities for the Council, whereby the exact amount or timing of the payment is not clear. These estimates will need to be continuously reviewed.

9. **Support from the Department for Levelling Up, Housing and Communities (DLUHC) for the 2024/25 financial year**

- 9.1. Two formal written requests to DLUHC for EFS have been submitted, supported by Commissioners (attached as Appendix 2 and Appendix 3 to this report). This is in order to allow the Council to present a balanced budget for the 2024/25 financial year.
- 9.2. On 9th January 2024, the Council requested permission to increase the Council Tax level above the referendum limit to 9.99% in the 2024/25 and 2025/26 financial years. This would result in estimated cumulative additional Council Tax income of £61.2m by the end of the 2025/26 financial year (£21.8m in 2024/25 and £39.4m in 2025/26). Additional Council Tax Support for those already in receipt of support under Section 13A (1) (c) of the Local Government Finance Act 1992 (as amended) is included in this budget. DLUHC has agreed to this request and the impact of this forecast additional income is included in this budget report. A failure to increase Council Tax by the maximum amount would require an additional £4m of new savings to be identified and incorporated into this budget for every percentage point below the maximum amount of increase agreed with DLUHC.
- 9.3. On 5th February 2024, the Secretary of State Michael Gove confirmed in a written statement in the House of Commons that “the Government will not oppose this request [in relation to increasing Council Tax levels above the referendum limit] given the seriousness of the circumstances”. However, the statement also warned of the “ongoing concern about the significant financial mismanagement at the Council”.
- 9.4. On 23rd January 2024, the Council requested permission to capitalise revenue expenditure in relation to the 2019/20 to 2024/25 financial years. This capitalisation would allow the use of capital funding (i.e. capital receipts) to address revenue spend. The Council requested capitalisation for the budget gap for the 2024/25 financial year, redundancy costs in relation to the Council’s savings programme, potential equal pay liabilities, and an EFS contingency. This EFS contingency should only be made available to address items the Council did not or could not have known at the time of setting the 2024/25 budget, and will not

be used to address non-delivery of savings or poor financial management by budget holders. The total value of this EFS request was £1.255bn.

At the time of writing this draft report, the Council has not yet received confirmation of the conclusions of DLUHC consideration of this second request. However, the Council has been in engagement with DLUHC and responded to queries arising. It is understood that all Councils seeking EFS will be notified together.

10. Conclusion

10.1. In the circumstances outlined within this report it is impossible to give the assurances that are normally contained within a Section 25 report, as the financial situation at Birmingham City Council is both unique and acute.

10.2. To date, I can acknowledge the Council has:

- a) Put forward a more robust set of savings with clear owners and delivery plans, to give this transformation programme a better chance of success;
- b) Increased awareness of financial management's importance, requirements and the necessity of preparing and living within a budget, taking appropriate financial decisions and operating sound governance;
- c) Kept DLUHC fully involved in all aspects of its financial situation and will do so in the future;
- d) Re-based the budget for the 2023/24 financial year in light of the best available information at the time of publishing this report, refreshing all assumptions for use in the 2024/25 financial year; and
- e) Built contingency into the budget estimates, with the assumption that the EFS request to DLUHC includes a contingency to cover possible unforeseen events with a view to avoiding the need for additional support requests in future years.

10.3. It is clear that, in line with Commissioner instructions, the Council must:

- a) Present a balanced two-year Medium Term Financial Plan (MTFP) for the 2024/25 and 2025/26 financial years;
- b) Present a balanced four-year MTFP for the 2025/26 to 2028/29 financial years;
- c) Ensure the plans which support this MTFP are credible and deliverable, satisfying the contingencies outlined in paragraph 10.2; and
- d) Achieve zero new borrowing for General Fund Capital purposes by the end of the 2026/27 financial year.

10.4. As such, the presented budget is credible and deliverable, on the basis that the following arrangements continue to hold true throughout the 2024/25 financial year:

- a) The Oracle ERP Programme is remediated at an accelerated rate, prioritising income management, such that the Council has a suitable and stable financial management system to support operational delivery;
- b) The Council resolves the issues in relation to potential Equal Pay liabilities, addressing the root cause of issues through the implementation of a new pay and grading structure, and agreeing a negotiated settlement for the potential liabilities arising;
- c) The Council's savings programme is delivered and supporting processes are developed that are sufficiently robust that they provide further assurance to the delivery of savings;
- d) Suitable transformation and delivery arrangements are put in place to support the changes required to achieve the significant savings programme;
- e) The leadership and culture challenges identified through formal reviews, such as the CfGS review, are addressed and remediated as part of the stabilisation plan;
- f) Financial Management provided by the Finance Directorate, and specifically those working alongside Service teams such as Finance Business Partners, support and challenge financial decision making effectively to protect the Council's Best Value;
- g) Commissioners are satisfied with the response to their intervention, including ensuring the Finance Commissioner is satisfied with the financial management arrangements delivered by all Officers and Members of the Council;
- h) There is a satisfactory conclusion to the request for Exceptional Financial Support, from the Department for Levelling Up, Housing and Communities, without which a balanced budget cannot be presented to Council; and
- i) Sufficient contingencies are provided for within the budget and ongoing financial management such that reserves are sufficient, adequate, and

provide assurance that items which are not known, or could not feasibly be known, at this stage could be addressed in-year.

10.5. It is clear that some of these arrangements are not yet in place, however they can be put in place and this must be done at pace to assure the delivery of this budget.

10.6. Directors and Members need to acknowledge that they must deliver on the commitments made within the budget for 2024/25, and in particular relating to the proposed savings which ensure the budget is achievable.

10.7. In providing this statement, the Council must maintain an on-going review of all risks, including those associated with the delivery of budget savings decisions and report throughout the 2024/25 financial year.

Fiona Greenway

Director of Finance and Section 151 Officer

Date 27 February 2024