BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE

TUESDAY, 22 NOVEMBER 2022 AT 14:00 HOURS
IN COMMITTEE ROOM 6, 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 meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 **APOLOGIES**

To receive any apologies.

3 **DECLARATIONS OF INTERESTS**

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

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

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

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

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

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

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

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

- Item 5 - Private minutes - Audit Committee 18 October 2022 - (exempt paragraph 3)

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

5 - 14 5 **MINUTES - AUDIT COMMITTEE 18 OCTOBER 2022**

To confirm and sign the minutes of the last meeting of the Committee held 18 October 2022.

6 **ASSURANCE SESSION – CABINET MEMBER HOUSING & HOMELESSNESS PORTFOLIO**

(40 minutes allocated) (1405 – 1445)

Verbal discussion

The Cabinet Member Housing & Homelessness, Interim Director of Housing Management and Director of Regulation & Enforcement

7 **ASSURANCE SESSION – CABINET MEMBER SOCIAL JUSTICE, COMMUNITY, SAFETY & EQUALITIES PORTFOLIO**

(40 minutes allocated) (1445 – 1525)

Verbal discussion

The Cabinet Member Social Justice, Community, Safety & Equalities, Director - Strategy, Equality & Partnerships, Assistant Director Community Safety and Resilience, Director of Regulation & Enforcement, Assistant Director of People Operations - HR and Organisation Development

15 - 34 8 **BIRMINGHAM AUDIT - HALF YEAR UPDATE REPORT 2022/23**

(10 minutes allocated) (1525 - 1535)

Report of the Assistant Director Audit and Risk Management

9 **EXTERNAL AUDITORS PROGRESS REPORT**

(10 minutes allocated) (1535 – 1545)

Report of the External Auditors

35 - 86 10 **TREASURY RISK MANAGEMENT ARRANGEMENTS**

(10 minutes allocated) (1545 – 1555)

Report of the Director of Council Management

87 - 104 11 **LGSCO ADULTS SOCIAL CARE - OMBUNDSMAN PUBLIC INTEREST REPORT CONCERNING A COMPLAINT ABOUT THE TOP UP FEE ARRANGEMENT**

(10 minutes allocated) (1555 – 1605)

Report of the Director of the Adults and Social Care Directorate

105 - 106 12 **SCHEDULE OF OUTSTANDING MINUTES**

Information for noting.

13 **DATE OF THE NEXT MEETING**

The next meeting is scheduled to take place on Tuesday, 31 January 2023 at 1400 hours in Committee Room 6, Council House.

14 **OTHER URGENT BUSINESS**

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

15 **AUTHORITY TO CHAIR AND OFFICERS**

Chair to move:-

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

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE
18 OCTOBER 2022

MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD ON TUESDAY, 18 OCTOBER 2022 AT 1400 HOURS IN COMMITTEE ROOM 6, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB

PRESENT:-

Councillor Fred Grindrod in the Chair;

Councillors Shabrana Hussain, Meirion Jenkins, Bruce Lines, and Paul Tilsley

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NOTICE OF RECORDING/WEBCAST

508 The Chair advised and the meeting noted that this meeting would be webcast for live or subsequent broadcast via the Council's You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

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

APOLOGIES

509 Apologies were submitted on behalf of Councillor Miranda Perks for her inability to attend the meeting.

DECLARATIONS OF INTEREST

510 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

At this juncture, Councillor Tilsley declared a non-pecuniary interest. He was noted as the non-executive director for Birmingham Airport.

EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

The Chair informed he had been notified of two items under this section.

- Item 6 – Assurance Session – Cabinet Member Digital, Culture, Heritage & Tourism Portfolio the second part of the presentation will be in private.

  Part ii) of the presentation is exempt due to paragraphs 3 of schedule 12A of the Local Government Act 1972.

- Item 9 – Equal Pay Update –
  Exempt appendix due to paragraphs 3, 4 & 5 of schedule 12A of the Local Government Act 1972.

This was seconded by Councillor Paul Tilsley and agreed by the Committee.

Upon consideration, it was:

511 **RESOLVED**

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

MINUTES – AUDIT COMMITTEE – 28 SEPTEMBER AND MATTERS ARISING

512 That the public minutes of the last three meetings, 28 September having been circulated, were agreed by the Committee.

ASSURANCE SESSION - CABINET MEMBER DIGITAL, CULTURE, HERITAGE & TOURISM PORTFOLIO

The Cabinet Member for Digital, Culture, Heritage & Tourism attended the meeting accompanied by Dawn Beaumont, Head of Library Services, Cheryl Doran, Assistant Director, Digital & Customer Services and Symon Easton, Head of Cultural Development & Tourism.

(See document No.1)

An in-depth presentation was given with the use of slides. An overview was given around the portfolio responsibilities and there were no issues highlighted in the Annual Governance Statement. Members were informed the portfolio title had changed from Cabinet Member for Education, Skills, and Culture to include Digital, Heritage and Tourism (Education had been removed).

A summary was provided around Libraries; Commonwealth Games Legacy (CWG); Culture, Heritage, and Tourism capacity and IT & Digital.

Additional points made by the Cabinet Member and officers in attendance:

- Last week, the Commonwealth Games, Culture & Physical Activity Overview and Scrutiny Committee had a full update on the CWG Legacy. This was provided by Cat Orchard, Head of Community Partnerships, CWG and attended by the Leader of the Council and available for public viewing.
- Culture, Heritage & Tourism: Capacity issues - there was a national challenge on recruitment and it was important to recruit the right people to deliver services.
- IT & Digital – This was a new area of the portfolio with a particular focus on data breaches and cyber-attacks. The External Auditors report had highlighted area as an issue and the Assistant Director, Digital & Customer Services would be updating the Committee during the private session.

In response to questions raised by Members around; the maintenance of the buildings and the challenges the Council faced around cost, public safety; issues around the maintenance of the heritage estate and what was being done to mitigate against any risk; queries around the library service diminishing and if there was still a requirement; the learnings around libraries and if this was applied to the rest of the heritage portfolio; concerns around theft in libraries and working with the police to catch perpetrators and how this was tackled, the following points were made;

Heritage & Libraries maintenance of buildings and challenges around cost, public safety - The Cabinet Member recognised the libraries estate had been neglected over the years and this had been exacerbated during the pandemic. The main issues for libraries were around their roofs, boilers, lifts, asbestos, and other ongoing maintenance issues of the buildings. Finances and spend were focused on maintenance that was a priority. A piece on work was taking place around libraries and being fit for purpose.
The Head of Library Services informed members, Safety Services were carrying out risk assessments on the libraries to ensure every site were risk assessed post-covid (i.e., the conditions of the building were of a good standard as well as the working conditions for staff). Work was also taking place to explore which other services could be delivered and transformed through libraries.

Libraries Service and delivery - Digital delivery was noted as the way forward and further options were being explored to ensure there was value for money for citizens. Libraries usage increased during covid and there was a statutory duty for a library service to be provided - in a building or digitally. Local Authorities across the country were looking at their libraries and exploring options of how to deliver a service differently in conjunction with different partners.

Learnings around libraries and application to the rest of the heritage portfolio - Libraires were a part of the Early Intervention and Prevention programme and this was a step forward of exploring this area further. There was a noticeable increase in the use of libraries amongst the younger users. It was essential for staff to be comfortable working in the libraries and the conditions of the buildings (i.e., the temperature). The Cabinet Member and Head of Library Services had confidence that the management and staff working in the buildings within the portfolio understood risk management and reporting arrangements. This relationship had improved during the pandemic however, further work had to be done (this was moving in the right direction).

The Interim Head of Financial Strategy added that the Capital programme includes £4 million for libraries Emergency works on boilers and roofs were undertaken in the last financial year at a number of local libraries. The release of the remaining funds was now pending a Strategic Review.

Theft in libraries and working with the Police - Theft were reported and appropriate investigations take place. It was essential to secure the estate and to prevent further theft from taking place. It was noted libraries would be a part of the Corporate Landlord.

The Head of Cultural Development & Tourism gave a summary of movements within his team and the capacity issues.

At 1432 hours, the Committee moved into a private session to cover the Part ii) of the presentation (as indicated under exempt information above). However, following the private session, Members questioned the reasoning as to why discussions took place in private. It was felt the information could have been shared in public.
At this juncture, the City Solicitor and Monitoring Officer informed the Committee she had not seen the content of the presentation and therefore gave advice to the Committee. She did not see there was any sensitive information to share therefore discussions should have taken place in public.

Following advice, the Committee agreed in conjunction with the City Solicitor and Monitoring Officer and the Deputy Section 151 Officer that this section of the presentation would be shared on the public domain on CMIS as well as noted in public minutes.

Therefore, discussions in private session have been accounted for in the public minutes. The Chair explained this agreement once the Committee moved back into the public session.

Notes taken in the private session but accounted for in the public minutes

The Assistant Director for IT and Digital shared a presentation on protecting the Council's Data and Information Assets.

(See document No.2)

The presentation gave an overview on: Data accountabilities (GDPR and Information Assurance Board); Loss of Data; where the risks come from and their impacts (i.e., Cyber-attacks, People, Process, Technology) and Mitigating risks – key activities and processes.

In response to questions raised by Members around; Oracle implementation, budget and timescale; cyber attack risks and working closely with other local authorities; protecting ourselves with evolving technology and new updates on systems; data breaches - training and how are those that have not undertaken training captured and members who were not engaging in training, how this would be tackled and the benchmark of information management – where does stand for Birmingham City Council in line with other local authorities the following points were made;

Oracle Implementation - The system was live and there was a plan to address areas that had not been tackled. It was envisaged this would be addressed over the next few months. Oracle was at the post-implementation period and officers were working through issues. The SAP system would still be supported until the final accounts were audited. Once this was completed, the SAP system would be switched off. The SAP contract had been renegotiated in April 2022 to ensure minimum use was available.

The Committee requested for details on the final expenditure for Oracle Implementation to be provided and to include any additional expenditure; ongoing expenditure; start of project figures; what actual spend was; how late was the delivery and the learnings from the process.

Cyber attacks Risks – Birmingham City Council were on the alert lists and regular learnings were shared (including engaging with Department of Levelling Up. A third party undertook Annual Penetration tests. The Cabinet Member assured Members during her briefing sessions; she was satisfied that all steps were taken on this area. There was clear communication with the team and across the Directorate.

The Annual Penetration tests looked at new techniques hackers would use to gain access to systems. An Action plan would be placed together before live systems were up and running. Staff throughout the organisation were supported to ensure there was a smooth transition to live systems. Mandatory training was available to support this

Data Breaches & Security – At present the data indicated 85% of employees completed cyber security training. Work was taking place around the 15% of employees who had not completed this training. The aim was for this figure to be in the high 90's. Details around this work would be share with Members.

The City Solicitor and Monitoring Officer added the training uptake for the Local Authority also included elected members. It was therefore crucial all members to undertook their annual training of how to protect data. Elected members were also data handlers as well as staff and were encouraged to undertake training in their role as a Councillor. Data management was everyone's business. Members requested for a briefing note on the risk associated with Councillors and non-compliance with training (especially in their role on the Audit Committee).

Maturity model for information management improved from 1/5 to 3/5 in the last two years – This was based on risk on strategic budgets and the Assurance Board get regular updates. There was a need to do further work on staff and training. Birmingham was working at the right level in terms of maturity over the last two years.

Upon consideration, it was:

513 **RESOLVED**:-

That the Audit Committee :

(i) Noted the presentation and updates received on the Cabinet Member for Digital, Culture, Heritage and Tourism Portfolio.
(ii) Agreed for a briefing note to be shared on the implementation of Oracle; including details on the final expenditure (i.e. additional expenditure; ongoing expenditure); start of the project figures; what actual spend was; how late was the delivery and the learnings from this process.
(iii) Agreed for a briefing note to be shared on data breaches, security training and work undertaken to capture the 15% of the Council who had not undertaken this training.
(iv) Agreed for a briefing note to be shared on the uptake of the annual training across the Council, non-compliance and risks associated with the roles of an elected member (in particular to Audit Committee).

BIRMINGHAM AUDIT ANNUAL FRAUD REPORT 2021/22

The following report of the Assistant Director Audit and Risk Management was submitted: -

(See document No.3)

The Assistant Director, Audit & Risk Management, made introductory comments relating to the report. Following this, the Group Auditor, Corporate Fraud gave an overview to the report.

In response to questions raised by Members around; the value of the three payment diversions; access to bank accounts, court orders and the role and powers financial investigators had; where Birmingham stood against other Core cities in this area; how are we working against the CIPFA code of practice outcomes; investigations - what was the actual portion of fraud compared to system/human error and how this could be prevented in the future, the following points were made;

The value of the three payment diversions – This was approximately £179K.

Access to Bank accounts (Financial Investigators) – Details of the role and powers of financial investigators would be shared with Members of the committee. It was noted the National Crime Agency assign a Government Security Classification of Official to this information.

At this juncture, the City Solicitor and Monitoring Officer advised the Chair and Committee, that as there were discussions taking place around bank accounts and access and details around financial investigators, the Committee may want to move into a private session to discuss this in detail. There may be discussions taking place on strategies on how to prevent fraud and therefore assurances and protect internal Audit may need to take place in private. The Chair and the Committee agreed for a briefing note on the role and powers for financial investigators to be shared rather than hold a private session.

Comparison with other Core Cities - There was no specific data to match against however, integrating a Council wide system would take place. A future report on this area would be valuable for the Committee to evidence this comparison. A prevention strategy for Social Housing Fraud was in place.

CIFPA - A Strategy Framework was in place where detection and prevention work took place. A small intelligence hub dealt with enquiries and were constantly looking at where improvements could be made in order to identify issues early on.

Actual portion of fraud compared to system/human error – Procedural and accidental errors had taken place by managers. Reoccurrences had to be stopped. Constant review would take place with recommendations. Common trends feed into the Audit Plan.

Upon consideration, it was:

514 **RESOLVED**:-

That the Audit Committee :

(i) Noted the work undertaken during the year and drew assurance from the policies and procedures that were in place to prevent and detect fraud and error.

(ii) Agreed for a briefing note on Financial Investigators role and powers to be provided.

INFORMING THE AUDIT RISK ASSESSMENT 2021/22

The following report of the External Auditors was submitted: -

(See document No.4)

Nicola Coombe, Grant Thornton gave an overview to the report. This document was refreshed every year and the Committee were made aware of any changes or updates noted by the External Auditors. The report set out the considerations of the Councils arrangements and oversight over several areas.

The report consisted of a series of sections including Council's Management response. Fraud risk was referred to and earlier discussions and management commentary would evidence that there was this awareness. The External Auditors had asked management to set their approach to the estimates to financial statements. The Audit Committee were asked to consider the management responses and to see if these were consistent with their understanding or make any other additional comments.

BCC Finance and the External Auditors would be hosting a joint training session in the coming weeks to assist them with technical points around the accounts.

Upon consideration, it was:

515 **RESOLVED**:-

That the Audit Committee noted the External Auditors Update.

EQUAL PAY UPDATE

The following report of the Report of the City Solicitor & Monitoring Officer was submitted: -

(See document No.5)

The City Solicitor & Monitoring Officer made introductory comments to the report. Surina Aujla, Head of Employment Law and Robert Harris, Senior Solicitor Employment Law in Legal Services were introduced to the Committee. They had been leading on the Equal Pay for the Council.

At 1541 hours, the Committee moved to a private session.

EXCLUSION OF THE PUBLIC

516 **RESOLVED**:-

That, in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-

Exempt appendix due to paragraphs 3, 4 & 5 of schedule 12A of the Local Government Act 1972.

Item 9 – Equal Pay Update

At 1618 hours, following discussions on Exempt appendix – Equal Pay Update, the Committee moved back into the public meeting.

Upon consideration, it was:

518 **RESOLVED**:-

The Audit Committee Members noted the contents of this report and the exempt appendix.

SCHEDULE OF OUTSTANDING MINUTES

The following Schedule of Outstanding Minutes was submitted:-

(See document No. 7)

Updates were shared with the Committee and the discharged actions would be removed.

519 **RESOLVED**:-

That the Schedule of Outstanding minutes be noted.

DATE OF THE NEXT MEETING

520 The next meeting is scheduled to take place on Tuesday, 22 November 2022 at 1400 hours in the Committee Room 6, Council House, Birmingham.

OTHER URGENT BUSINESS

521 There was no other urgent business.

AUTHORITY TO CHAIRMAN AND OFFICERS

522 **RESOLVED**:-

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

The meeting ended at 1620 hours.

………………………………..

CHAIR

Item 8

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	**AUDIT COMMITTEE**
Report of:	**Assistant Director, Audit & Risk Management**
Date of Meeting:	**22nd November 2022**
Subject:	**Birmingham Audit - Half Year Update Report 2022/23**
Wards Affected:	**All**

1. PURPOSE OF REPORT

1.1 The attached report provides Members with information on outputs and performance in relation to the provision of the Internal Audit service during the first half of 2022/23.

2. RECOMMENDATIONS

2.1 Members note the level of audit work undertaken and assurances provided.

3. BACKGROUND

3.1 Members agreed the Internal Audit plan for 2022/23 at the Audit Committee meeting held on 29th March 2022.

3.2 As at the end of September 2023 we had completed 38% of the planned jobs which is slightly below our target of 40%. The completion of the plan is being closely monitored and we remain confident that the 95% completion target for the end of the financial year can be achieved.

3.3 Post Audit Evaluation Questionnaires (AEQ) indicate that auditees value the work completed and the support and insight provided.

4. LEGAL AND RESOURCE IMPLICATIONS

4.1 The Internal Audit service is undertaken in accordance with the requirements of section 151 of the Local Government Act and the requirements of the Accounts and Audit Regulations 2015. The work is carried out within the approved budget.

5. RISK MANAGEMENT & EQUALITY ANALYSIS ISSUES

5.1 Risk Management is an important part of the internal control framework and an assessment of risk is a key factor in the determination of the internal audit plan.

5.2 Equality Analysis has been undertaken on all strategies, policies, functions and services used within Birmingham Audit.

6. COMPLIANCE ISSUES

6.1 City Council policies, plans, and strategies have been complied with.

Sarah Dunlavey
Assistant Director, Audit & Risk Management

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Birmingham Audit Half Year Report 2022/23

22nd November 2022

Contents

1. Background / Annual Opinion

1.1 The 2022/23 audit plan was prepared in accordance with the requirements of the Public Sector Internal Audit Standards (PSIAS) and the Accounts and Audit Regulations 2015. It also took account of responsibilities under section 151 of the Local Government Act 1972.

1.2 The Council faces ongoing challenges. It must continue to provide effective services to citizens against a backdrop of global inflation and economic pressures and the need to continue to embed governance arrangements. These pressures add additional layers of complexity to the audit and assurance landscape. The audit plan is prepared using a risk-based methodology and is continually updated throughout the year, this helps to ensure that we concentrate on the most significant areas. The plan is prepared and delivered to provide an independent opinion on the adequacy and effectiveness of the systems of internal control in place (comprising of risk management, corporate governance, and financial control). In addition to audit reviews, the model used to formulate the end of year opinion, places reliance on assurance provided from other parties and processes. The opinion for 2022/23 will draw on the following sources of assurance:

1.3 The 2022/23 audit plan was approved by the Audit Committee at its March 2021 meeting. This report provides a summary of the progress made in delivering the agreed plan.

2. Added Value Services

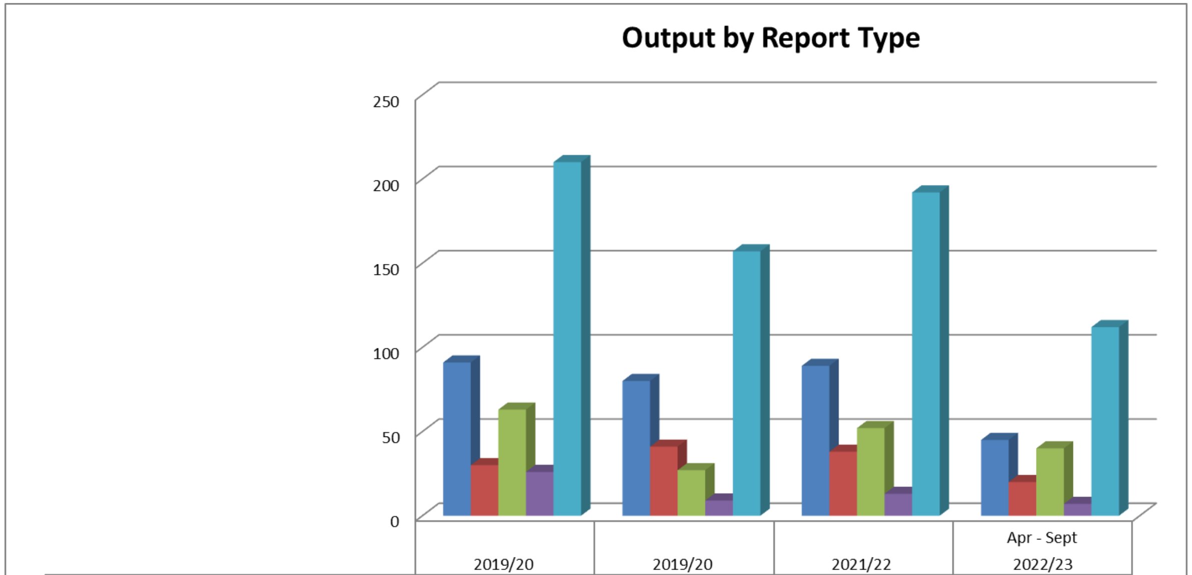
2.1 Although my primary responsibility is to give an annual assurance opinion, I am also aware that for the Internal Audit service to be valued by the organisation it needs to do much more than that. There needs to be a firm focus on assisting the organisation to meet its aims and objectives. This is particularly true in the current uncertain times where everyone needs to provide support and help the Council in providing critical services to the citizens of Birmingham. Examples of how we have done this during the first half of 2022/23 include:

- Working jointly with Children and Families on an audit of DBS compliance.
- Working with the Children's Trust to deliver grant/funding certifications for Troubled Families and National Assessment and Accreditation Systems (NAAS).
- Contributing to new Procurement rules.
- Continuing to attend and contribute to the Schools Causing Concern, and Schools in Financial Difficulty groups.
- Direct support of West Midlands Police Regional Organised Crime Unit in county lines operations.
- Supporting Financial Investigations.

3. Performance

3.1 Outputs

3.1.1 During the first half of 2022/23 we issued 112 final reports. A comparison to the last 3 years (full years) is given in the chart below:



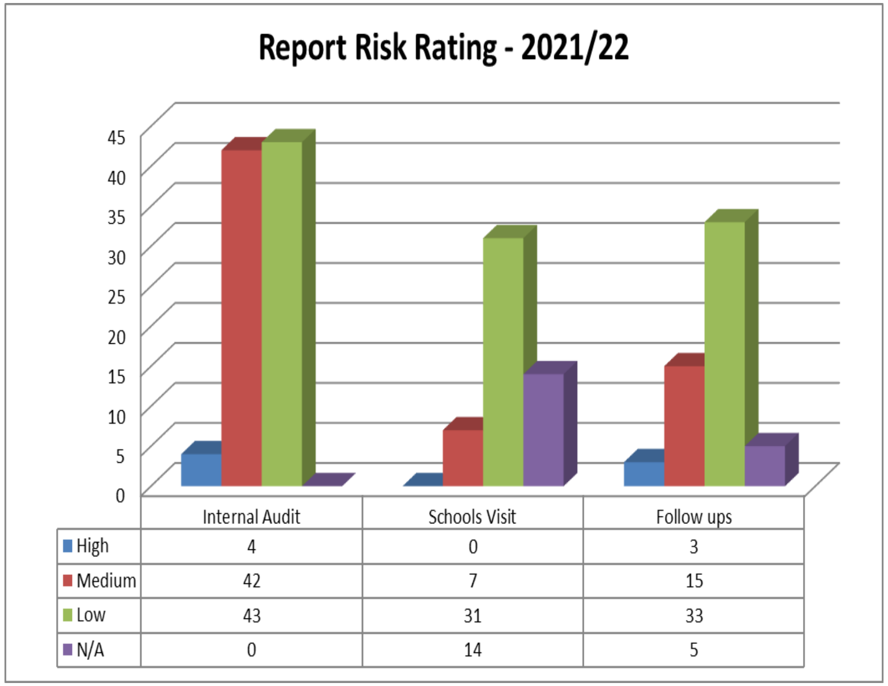
	2019/20	2019/20	2021/22	Apr - Sept 2022/23
Internal Audit Reviews (including non assurance)	91	80	89	45
Follow-up / Progress Reviews	30	41	38	20
School Visits (incl Follow-up / Progress Reviews)	63	27	52	40
Investigations	26	9	13	7
Total	210	157	192	112

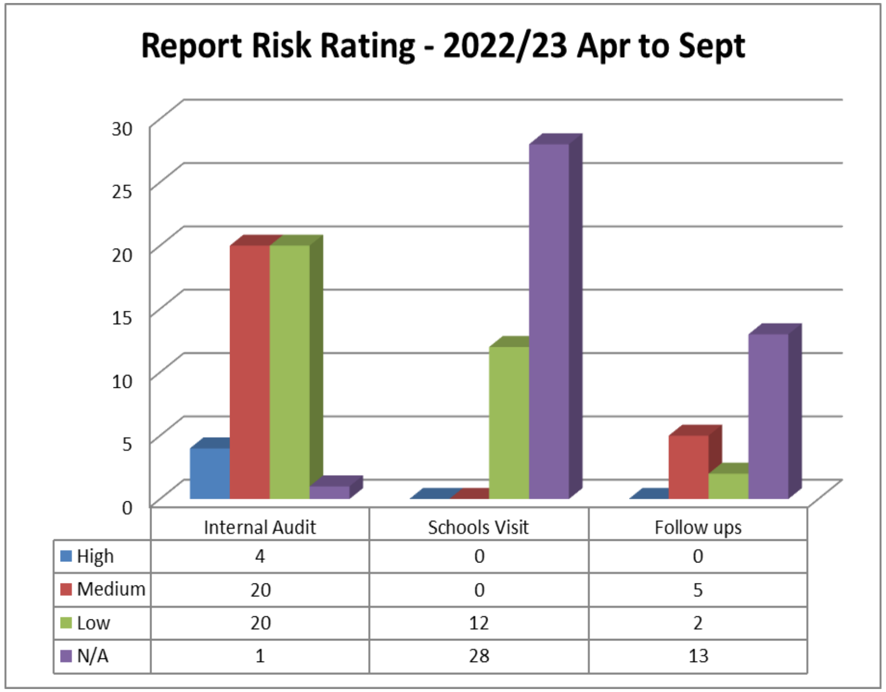
3.1.2 In accordance with the procedure for sharing Internal Audit reports, all Audit Committee Members are provided with a list of final audit reports issued each month, together with details of risk and assurance ratings. Members can request copies of reports and receive further information. A full list of the reports issued during the first half year, including details of how the reviews link to the Council's priority outcomes, core objective of good governance, the Corporate Risk Register, financial and business controls assurances is detailed in Appendix A.

3.1.3 Internal Audit, follow up, and school visit reports are generally given a risk rating to assist in the identification of the level of corporate significance. The key to the ratings given is:

1. Low – No material issues.
2. Medium - High importance to the business area the report relates to, requiring prompt management attention. Not of corporate significance.
3. High - Matters which in our view are of high corporate importance, high financial materiality, significant reputational risk, likelihood of generating adverse media attention or of potential of interest to Members etc.

3.1.4 From the 105 reports issued (45 Internal Audit, 20 Follow up reviews, and 40 School Visits) , 4 reviews were given a high risk rating, 25 had a medium rating, 34 had a low rating, and 42 (relating to advice and guidance or monitoring improvement progress) were not assigned a rating. An analysis of the report risk ratings, together with a comparison to 2021/22 is given in the charts below. A summary of the significant findings from our work is detailed in Appendix B.





3.1.5 In addition to a risk rating, audit and school reports are given an opinion rating on the effectiveness of the control environment. The audit opinion ratings are:

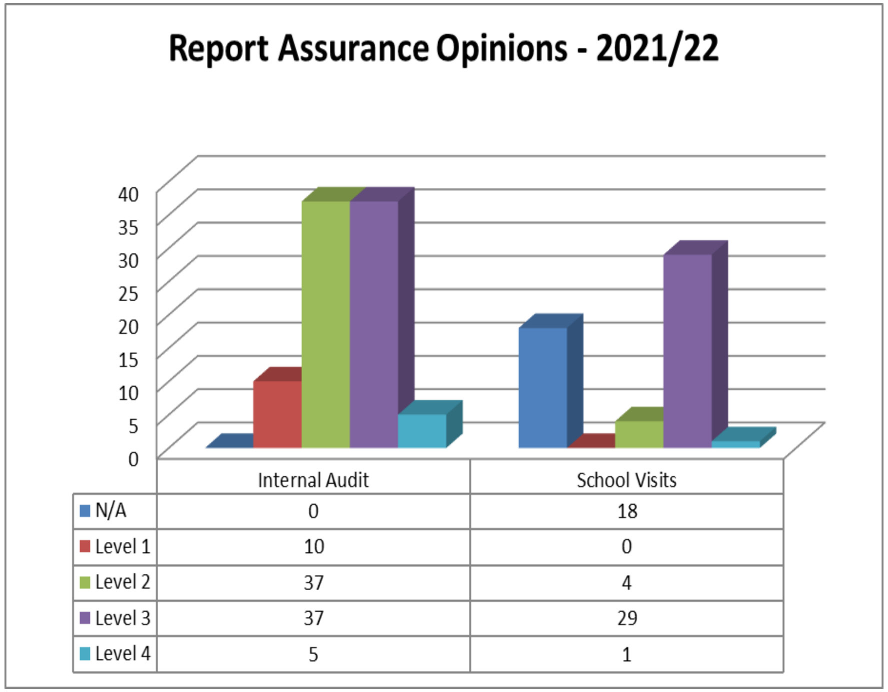
Level 1 - Controls evaluated are adequate, appropriate and are operating effectively to ensure that risks are being managed and objectives achieved.

Level 2 - Specific control weaknesses were noted. However, generally the controls evaluated are adequate, appropriate and effective to ensure that risks are being managed and objectives achieved.

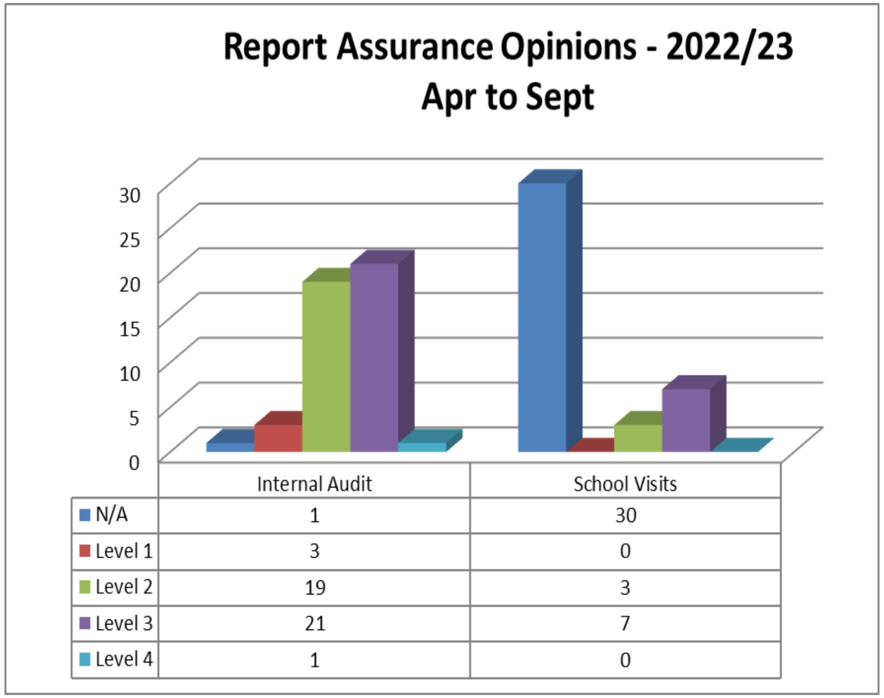
Level 3 - Specific control weaknesses of a significant nature were noted, or the number of minor weaknesses noted was considerable. The ability to manage the relevant risks and achieve objectives is compromised.

Level 4 - Controls evaluated are not adequate, appropriate or effective. Risks are not being managed and it is unlikely that objectives will be met.

3.1.6 An analysis of the opinion ratings (excluding follow ups), together with a comparison with 2021/22, is given in the charts below. To date 34% of reports issued (including schools) this year have contained a negative assurance (Level 3 or 4) this is a slight improvement on the whole of last year (i.e. 49%).



	Internal Audit	School Visits
N/A	0	18
Level 1	10	0
Level 2	37	4
Level 3	37	29
Level 4	5	1



	Internal Audit	School Visits
N/A	1	30
Level 1	3	0
Level 2	19	3
Level 3	21	7
Level 4	1	0

3.1.7 Post Audit Evaluation Questionnaires (AEQ) are issued with every final report. Since April 2022 11 AEQ's have been returned:

	AEQ's Returned	Total Average Score
Audit	7	4.84
Schools	1	5
Investigations	3	5
Total	11	4.95

Each question is scored: Strongly Agree/Very Good 5, Agree/Good 4, Satisfactory 3, Disagree/poor 2, Strongly Disagree/Very poor 1

3.1.8 The table demonstrates that everyone returning a questionnaire valued the audit or investigation and the support and insight provided.

3.2 Plan Completion

3.2.1 The approved 2022/23 plan contains 4,416 productive days. The table below details completion as at 30th September 2022 and provides a comparison to 2021/22 (full year).

	2021/22					2022/23				
	Planned Days	**%**	**Year Actuals**	**%**	**Variance Days**	**Planned Days**	**%**	**Half Year Actuals (Apr – Sept)**	**% (Apr – Sept)**	**Variance Days (Apr – Sept)**
Number of audit days in approved plan @ 1st April.	4427	100%	3971	100%	(341)	4416	100%	**1787**	**100%**	**(2629)**
Main financial systems	705	16%	617	16%	(88)	705	16%	242	14%	(463)
Business controls assurance	1711	39%	1351	34%	(360)	1745	39%	673	38%	(1072)
Investigations	830	19%	589	15%	(241)	830	19%	323	18%	(507)
Schools (Non-Visits)	42	1%	21	1%	(21)	27	1%	9	1%	(18)
Schools (Visits)	540	12%	509	13%	(31)	540	12%	231	13%	(309)
Follow up work	175	4%	180	5%	5	175	4%	101	6%	(74)
Ad-hoc work	289	6%	456	11%	167	259	6%	128	7%	(131)
Planning & reporting	130	3%	248	6%	118	130	3%	79	3%	(51)
City initiatives	5	0%	0	0%	5	5	0%	0	0%	(5)

3.2.2 As at 30th September 2022 we had completed 38% of the original planned jobs to draft report stage, which is slightly below our target of 40%. The actual audit days delivered are slightly lower than anticipated due to a vacancy. A member of the Computer Audit Team successful gained a position with the Council Cyber Security Team at the beginning of the year. We are currently attempting to recruit to this position. The completion of the plan is being closely monitored, we remain confident that the 95% completion target for the end of the final year can still be achieved.

3.3 **Corporate Fraud Team**

3.3.1 The Corporate Fraud Team (CFT) is responsible for the investigation of financial irregularities perpetrated against the Council, whether this is by employees, contractors or other third parties. The Team identify how fraud, or other irregularity, has been committed and make recommendations to management to address any issues of misconduct, as well as reporting on any weaknesses in controls to reduce the chance of recurrence in the future.

3.3.2 The table below summarises the reactive investigations activity of the Team (excluding Application Fraud) for the year to date:

	2020/21	**2021/22**	**2022/23 (Apr – Sept)**
Number of outstanding investigations at the beginning of the year	30	53	57
Number of fraud referrals received during the year	124	91	45
Number of cases concluded during the year	101	87	45
Number of investigations outstanding	53	57	57

3.3.3 All referrals are risk assessed to ensure that our limited resource is focused on the areas of greatest risk. We work in conjunction with managers to ensure that any referrals that are not formally investigated by us are appropriately actioned.

3.3.4 Within the CFT there is a sub-team specifically established to tackle ‘application based’ fraud, primarily related to Social Housing and Council Tax. Their results are summarised in the table below:

	2020/21	2021/22	2022/23 (Apr – Sept)
Properties Recovered	14	22	15
Applications Cancelled	591	548	181
Council Tax Change	£332,000	£336,703	£346,363
Housing Benefit Overpayment	£265,000	£394,829	£213,447

4. Grant Certification

4.1 In addition to controls assurance reviews I am required to provide audit certificates, verifying the expenditure incurred, for a number of grants that have been awarded to the Council.

Grant Certificates Issued
Local Growth Fund
Covid Expenditure Grant
Adults Weight Management
Children and Families Weight Management
Scambuster
Operation Beorma Grant
Troubled Families Claim
Mental Health Grant
Local Transport Capital Grant
Universal Drug Treatment
Greater Birmingham and Solihull Local Enterprise Partnership

4.2 I have also been formally appointed as the First Level Controller for several European Grants. The First Level Controller is a formally appointed independent role that is required to provide a guarantee that the expenditure incurred under the programme is eligible and correctly accounted for.

European Grants – First Level Controller
USE - IT Transfer Network
Urban M – Stimulating Innovation through Collaborative Maker Spaces
Urban - Regen-Mix
BETTER – Stimulating regional innovation through better e-government services

Appendix A

Reports Issued During the First Half of 2022/23

Audit Reviews (45 Reports):

Key to linkages to the Council's priority outcomes, core objective of good governance, Corporate Risk Register, Financial Assurance and Business Control Assurance:

Outcomes
1. Birmingham is an entrepreneurial city to learn, work and invest in.
2. Birmingham is an aspirational city to grow up in.
3. Birmingham is a fulfilling city to age well in.
4. Birmingham is a great city to live in.
5. Birmingham residents gain the maximum benefit from hosting the Commonwealth Games.
6. Birmingham is a city that takes a leading role in tackling climate change.

Assurance Type
7. Good Governance.
8. Strategic Risk Register.
9. Financial Assurance.
10. Business Control Assurance.

Title	Council Risk Rating	Assurance	RAG	1	2	3	4	5	6	7	8	9	10
Procurement of Consultants/ Interims	High	Level 4		✓			✓			✓			
Day Centres	High	Level 3			✓							✓	
IT Procurement and Commercial Management	High	Level 3		✓						✓		✓	✓
Directorate Commissioning and Contract Management	High	Level 3			✓	✓	✓			✓		✓	
Placements - Supported Living	Medium	Level 3				✓							✓
Assessment and Support Planning	Medium	Level 3			✓	✓	✓					✓	✓
ERP Project Assurance	Medium	Level 3		✓						✓			
IT Applications – JADU	Medium	Level 3		✓			✓						✓
Tenant Management Organisations	Medium	Level 3					✓						✓

Title	Council Risk Rating	Assurance	RAG	1	2	3	4	5	6	7	8	9	10
Dispersed Temporary Accommodation Properties - Void Management	Medium	Level 3					✓						✓
Publication of Contract Awards	Medium	Level 3		✓						✓			
Young People's Participation in Education and Training	Medium	Level 3			✓								✓
Anti-Social Behaviour and Domestic Abuse	Medium	Level 3			✓	✓	✓						✓
Bereavement Services	Medium	Level 3				✓				✓		✓	✓
Council Tax - Recovery & Enforcement levels	Medium	Level 3					✓					✓	
Financial Control Review	Medium	Level 3		✓								✓	
Public Health - Compliance with NICE - National Requirements	Medium	Level 3			✓	✓	✓				✓		✓
Council Tax - Duplication of Payment File	Medium	Level 3					✓					✓	
GDPR Compliance - City Housing	Medium	Level 2					✓			✓			
Accounts Receivable - Management of Adult Social Care Debt	Medium	Level 2			✓	✓						✓	
IT Asset Management	Medium	Level 2		✓						✓			✓
IT Projects – Printing	Medium	Level 2		✓						✓			✓
IT Projects - Insight (Data Programme)	Medium	Level 2			✓	✓	✓			✓	✓		
Information Governance - Data Breach	Medium	Level 2			✓					✓			
Schools Themed Work – Income	Low	Level 3			✓							✓	
Cipfa Financial Management Code	Low	Level 3		✓								✓	

Title	Council Risk Rating	Assurance	RAG	1	2	3	4	5	6	7	8	9	10
Corporate Payroll - Overpayment, change in employee hours	Low	Level 3		✓								✓	
Asset Management - Non HRA property transactions	Low	Level 3		✓	✓	✓		✓				✓	
Commonwealth Games - Risk and Issue Management	Low	Level 2		✓	✓	✓	✓	✓		✓			
Information Governance - GDPR Programme	Low	Level 2		✓						✓			
AMSCI Progamme Loans	Low	Level 2			✓	✓						✓	
Adult Social Care - Shared Care Record	Low	Level 2				✓	✓			✓			✓
BACS	Low	Level 2		✓								✓	
Housing Rents Variations	Low	Level 2				✓	✓					✓	
Corporate Payroll Starters and Leavers	Low	Level 2		✓								✓	
Council Tax - Management of deceased accounts - Probate	Low	Level 2				✓	✓					✓	
Adult Social Care - Client Financial Services	Low	Level 2				✓	✓			✓		✓	✓
Benefit Service - Complaints & Appeals	Low	Level 2				✓	✓					✓	
Financial Management - Public Health Grant	Low	Level 2			✓	✓	✓			✓		✓	
IT Projects - Clean Air Zone (CAZ) Post Implementation Review	Low	Level 2		✓					✓	✓	✓	✓	
Leisure Services - Contract Management	Low	Level 2			✓	✓	✓			✓		✓	
Benefit Service - Citizen Access On Line Claims	Low	Level 1				✓	✓					✓	
Cyber Security Programme	Low	Level 1		✓	✓	✓	✓	✓		✓	✓	✓	✓

Title	Council Risk Rating	Assurance	RAG	1	2	3	4	5	6	7	8	9	10
Oracle 1B Data Analysis – Urgent payments / Leavers during migration	Low	Level 1		✓								✓	
IT Projects - Home to School Transport 365 Lessons Learnt	N/A	N/A			✓					✓		✓	✓

Follow up / Progress Reviews (20 Reports):

Title	Risk Rating Council	RAG
Direct Payments - Embedding Operational Practice (Stage Two) Follow Up	Medium	
Heartlands Day Centre - 2nd Follow Up	Medium	
Funerals and Property Protection Report	Medium	
Housing Repairs Contract Management and Performance	Medium	
Direct Payments - Progress of Reviews in Excess of 12 Months Overdue	Medium	
Cityserve - Procurement and Contract Management	Low	
Recruitment and Selection - Casuals	Low	
Home To School Transport - Interim Report	N/A	
Home to School Transport Progress Review	N/A	
Anti Virus Progress Review	N/A	
Information Governance Progress Review	N/A	
IT Procurement Progress Review	N/A	

Title	Risk Rating Council	RAG
IT Project Governance Follow Up	N/A	
Day Centres	N/A	
Placements - Supported Living	N/A	
Assessment and Support Planning	N/A	
Assessment & Support Planning – Early Intervention Community Team	N/A	
GDPR Compliance - City Operations	N/A	
Online Service Delivery (Intranet)	N/A	
IT Project Governance	N/A	

Investigations (7 Reports)

School Visits (10 Reports, 30 school follow up / progress reports)

Appendix B

Summary of Significant Findings

Red High Risk Reports

During the first half of 2022/23 we issued 4 red rated reports, where we identified a 'high' risk rating for the Council. Brief details of the issues highlighted in these reports are detailed below:

Procurement of Consultants/ Interims **Council Risk Rating: High** **Assurance: Level 4** **RAG:**

Our audit identified that procurement governance had not always been followed and that CEST documentation is not always accessible. The inability to provide CEST documentation could result in financial penalties being imposed by HM Revenue and Customs. Management is developing an e-learning package, and this should help to improve compliance going forward.

Day Centres **Council Risk Rating: High** **Assurance: Level 3** **RAG:**

We identified issues with financial controls and operational processes across the Day Centres reviewed. The issues were occurring due to the lack of consistent processes and procedures. Procedures are now being developed and training provided to all Day Centre managers.

IT Procurement and Commercial Management **Council Risk Rating: High** **Assurance: Level 3** **RAG:**

Our work identified a number of issues and barriers restricting the effectiveness of IT procurement activity, this including business engagement; difficulties in recruiting to posts; and alignment of procedures following service transition. Since the completion of our work, it has been agreed that IT Procurement would be aligned with Corporate Procurement Service (CPS).

Directorate Commissioning and Contract Management **Council Risk Rating: High** **Assurance: Level 3** **RAG:**

We identified a need for guidance and training to be provided to ensure operational staff had both the knowledge and a framework to guide them in undertaking their commissioning role.

School Visits

We have continued to work with the Children's and Families Directorate and school colleagues to ensure we deliver robust and added value audits that respond to the financial challenges faced by schools. Schools are selected through a risk-based plan and our work programme is constantly reviewed to meet key priorities and issues.

Our work has taken into account any challenges that have occurred due to the roll out of the Oracle 1B system. Whilst we have still commented on financial issues, we have not penalised schools for any issues that are outside of their control caused through the implementation.

The outcomes from the audits completed continued to reflect the general trends from previous years. This is not unexpected as our work focuses on those schools with the greatest challenges, selected through the risk-based plan. Overall, we found general weaknesses and areas for development across financial governance, budget planning, financial management purchasing and internet monitoring.

Budget deficits continue to be one of the key risks facing schools and the Council. The financial challenges are complex, and do differ between the sectors, but broadly they all translate into providing a quality education within budget, often with reducing funds and rising costs. As a result, there is a continued increase in schools relying on carry forward surpluses to achieve balanced budgets along with predicted deficits in future years. Whist it is now a DfE requirement for all schools to agree a deficit repayment plan, some schools are finding this a challenge due to continued financial pressures.

In June 2022 we strengthened our follow up approach for schools; progress reviews, to confirm that appropriate action is being taken, are now undertaken. Schools failing to make sufficient progress are escalate to the Local Authority.

Main Financial Systems

We have continued to provide advice, guidance and support on controls as part of the transformation of financial processes. The revised control frameworks will be subject to review and independent testing as they become embedded.

Item 10

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	**Audit Committee**
Report of:	**Strategic Director of Council Management**
Date of Meeting:	**22 November 2022**
Subject:	**Treasury risk management arrangements**
Wards Affected:	**All**

1. Purpose of Report

1.1 To update members on the Council's treasury risk management arrangements as set out in the draft 2023/24 Treasury Management Policy, Strategy and Treasury Management Practices.

2. Recommendation

2.1 That the Audit Committee notes and considers the Council's treasury risk management arrangements as set out in the attached draft 2023/24 Treasury Management Policy, Strategy and Treasury Management Practices.

3. Detail

3.1 The functions of Audit Committee include "(d) to review the adequacy of treasury risk management arrangements as set out in the Treasury Management Policy, Strategy and treasury management practices".

The Council's Treasury Management Policy and Strategy are approved in the annual Financial Plan by full Council, in accordance with CIPFA's Treasury Management Code for local authorities ("the CIPFA Code"). Quarterly monitoring of treasury management activity is included in the financial monitoring and annual outturn reports to Cabinet.

3.2 Treasury Management is defined in the CIPFA Code as "the management of the organisation's borrowing, investments and cashflows; its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".

3.3 **Appendix 1** is a presentation outlining the main risk management processes and controls for treasury management in the Council. These processes and controls are set out in further detail in a set of key governing documents, in accordance with the CIPFA Code, which are attached for reference as follows:

Appendix 2 The Council's Draft Treasury Management Strategy and Policy: these are the key documents that set out the main risk management processes and controls for Treasury Management in the Council. They will form appendices to the Financial Plan 2023-27 to be approved by City Council meeting on 28 February 2023, and for transparency, are in that format. The numbers are likely to change from this version, as the Financial Plan is finalised.

Appendix 3 The Council's Draft Treasury Management Practices (TMPs): these are operational procedures regulating day to day treasury activities, including the management of risk. They are referenced in the TM Policy paragraph 10.4. These are reviewed annually and are due to be approved by the Strategic Director of Council Management (S151).

Appendix 4 Treasury management reporting and monitoring (Quarter 2 monitoring example attached): this is provided quarterly to Cabinet as part of the financial monitoring report, as well as to Resources Overview and Scrutiny. This includes monitoring of the treasury management and other Prudential Indicators (which are required by the CIPFA Prudential and Treasury Codes).

3.4 Training on treasury management is provided periodically for City Councillors.

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Council Management Directorate

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Birmingham City Council
Treasury risk management

22 November 2022

Treasury risk management

- Audit Committee’s role
- Treasury and risk management
- The Council’s TM Strategy for 2023-24
- Treasury Reporting and Monitoring

Audit Committee’s role in relation to Treasury Management

Audit Committee’s role: *(FP17 of BCC Financial Procedures)*

“(d) to review the adequacy of treasury risk management arrangements as set out in the Treasury Management Policy, Strategy and treasury management practices”.

The Treasury Policy and Strategy are approved by full Council in accordance with CIPFA’s Treasury Management Code.

What is treasury management?

CIPFA Code definition:

- Management of borrowing, investments, and cashflows
- Management of banking, money market and capital market transactions
- Effective control of risks associated with these activities
- Pursuit of optimum performance consistent with risk appetite

The annual financial planning process determines how much the Council plans to borrow affordably or invest prudently;

The role of treasury management is to arrange and manage these borrowing and investments.

Guidance for managing treasury activities

Statutory requirement to have regard to:

- CIPFA's Code of Practice for Treasury Management in the Public Services (2021)
- CIPFA's Prudential Code for Local Authority Capital Finance (2021)
- The Government Guidance on Local Authority Investments (2018)

We comply with these

External professional advisers appointed

Arlingclose Ltd provide us with regular treasury advice and support – but BCC is responsible for TM decisions.

Headline figures for Birmingham City Council

	£m value
Total loan debt outstanding As at 31 October 2022	£3.282bn
Total treasury investments outstanding As at 31 October 2022	£101m
Total value of transactions to Q2 2022/23	£3.914bn
Total draft treasury revenue budget 2023/24	£258m

Key risks and issues we manage

Interest rate risk - the risk that future borrowing costs rise

- Controlling the costs of managing our cash (interest rate we pay)
- Ensure certainty in the budget – reduce volatility of costs
- 1% rise to forecast rates mean a £2.2m increase in interest cost to the General Fund

How?

- Optimal balance of short and long term debt - key objective is a stable charge to revenue, by having a limit of 30% on variable rate loan debt.
- Repay debt with any surplus receipts instead of investing
- Monitor the market and be flexible to take opportunities e.g. forward borrowing, repay loans early
- Not borrow too early or for too long (optimise cashflow)

Key risks and issues we manage

Liquidity and refinancing risk - the risk that the Council cannot obtain funds when needed

This is the main risk – would affect the functioning of the Council

How?

- Day to day Cash flow forecast – updated for planned daily payments and receipts
- Target a deposit balance of £40m for liquidity
- Maintain access to swift borrowing : Working Capital facility with Bank, good relationships with money brokers and other LA’s
- Have limits on the maturity profile for borrowing – ensure too many loans do not mature in one year creating a refinancing risk

Key risks and issues we manage

Credit risk - the risk of default in a Council investment

How?

- Regular review of investment grade credit criteria and investment limits (limit who we lend to/invest with and how much)
- Para 7.6 of Treasury Management Policy shows current criteria e.g. no more than £40m with any one financial institution, limit of £25m with other LA's
- Constantly monitor financial developments
- TM advisers monitor credit risk of financial institutions

Key risks and issues we manage

Environmental, Social & Governance (ESG) risk - the risk that the Council's treasury activities negatively impact sustainability and climate change.

How?

- Ensure investment counterparties such as money market funds are engaged with ESG as an issue for their investors.
- Consider ESG bonds such as green bonds as part of the Council's long term borrowing strategy.
- When making investment and borrowing decisions, the Council will seek positive ESG benefits alongside managing other treasury risks

TM Strategy for 2023/24

- Continue to maintain a short term loans portfolio:
  - Target around £500m due to interest cost savings – this is about 16% of net loan debt

- Longer term borrowing for capital programme
  - Around £50m from the PWLB (subject to meeting conditions of not borrowing to fund assets primarily for yield) or through better value/flexibility of market loans.

- Maintain £40m treasury investments for liquidity
  - Liquid investments in high credit quality institutions such as Money Market Funds (MMFs).

BCC treasury reporting and monitoring

- Cabinet monitors TM activity as part of quarterly financial reporting (Appx C to monitoring report)
  - The full Q2 report is in Audit Committee papers
  - includes summary dashboard to Cabinet - see next slide
  - includes decisions made by officers under delegations

- Prudential indicators reported as part of quarterly monitoring
  - Code requirement is only half yearly

- Monitoring from Treasury Management Panel
  - Regular meetings of senior finance officers has supportive role for treasury decision making

Cabinet summary dashboard: Q2 2022/23

Appendix C1

TREASURY MANAGEMENT MONITORING DASHBOARD: 30 SEPTEMBER 2022

		value	comparator	difference
1	**Gross loan debt**	**£m**	**£m**	**£m**
	at month end	**3,233**		
	year end Forecast (vs Plan)	3,272	3,452	-180
	year end Forecast (vs Pru Limit for loan debt)	3,272	4,126	-854

Forecast year end debt is currently below the year end plan. The Forecast year end debt is well within the prudential limit for loan debt, set for unplanned cashflow movements.

		value	comparator	difference
2	**short term borrowing**			
	at month end (vs Plan)	304	563	-259
	interest rate year to date on outstanding deals (vs assumption)	1.68%	1.00%	0.68%

Short term borrowing resumed in quarter 2 and is expected to increase further in the year, in line with the approved Strategy. Bank rate is expected to increase further having seen consecutive rises this year so future borrowing is likely to be above the planned rate.

		value	comparator	difference
3	**Treasury investments**			
	at month end (vs Plan)	71	40	31
	interest rate year to date on outstanding deals (vs assumption)	1.86%	0.75%	1.11%

Treasury investments are on average closer to the target of £40m although Bank Rate rises throughout the year mean that investment yields are higher than planned.

		value	comparator	difference
4	**Long term loans taken**			
	year to date (vs Plan)	25	90	-65
	ave. interest rate obtained (vs assumption)	4.02%	2.35%	1.67%

The £25m PWLB loan taken in September 2022 has been at a higher rate than planned due to the rise in gilt yields on the back of successive Bank Rate increases by the Bank of England. However this has reduced some refinancing risk from future interest rate rises.

BCC's TM Policy (Appx to Financial Plan 2023+)

- Sets TM objectives and risk appetite

  "To assist the achievement of the City Council's service objectives by obtaining funding and managing the City Council's debt and treasury investments at a net cost which is as low as possible, consistent with a high degree of interest cost stability and a very low risk to sums invested."

- Sets framework and controls for interest rate risk, credit risk, liquidity risk, ESG risk and other risks

- Describes Treasury delegations and reporting

- Outlines the Treasury Management Practices (TMPs)

BCC's TM Strategy (Appx to Financial Plan 2023+)

Strategy for treasury management activity in the coming year:

- Identifies borrowing (and lending) needs
- Provides market outlook including interest rates and credit
- Proposes the types and sources of borrowing for the year
- Subject to change dependent on market conditions

TM Regulatory system in local government

- CIPFA Code for Treasury Management in local authorities (2021):
  - Full Council must approve a Treasury Strategy and a Policy annually, including prudential indicators for treasury
  - Treasury Management Practices must be approved and maintained
  - Risk management is at the centre of the Code

- Government Guidance on local authority investments (2018)
  - Full Council must approve Investment Strategy (as part of Treasury Strategy)
  - Must set out arrangements for regulating use of investments of high credit quality and lower credit quality
  - Detailed requirements for managing and reporting non-treasury investments

APPENDIX 2a: TREASURY MANAGEMENT STRATEGY

1. Summary

1.1. This appendix sets out the proposed Treasury Management Strategy for 2023/24 given the interest rate outlook and the Council's treasury needs for the year, and in accordance with the Treasury Management Policy at Appendix N ((of the Financial Plan).

1.2. A balanced strategy is proposed which maintains a proportion of short term and variable rate loan debt in order to benefit from lower short term interest rates, whilst taking long term or fixed rate borrowing to maintain an appropriate balance between the risks of fixed rate and variable rate borrowing. The balance between short and long term funding will be kept under review by the Strategic Director of Council Management (Section 151 Officer) and will be maintained within the prudential limit for variable rate exposures.

1.3. Separate loan portfolios are maintained for the General Fund and the HRA; therefore, separate treasury strategies are set out below where relevant[1].

1.4. The ongoing impact on the UK from expectations for inflation and higher interest rates, government fiscal policy and the cost of living crisis will have a major influence on the Council's treasury management strategy for 2023/24.

2. Treasury Management Policy and Objectives

2.1. The Treasury Management Policy (Appendix N of the Financial Plan) sets the Council's objectives and provides a management and control framework for its Treasury Management activities, in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services.

2.2. For the Council, the achievement of high returns from treasury activities is of secondary importance compared with the need to limit the exposure of public funds to the risk of loss.

2.3. Due to the importance of environmental, social and governance (ESG) issues including climate emergency agendas, the Council will continue to consider ESG factors in the context of its treasury activities.

2.4. These objectives must be implemented flexibly in the light of changing market circumstances.

[1] This Strategy relates to loan debt only. Other debt liabilities relating to PFI and finance leases are not considered in this Strategy and are managed separately. Throughout this Financial Plan, debt and investments are expressed at nominal value, which may be different from the valuation basis used in the statutory accounts.

3. Council Borrowing Requirement

3.1. The Council's forecast of its required gross loan debt is set out in Table 7.2 in Chapter 7 (of the Financial Plan), and is a combination of its forecast capital expenditure funded from borrowing, reduced by the amounts set aside to repay debt, and short term cashflows. The Council's gross loan debt is forecast to start decreasing in forthcoming years; if further capital expenditure funded from borrowing is decided on in the future, this will increase the debt levels.

Table M.1 Forecast Borrowing Requirement

	2023/24	2024/25	2025/26	2026/27
	£m	£m	£m	£m
Forecast gross loan debt	3,394.5	3,467.6	3,430.8	3,398.3
Forecast treasury investments	(40.0)	(40.0)	(40.0)	(40.0)
Forecast net loan debt	3,354.5	3,427.6	3,390.8	3,358.3
of which:				
long term loans outstanding	2,888.6	2,813.6	2,754.8	2,687.9
Short term investments working balance	(40.0)	(40.0)	(40.0)	(40.0)
Required new/ replacement loan balance	505.9	654.1	676.0	710.4
	3,354.5	3,427.6	3,390.8	3,358.3

3.2 Most of the Council's loan debt is funded from existing long term loans which mature over periods of up to 40 years or more. Table M.1 above shows that the Council's outstanding long term loans decrease over the next few years as they are repaid upon maturity. This means that its new loans requirement increases in order to meet the forecast net loan debt.

3.3 This strategy sets out how the Council plans to obtain the required new borrowing shown above, by a combination of short term and long term borrowing.

3.2. The Council currently has £71.1m of Lender's Option Borrower's Option (LOBO) loans outstanding. For these loans, the lender has the right to increase the interest rate at certain dates during the loan term; in this event the Council has the option to accept the rate increase or repay the loan immediately without penalty. All £71.1m of the Council's LOBO loans have the potential to be exercised during 2023/24. As market rates have increased significantly in the past year, some LOBO lenders may choose to exercise their option. Repayment of these loans would require refinancing and increase the Council's borrowing requirement.

3.3. In previous years the Council has repaid some of its LOBO loans early; in May 2019, £30m of LOBO loans held with Commerzbank were repaid. This resulted in a significant saving for the Council and it removed a substantial amount of LOBO loans from its loans portfolio. The Council will consider further loan restructuring opportunities if they become available and where they provide a cost saving or a reduction in risk.

4. Interest Rate and Credit Outlook

4.1. UK Bank Rate is fundamental for the Council's treasury management activity, in terms of expenditure on loan interest where new loans are taken out and on income received from investments. UK Bank Rate is set by the Bank of England's Monetary Policy Committee (MPC) and their interest rate outlook is influenced by domestic and international economic and political developments.

4.2. The Bank of England has been raising the Bank Rate in its monthly MPC meetings since December 2021 and raised it by a further 0.75% to 3% at its November 2022 meeting. This was on the back of rising inflation in the UK and globally, due to higher energy prices, as a result of the war in Ukraine and supply chain disorder as global economies adjusted following covid pandemic policies. UK inflation measured by the Consumer Prices Index (CPI) was 10.1% in September 2022 and is at the highest levels seen in four decades.

4.3. The impact of inflation and interest rate rises are already being felt in the UK with current Bank of England forecasts indicating the economy is already in recession; GDP is expected to fall by around 0.75% during H2 2022 and continue falling until mid-2024. However the MPC expects inflation to remain above 10% in the coming months and the jobs market remains tight with high job vacancies. Although the MPC expects further increases in Bank Rate to return inflation to its target of 2%, it does not believe rates will peak to the levels priced by financial markets. Anticipated fiscal tightening in November's Autumn Statement means the MPC may not need to be as aggressive on further interest rate rises.

4.4. Arlingclose, the Council's treasury advisor, has forecast the Bank Rate to peak at 4.25% in Q1 2023 and remain there for the remainder of the financial year. Given the level of uncertainty over economic growth and interest rates the Council has taken a prudent view on Bank Rate for the treasury budget by the end of 2023/24.

4.5. Upside risks to UK interest rates in 2023/24 include:

- Higher than expected inflation rates due to the persistence of supply chain factors
- Prolonged high energy prices resulting from the continued conflict in Ukraine
- Higher than expected economic wage growth

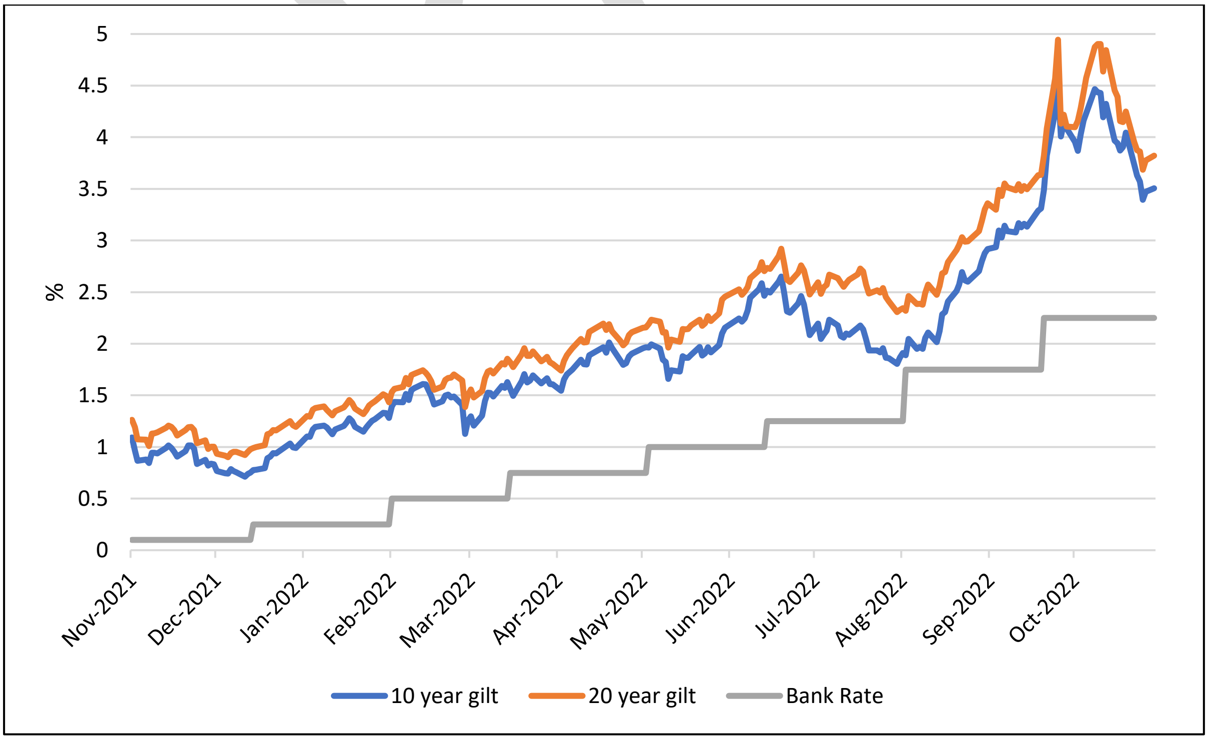
Downside risks to UK interest rates include:

- Impact of UK recession causes: UK GDP to fall by more than expected with inflation falling below the target of 2%.
- Post Brexit trade risks to the UK economy
- The effects of coronavirus on global and UK economic recovery remain significant

4.6. Longer term interest rates are typically represented by UK Government Gilt yields. The chart at Figure M.2 shows that Gilt yields have increased significantly during 2022 in line with interest rate increases and expectations for interest rates. Gilt yields are near the levels since before the financial crisis of 2008 and are no longer at the historically low levels seen in the last decade.

4.7. In recent months there has been unprecedented volatility in the gilt markets. Gilt yields initially shot up after the announcement of the 23 September 2022 'mini budget', with its fiscal stimulus measures, but have since recovered following Bank of England intervention to buy gilts and the reversal of most of those fiscal measures. The Autumn Statement on 17 November 2022 and the announcement of government plans to reduce debt may help to further stabilise gilt markets. However, volatility arising from both economic and political events are expected to continue during 2023/24.

Figure M.2 Bank Rate and Gilt Yields



4.8. The credit outlook for banks relates to their risks for default and became more significant following the 2015 Bank Recovery and Resolution Directive (BRRD). Here a failing bank would need to be 'bailed in' by current investors instead of being 'bailed out' by the Government, thus increasing the risk of loss for local authorities holding unsecured bank deposits.

4.9. With the UK economy likely to be in recession territory the risks for UK banks are heightened as shown by recent increases in UK bank Credit Default Swap (CDS) prices. However, the banking sector is generally better positioned to withstand shocks to the economy due to their required capital positions. The Council will continue to monitor bank credit worthiness and seek the advice of its treasury advisor, Arlingclose.

5. Borrowing strategy

5.1. The Council's capital investment programme allows it to deliver key priorities such as economic regeneration, transport, housing and school improvements, and to support service transformation. The capital investment programme can be funded from government grants, revenue resources, capital receipts from asset sales and prudential borrowing.

5.2. It is appropriate for the Council to borrow to fund its capital expenditure. The Council will receive long term service benefit over a number of years so it should be able to fund the capital expenditure over the years benefits are received.

5.3. Although borrowing costs (including interest costs and repayment charges) reflect a substantial investment in capital, the Council will ensure borrowing for the capital programme remains at an affordable and sustainable level. The Council periodically reviews its capital programme and associated prudential borrowing requirements and will reduce this where it can as long as it does not impede the Council's key priorities.

5.4. The Council can use capital receipts to repay debt and reduce its borrowing costs in accordance with its MRP Policy (Appendix S of the Financial Plan). In 2023/24 the Council has planned to use capital receipts to repay some debt which should allow it to make savings in borrowing costs in the following years.

5.5. Borrowing costs are also managed by the type of loans the Council takes. As part of its borrowing strategy, the Council has previously targeted a short term or variable rate loans balance (less than 12 months) of around £600m, to take advantage of lower short term borrowing rates. Although short term rates increased significantly during 2022/23 they are not forecast to go much higher in 2023/24. It is proposed to maintain a short term loans level of around £500m for 2023/24, with the balance of the Council's borrowing needs being met through long term borrowing (i.e. for periods of one year or more).

5.6. Based on this strategy, the following table summarises, for the Council as a whole, the new long term and short term borrowing proposed to fund the required new or replacement borrowing each year:

Table M.3 Proposed Borrowing Strategy

	2023/24	2024/25	2025/26	2026/27
cumulative new borrowing:	£m	£m	£m	£m
total long term loans	50.0	150.0	200.0	200.0
new short term loans	455.9	504.1	476.0	510.4
Required new/ replacement loan balance	505.9	654.1	676.0	710.4

5.7. The strategy results in a forecast for new long term borrowing of £50m by 2023/24. Further new long term loans of £100m in 2024/25 and £50m in 2025/26 are planned to meet the required loan balance. Taking long term loans maintains the Council's balanced borrowing strategy; although borrowing rates are not forecast to be significantly higher than current rates, the outlook is uncertain and taking some long term loans will remove some refinancing risk.

5.8. In 2020/21, the Council paid a three year advance pensions payment for which it received a discount; this means there are reduced pensions cash outflows in 2021/22 and 2022/23. If the Council is offered a similar discount in 2023/24, it may choose to make an advanced payment which could be funded by cash balances or a temporary increase in borrowing. The forecast debt figures at Table M.1 do not include future pensions advanced payments as these are yet to be agreed.

Short term borrowing

5.9. The Council's short term borrowing needs are largely met through other local authorities who lend their surplus cash balances at comparatively low rates. Loans from local authorities are deemed to meet the Council's ESG considerations as surplus funds will have been obtained from sources with public service objectives.

5.10. The availability of loans from other local authorities can tighten especially at financial year end when authorities have used much of their cash balances. Given the size of its short-term debt portfolio, the Council has sought to diversify its sources of short term borrowing from reliance on the local authority lending market:

- The Council has a Working Capital Facility available with its current bankers should it require loans for a short period.

- The Council is exploring the possibility of using a short term loan solution proposed by the UK Municipal Bond Agency (MBA), in a partnership with the Council's treasury advisors Arlingclose, through the issuance of commercial paper. The MBA Commercial paper proposal is expected to have rates comparable to the local authority lending market and without the risks and administration of issuing commercial paper individually.

5.11. Short term and variable rate exposures remain within the 30% prudential limit set out in Appendix T4 (of the Financial Plan).

5.12. It should be noted that a possible scenario is that short term and long term interest rates may rise (or are expected to rise) more sharply than currently forecast. A higher level of long term borrowing may be taken if appropriate to protect future years' borrowing costs.

Long Term Borrowing

5.13. The main source of long term borrowing for local authorities has been the Public Works Loans Board (PWLB), managed by HM Treasury. At the end of November 2020, the Treasury returned PWLB rates to 0.8% above gilts with the condition that local authorities would not be able to access PWLB loans if their 3 year capital programme included capital expenditure primarily for yield. The Council has not undertaken, nor has plans to undertake any investments primarily for yield.

5.14. The consequence of the PWLB rate decrease is that it is likely to offer a cheaper and quicker route to borrowing than alternative sources of borrowing, by at least 0.5% based on market analysis. For value for money, it is important that the Council continues to meet the PWLB's lending criteria. It is also uncertain how private sector lenders would view the risk profile for councils that were no longer eligible for PWLB loans.

5.15. The Council will continue to monitor market developments and will seek to use and develop other funding solutions if better value may be delivered. This may include other sources of long term borrowing if the terms are suitable, including listed and private placements, bilateral loans from banks, local authorities or others, Islamic forms of finance and sale and leaseback arrangements.

5.16. The Council will consider forward starting loans from capital markets, where the interest rate is fixed in advance, but the cash is received in later years. This would be beneficial when interest rates are forecast to rise in later years and the Council has a future borrowing requirement.

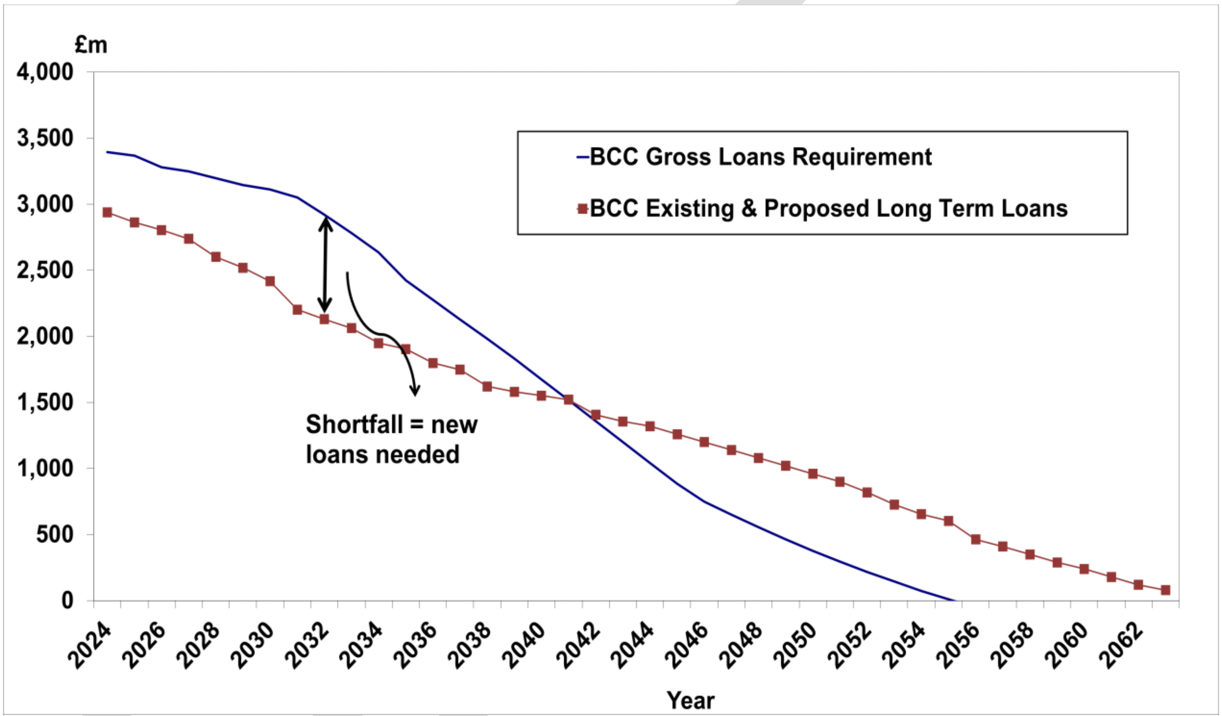
5.17. Debt capital markets have indicated ESG bonds or ESG private placements could be competitive when compared to the PWLB, due to a lack of supply and increasing demand from institutional investors. ESG bonds are used to finance projects that support environmental and social goals. Most local authority capital schemes, including significant aspects of Birmingham's capital programme, could be linked to ESG objectives and fit the criteria for an ESG bond. The Council will consider the use of ESG bonds in sourcing long term borrowing, should they provide better value through lower costs and rates when compared to PWLB borrowing.

5.18. The Council may also restructure existing loans and other long term liabilities e.g. by premature repayment and replacement with new loans.

Liability benchmark

5.19. The Council's loan maturity profile can be compared with the level of loan debt outstanding required by this Financial Plan, as follows:

Figure M.4 BCC Loans Outstanding vs. Gross Loans Requirement



5.20. The Gross Loans Requirement in Figure M.4 represents the level of outstanding loan debt required by this Financial Plan. It takes account of existing loans outstanding plus planned prudential borrowing; this reduces over time as a result of the Minimum Repayment Provision (MRP) for debt. The difference between the Gross Loans Requirement and Existing & Proposed long term loans represents forecast short term borrowing or investments. The Gross Loans Requirement represents a liability benchmark against which to measure the amount and maturity of required borrowing. In practice, future borrowings would never allow the outstanding loans to reach nil as matured debt is replaced by debt for new capital projects.

5.21. The shortfall shown in the chart is planned to be met by a short term loans portfolio of around £500m, in line with the current strategy (see paragraph 5.5).

5.22. The Treasury Management Prudential Limits and Indicators consistent with the above strategy are set out in Appendix T (of the Financial Plan), including a summary loan debt maturity profile.

5.23. The Treasury Management Strategy must be flexible to adapt to changing risks and circumstances. The strategy will be kept under review by the Strategic Director of Council Management (S151) in accordance with treasury management delegations.

6. HRA and General Fund Treasury Strategies

6.1. The Housing Revenue Account (HRA) inherited a largely long term fixed rate debt portfolio at the start of the current HRA finance system in 2012. As a result, the Council is looking to increase the HRA's exposure to short term loans whenever possible. The General Fund and HRA exposures to short term and variable interest rates in accordance with the strategy are as follows:

Table M.5 Forecast Variable Rate Exposure Based on the Proposed Borrowing Strategy

(taking account of debt maturities and proposed long term borrowing)	2023/24	2024/25	2025/26	2026/27
	£m	£m	£m	£m
Housing Revenue Account				
Year end net exposure to variable rates	275.4	295.8	300.6	296.8
Closing HRA net loan debt	1,150.5	1,167.9	1,157.9	1,147.6
Variable exposure % of debt	23.9%	25.3%	26.0%	25.9%
General Fund				
Year end net exposure to variable rates	215.5	227.1	202.2	309.6
Closing General Fund net loan debt	2,204.0	2,259.7	2,232.9	2,210.7
Variable exposure % of debt	9.8%	10.0%	9.1%	14.0%
Year end variable interest rate assumption provided for in the budget	5.50%	5.50%	4.50%	4.25%

Note: the variable rate figures above include long term loans with less than a year to maturity.

6.2. The variable rate exposure means that a 1% rise in variable rates at the end of 2023/24 would cost an estimated £2.2m per annum for the General Fund and £2.8m per annum for the HRA. However, the budget provides for a potential increase in variable rates (as shown above), which is considered to be prudent in this context.

6.3. This strategy therefore acknowledges the risk that maintaining a significant variable rate loan debt may result in increased borrowing costs in the longer term, but balances this against the savings arising from cheaper variable interest rates. The Strategic Director of Council Management (Section 151 Officer) will keep the strategy under close review during the year, in the light of the Council's financial position and the outlook for interest rates.

7. Treasury Management Revenue Budget

7.1. Based on this strategy the proposed budget figures are as follows:

Table M.6 Treasury Management Revenue Budget

	2023/24	2024/25	2025/26	2026/27
	£m	£m	£m	£m
Net interest costs	133.411	138.438	141.801	137.662
Revenue charge for loan debt repayment	120.076	125.793	142.671	147.864
Other charges	4.495	2.416	2.312	2.317
Total	257.982	266.648	286.784	287.842
Met by the HRA	57.402	58.699	66.349	64.412
Met by the General Fund	200.580	207.949	220.434	223.431
Total	257.982	266.648	286.784	287.842

7.2. The budgeted interest cost in each year reflects a prudent view of borrowing costs and the cost of the additional borrowing in this Financial Plan. Actual interest costs will be affected not only by future interest rates, but also by the Council's cash flows, the level of its revenue reserves and provisions, and any debt restructuring.

8. Investment Strategy

8.1. The Council has surplus cash to lend only for short periods, as part of day-to-day cashflow management and to maintain appropriate cash liquidity. A month end investment balance of £40m in deposits is used as guidance in order to maintain adequate liquidity to meet uncertain cashflows. Any such surplus cash is invested in high credit quality institutions and pooled investment funds such as Money Market Funds (MMFs). MMFs are expected to continue to form a major part of the cash investment portfolio, as they are able to reduce credit risks in a way the Council cannot do independently, by accessing high quality institutions and spreading the risk more widely.

8.2. In terms of the Council's ESG considerations for its investment strategy, MMFs are not typically managed with the explicit or implicit aim of being an ESG or 'ethical' product. MMF managers have varying approaches to ESG incorporation with many preferring active engagement, using their shareholding and voting rights to influence and improve corporate behaviour and responsibility.

8.3. The ESG credentials of the MMFs that the Council invests in have been reviewed, based on information provided by individual MMFs. All MMF managers have engaged with ESG as an issue for their investors and the Council will consider those MMFs that show a genuine commitment to incorporate ESG as a source of enhanced financial risk management.

8.4. Long term investments of one year or more are not currently expected to be appropriate for treasury management purposes, as the Council does not expect to have temporary surplus cash to invest for that length of time.

9. Other Treasury Management Activities and Exposures

9.1. During 2021/22, the Council established a Treasury Management Panel consisting of senior Finance Officers and treasury officers at the Council. The Council's Treasury Management Panel meets regularly and acts as an advisory body, providing guidance, support and scrutiny to decisions made by treasury officers.

9.2. The Council has guaranteed the £73m loan debt issued by NEC (Developments) Plc, which since the sale of the NEC Group has been a wholly owned subsidiary of the Council. The value of this liability, due to mature in 2027, is reflected in the Council's own debt and is managed as part of treasury activity.

9.3. The Council is a constituent member of the West Midlands Combined Authority (WMCA). Participating authorities share an exposure to any unfinanced revenue losses of WMCA, including debt finance costs. The Council and other member authorities support WMCA's capital investment plans, which include substantial prudential borrowing (subject to revenue funding support). This exposure is managed through the authorities' voting rights in WMCA including approval to its annual revenue and capital budget.

10. Advisers

10.1. Arlingclose Limited are appointed to provide treasury management advice to the Council, including the provision of credit rating and other investment information. Advisers are a useful support in view of the size of the Council's transactions and the pressures on staff time. The Council's contract with Arlingclose expired during 2022/23 and they were reappointed as the Council's treasury management advisor following a competitive tender exercise.

11. Prudential Indicators for Treasury Management

11.1. The Council is required under the Local Government Act 2003 and the CIPFA Treasury Management Code to set Prudential Indicators for treasury management. These are presented in Appendix T4 (of the Financial Plan).

APPENDIX 2B: TREASURY MANAGEMENT POLICY

1. Overview

1.1. This appendix sets out the Council's proposed Treasury Management Policy. The policy sets the overall framework and risk management controls which are used in carrying out the Council's borrowing, lending and other treasury activities.

2. Statutory Guidance

2.1. This Treasury Management Policy, the Treasury Strategy at Appendix M (of the Financial Plan), and the Service and Commercial Investment Strategy at Appendix O (of the Financial Plan), comply with the statutory requirement to have regard to the following Codes and Guidance:

- CIPFA's Code of practice for Treasury management in the public services (2021)
- CIPFA's Prudential Code for capital finance in local authorities (2021)
- The Government's Statutory Guidance on Local Authority Investments (2018)

The Council has adopted the above Codes.

3. The Council's Treasury Management Objectives

3.1. The Council's treasury management objectives and activities are defined as:

"The management of the organisation's borrowing, investments and cash flows, including its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

3.2. Effective treasury management will provide support towards the achievement of the Council's business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management[1].

Treasury Management Risks

3.3. The Council attaches a high priority to a stable and predictable charge to revenue from treasury management activities, because borrowing costs form a significant part of the Council's revenue budget. The Council's objectives in relation to debt and investment can be stated more specifically as follows:

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[1] Paragraphs 3.1, 3.2, 3.6 and the final sentence of 4.5 are required by the CIPFA Treasury Management Code

“To assist the achievement of the Council’s service objectives by obtaining funding and managing the Council’s debt and treasury investments at a net cost which is as low as possible, consistent with a high degree of interest cost stability and a very low risk to sums invested.”

3.4. This does not mean that it is possible to avoid all treasury risks, and a balance has to be struck. The main treasury risks which the Council is exposed to include:

- Interest rate risk - the risk that future borrowing costs rise
- Credit risk - the risk of default in a Council investment
- Liquidity and refinancing risks - the risk that the Council cannot obtain funds when needed
- Environmental, Social and Governance (ESG) risks – the risk that the Council’s treasury activities negatively impact sustainability and climate change.

3.5. The Treasury Management team has suitably qualified and trained staff to actively manage treasury risks within this Policy framework. However, staff resources are limited, and this may constrain the Council’s ability to respond to market opportunities or take advantage of more highly structured financing arrangements. External advice and support may also be required. The following activities may for example be appropriate based on an assessment at the time, to the extent that skills and resources are available:

- the refinancing of existing debt
- borrowing in advance of need, and forward-starting loans
- leasing and hire purchase
- use of innovative or more complex sources of funding such as listed bond issues, private placements, ESG bond issues and private placements, commercial paper, Islamic finance, and sale and leaseback structures
- investing surplus cash in institutions or funds with a high level of creditworthiness, rather than placing all deposits with the Government

3.6. The successful identification, monitoring and control of risk are the prime criteria by which the effectiveness of the Council’s treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation, and any financial instruments entered into to manage these risks.

3.7. The Council’s approach to the management of treasury risks is set out in the rest of this Treasury Management Policy.

4. Managing Treasury Risks[2]

Interest Rate Exposures

4.1. It is important for the Council to manage its interest rate exposure due to the risk that changes in the level of interest rates leads to an unexpected burden on the Council's finances. As the Council has and expects to have significant loan balances, rather than investment balances, a rise in interest rates poses greater risks for the Council. As a result, the Council will monitor the impact of a 1% interest rate rise on the General Fund, to ensure that it can adequately protect itself should this or a similar scenario occur.

4.2. The stability of the Council's interest costs is affected by the level of borrowing exposed to short term or variable interest rates. Short term interest rates are typically lower, so there can be a trade-off between achieving the lowest rates in the short term and in the long term, and between short term savings and long term budget stability. The Council will therefore limit the amount of the short term debt it holds in order to manage its variable interest rate exposure. The Council will monitor the following amounts for its interest rate exposure:

Table N.1 Prudential Limits - Interest Rate Exposure

	% of loan debt (net of investments)			
	2023/24	**2024/25**	**2025/26**	**2025/26**
General Fund impact of an unbudgeted 1% rise in interest rates	£2.2m	£2.3m	£2.0m	£3.1m
Upper limit on net variable rate exposures	30%	30%	30%	30%

4.3. The current planned variable rate exposure is set out in the Treasury Management Strategy Appendix M (of the Financial Plan),.

Maturity Profile

4.4. The Council will have regard to forecast Gross Loan Debt in managing the maturity profile. This takes account of forecast cashflows and the effect of MRP (minimum revenue provision for debt repayment) to produce a liability benchmark against which the Council's actual debt maturity profile is managed. Taking this into account the proposed limits are as follows:

Table N.2 Prudential Limits - Maturity Structure of Fixed Rate Borrowing

[2] Throughout this Financial Plan, debt and investments are expressed at nominal value, which may be different from the amortised cost value required in the statutory accounts.

	lower and upper limits:
under 12 months	0% to 30% of gross loan debt
12 to 24 months	0% to 30%
24 months to 5 years	0% to 30%
5 to 10 years	0% to 30%
10 to 20 years	5% to 40%
20 to 40 years	10% to 60%
40 years and above	0% to 40%

Policy for Borrowing in Advance of Need

4.5. Government investment guidance expects local authorities to have a policy for borrowing in advance of need, in part because of the credit risk of investing the surplus cash. The Council’s policy is to borrow to meet its forecast Net Loan Debt, including an allowance (currently of £40m) for liquidity risks. The Council will only borrow in advance of need where there is a clear business case for doing so and will only do so for the forecast capital programme, to replace maturing loans, or to meet other expected cashflows.

4.6. The Council is a substantial net borrower and only has cash to invest for relatively short periods as a result of positive cashflow or borrowing in advance of expenditure. The Council considers all its treasury risks together, taking account of the investment risks which arise from decisions to borrow in advance. Such decisions need to weigh the financial implications and risks of deferring borrowing until it is needed (by which time fixed interest rates may have risen), against the cost of carry and financial implications of reinvesting the cash proceeds until required. This will be a matter of treasury judgement at the time, within the constraints of this policy, and treasury management delegations.

5. Investment Policy: All Investments

5.1. The CIPFA Prudential and Treasury Codes recommend that authorities' capital strategies should include a policy and risk management framework for all investments. The Codes identify three types of local authority investment:

- Treasury management investments, which are taken to manage cashflows and as part of the Council's debt and financing activity
- Commercial investments (including investment properties), which are taken mainly to earn a positive net financial return
- Service investments, which are taken mainly to support service outcomes

The Government's investment guidance strengthens the management and reporting framework relating to commercial and service investments.

6. Investment Policy: Service and Commercial Investments

6.1. Service and commercial investments are taken out for different reasons from treasury management investments. The Council's strategy for such investments, including commercial property investments, is set out in Appendix O (of the Financial Plan).

7. Investment Policy: Treasury Management Investments

7.1. The Council's cashflows and treasury management activity will generally result in temporarily surplus cash to be invested. The following paragraphs set out the Council's policy for these 'treasury management' investments.

7.2. The investment of temporarily surplus cash results in credit risk, i.e. the risk of loss if an investment defaults. In accordance with Government investment guidance, the Council distinguishes between:

- 'Specified Investments' which mature within 12 months and have a 'high credit quality' in the opinion of the authority
- 'Non-specified Investments' which are long term investments (i.e. maturing in 12 months or more), or which do not have such high credit quality. The Government views these as riskier. Such investments require more care, and are limited to the areas set out in the policy for Non-specified Investments below

7.3. Low investment risk is a key treasury objective, and in accordance with Government and CIPFA guidance, the Council will seek a balance between investment risk and return that prioritises security and liquidity as more important than achieving a high return. The Council will also consider secured forms of lending such as covered bonds, but these instruments are not generally available for short term and smaller size deposits.

7.4. The Council seeks to be a responsible investor and will consider ESG factors within the relatively narrow scope of its investments. The Council makes few if any investments in listed equities or bonds and will seek to avoid investment in companies whose business do not have regard to ESG objectives.

7.5. The Council will continue to make deposits only with institutions having high credit quality as set out in the Lending Criteria table below. The main criteria and processes which deliver this are set out in the following paragraphs.

Specified Investments

7.6. The Council will limit risks by applying lending limits and criteria for ‘high credit quality’ as shown in Table N.3; these limits have been set by the Council in consultation with Treasury advisors.

Table N.3 Lending Criteria

‘Specified’ short term loan investments (all in Sterling)	**Minimum Short term rating***	**Minimum Long term rating***	**Maximum investment per counterparty**
Banks (including overseas banks) and Building Societies	F1+ /A1+ /P1	AA- /AA- /Aa3	£25m
	F1+ /A1+ /P1	A- / A- /A3	£20m
	F1 /A1 /P1	A- / A- /A3	£15m
	F2 /A2 /P2	BBB+ /BBB+ /Baa1	£10m
Sterling commercial paper and corporate bonds	F1+ /A1+ /P1	A- / A- /A3	£15m
Sterling Money Market Funds (short term and Enhanced)	AAA (with rating indicating lowest level of volatility where applicable)		£40m
Local authorities	n/a	n/a	£25m
UK Government and supranational bonds	n/a	n/a	None
UK Nationalised Banks and Government controlled agencies	n/a	n/a	£25m
Secured investments including repo and covered bonds	Lending limits determined as for banks (above) using the rating of the collateral or individual investment		

* Fitch / S&P / and Moody’s rating Agencies respectively. Institutions must be rated by at least two of the Agencies, and the lowest rating will be taken into account.

7.7. Money may be lent to the Council's own banker, in accordance with the above lending limits. However, if the Council's banker does not meet the above criteria, money may only be lent overnight (or over the weekend), and these balances will be minimised.

7.8. Credit ratings are monitored on a real-time basis as provided via the Council's Treasury Management advisers, Arlingclose, and the Council's lending list is updated accordingly, when a rating changes. Other information is taken into account when deciding whether to lend. This may include the ratings of other rating agencies; commentary in the financial press; analysis of country, sector and group exposures; and the portfolio make up of Money Market Funds (MMFs). The use of particular permitted counterparties may be restricted if this is considered appropriate.

7.9. Credit rating methodologies and credit limit requirements may change as the circumstances demand: in this event the Strategic Director of Council Management (Section 151 Officer) may determine revised and practicable criteria seeking similarly high credit quality, pending the next annual review of this treasury management policy.

Non-specified Investments and Limit

7.10. For treasury management investment purposes, the Council will limit non-specified investments to £400m (there are presently none), and will use only the following categories of non-specified investments:

- Government stocks (or "Gilts") and other supranational bonds, with a maturity of less than five years: up to 100% of non-specified investments
- Covered bonds and repo where the security meets the Council's credit criteria set out above: up to 50% of non-specified investments
- Unsecured corporate bonds, Certificates of Deposit (CD) or Commercial Paper (CP) with a maturity of less than three years, subject to the Lending Criteria in the table above: up to 20% of non-specified investments

7.11. Other categories of non-specified investments will not be used for treasury management purposes.

Investments of Group companies

7.12. The Council participates in a range of joint ventures and companies. The Treasury Management team maintains a group Treasury Policy for group entities with significant investment balances, with the objective that the treasury investments of the companies are invested consistently with the Council's own treasury investment criteria. This is generally achieved by the Council taking deposits at a commercial rate from the companies.

Investment Maturity

7.13. Temporarily surplus cash will be invested having regard to the period of time for which the cash is expected to be surplus. The CIPFA Prudential Code envisages that authorities will not borrow more than three years in advance, so it is unlikely that the Council will plan to have surplus cash for longer than three years. However, where surplus cash for over 12 months is envisaged, it may be appropriate to include some longer term (non-specified) investments within a balanced risk portfolio. The following limits will be applied:

Table N.4 Prudential Limits on Long-term treasury management investments :

1-2 years	£400m
2-3 years	£100m
3-5 years	£100m

7.14. In making investments in accordance with the criteria set out in this section, the Strategic Director of Council Management (Section 151 Officer) will seek to spread risk (for example, across different types of investment and to avoid concentration on lower credit quality). This may result in lower interest earnings, as safer investments will usually earn less than riskier ones.

7.15. Where the Council deals with financial firms under the MiFID II regulations[3], it has requested to be opted up to 'professional' status. This means that the Council does not receive the level of investment advice and information which firms are required to provide to retail investors. Professional status is essential to an organisation of the Council's size, to give it access to appropriate low-risk investments available only to investors classed as professional, and to ensure that it is able to act quickly to invest Council funds safely and to earn a good return.

7.16. The Council does not currently use investment managers (other than through the use of pooled investment vehicles such as Money Market Funds). However, if investment managers are appointed, their lending of Council funds would not be subject to the above restrictions, provided that their arrangements for assessing credit quality and exposure limits have been agreed by the Strategic Director of Council Management (Section 151 Officer).

8. Policy for HRA Loans Accounting

8.1. The Council attributes debt and debt revenue consequences to the HRA using the 'two pool' method set out in the CIPFA Treasury Management Code. This method attributes a share of all pre-April 2012 long term loans to the HRA. Any new long term loans for HRA purposes from April 2012 are

[3] The Markets in Financial Instruments Directive 2 (MiFID II) regulates, amongst other things, the way that financial firms provide advice to various categories of client.

separately identified. The detailed accounting policy arising from the ‘two pool’ method is maintained by the Strategic Director of Council Management (Section 151 Officer).

9. The Council Acting as Agent

9.1. The Council acts as intermediary in its role as agent for a number of external bodies. This includes roles as accountable body, trustee, and custodian, and these may require the Council to carry out treasury management operations as agent. The Strategic Director of Council Management (Section 151 Officer) will exercise the Council’s treasury responsibilities in accordance with the Council’s treasury delegations and relevant legislation, and will apply any specific treasury policies and requirements of the external body. In relation to the short term cash funds invested as accountable body, the Council expects to apply the investment policy set out above.

10. Reporting and Delegation

10.1. A Treasury Management Strategy report is presented as part of the annual Financial Plan to the Council before the start of each financial year. Monitoring reports are prepared monthly, and presented quarterly to Cabinet, including an Annual Report after the year end.

10.2. The management of borrowings, loans, debts, investments and other assets has been delegated to the Strategic Director of Council Management (Section 151 Officer) acting in accordance with this Treasury Management Policy Statement. This encompasses the investment of trust funds where the Council is sole trustee, and other investments for which the Council is responsible such as accountable body funds. The Strategic Director of Council Management (Section 151 Officer) reports during the year to Cabinet on the decisions taken under delegated treasury management powers.

10.3. In exercising this delegation, the Strategic Director of Council Management (Section 151 Officer) may procure, appoint and dismiss brokers, arranging and dealer banks, investment managers, issuing and paying agents, treasury consultants and other providers in relation to the Council’s borrowing, investments, and other treasury instruments and financing arrangements, and in relation to funds and instruments where the Council acts as agent.

10.4. The Strategic Director of Council Management (Section 151 Officer) maintains statements of Treasury Management Practices in accordance with the Code:

TMP1	Treasury risk management
TMP2	Performance measurement
TMP3	Decision-making and analysis
TMP4	Approved instruments, methods and techniques

TMP5	Treasury management organisation, clarity and segregation of responsibilities, and dealing arrangements
TMP6	Reporting requirements and management information arrangements
TMP7	Budgeting, accounting and audit arrangements
TMP8	Cash and cash flow management
TMP9	Money laundering
TMP10	Training and qualifications
TMP11	Use of external service providers
TMP12	Corporate governance

Similarly, Investment Management Practices for service and commercial investments are prepared in accordance with the Treasury Management Code.

11. Training

11.1. Planned and regular training for appropriate treasury management staff is essential to ensure that they have the skills and up to date knowledge to manage treasury activities and risks and achieve good value for the Council. Staff training will be planned primarily through the Council's performance and development review process, and in accordance with Treasury Management Practice 10. Training and briefings for Councillors are also held as appropriate.

BIRMINGHAM CITY COUNCIL

TREASURY MANAGEMENT PRACTICES
October 2022

The Budget Report approved by the City Council every year confirms the City Council's adoption of the CIPFA Code of Practice for Treasury Management in the Public Services ("the TM Code"). The TM Code requires Treasury Management Practices (TMPs) to be maintained. The following TMPs have been revised in accordance with the revised TM Code of 2021.

Organisations are permitted by the Code to amend CIPFA's standard text for TMPs "where necessary to reflect the particular circumstances of the organisation". Some amendments have been made to reflect the City Council's circumstances (for example, the TMPs cover a wide range of public bodies and some issues are not so significant for local authorities). For the sake of accountability all departures from the standard text are shown *in italics* or ~~struck through~~ as appropriate.

The TMPs require a number of detailed Schedules to be produced (whose content is not prescribed). They are working documents and are approved by the S151 Officer (they can also be updated for factual changes by TM staff).

The "responsible officer" referred to in the TMPs is the S151 Officer.

TMP 1 Risk Management

General statement

The City Council regards a key objective of its treasury management activities to be the security of the principal sums it invests. Accordingly, it will ensure that robust due diligence procedures cover all external investment. The responsible officer will design, implement and monitor all arrangements for the identification, management and control of treasury management risk, will report at least annually on the adequacy/suitability thereof, and will report, as a matter of urgency, the circumstances of any actual or likely difficulty in achieving the City Council's objectives in this respect, all in accordance with the procedures set out in TMP6 Reporting requirements and management information arrangements. In respect of each of the following risks, the arrangements which seek to ensure compliance with these objectives are set out in the schedules to this document.

TMP 1.1 Credit and counterparty risk management

The City Council will ensure that its counterparty lists and limits reflects a prudent attitude towards organisations with whom funds may be deposited or investments made, and will limit its investment activities to the instruments, methods and techniques referred to in TMP4 Approved instruments, methods and techniques and listed in the **Schedule to TMP 1.1**. It also recognises the need to have, and will therefore maintain, a formal counterparty policy in respect of those organisations from which it may borrow, or with whom it may enter into other financing or derivative arrangements. This will set out the City Council's policy and practices relating to environmental, social and governance (ESG) investment considerations.

TMP 1.2 Liquidity risk management

The City Council will ensure it has adequate though not excessive cash resources, borrowing arrangements, overdraft or standby facilities to enable it at all times to have the level of funds available to it which are necessary for the achievement of its business/service objectives.

The City Council will not borrow earlier than required to meet cashflow needs unless there is a clear business case for doing so and will only do so for the current capital programme, to finance future debt maturities or to ensure an adequate level of short term investments to provide liquidity for the organisation..

TMP 1.3 Interest rate risk management

The City Council will manage its exposure to fluctuations in interest rates with a view to containing its net interest costs or revenues, in accordance with its treasury management policy and strategy and in accordance with TMP6 Reporting requirements and management information arrangements.

It will achieve this by the prudent use of its approved *financing and investment* instruments, methods and techniques, primarily to create stability and certainty of costs and revenues, but at the same time retaining a sufficient degree of flexibility to take advantage of unexpected, potentially advantageous changes in the level or structure of interest rates. This will be subject to the consideration and, if required, approval of any policy or budgetary implications.

It will ensure that any hedging tools such as derivatives are only used for the management of risk and the prudent management of financial affairs, and that the policy for the use of derivatives is clearly detailed in the annual treasury strategy (*note: the City Council's current Treasury Strategy does not approve any use of derivatives*).

TMP 1.4 Exchange rate risk management

The City Council will manage its exposure to fluctuations in exchange rates ~~so as to minimise~~ *taking account of* any detrimental impact on its budgeted income/ expenditure levels.

TMP 1.5 Refinancing risk management

The City Council will ensure that its borrowing and other long term liabilities are negotiated, structured and documented, and the maturity profile of the monies so raised are managed, with a view to obtaining offer terms for renewal or refinancing, if required, which are competitive and as favourable to the organisation as can reasonably be achieved in the light of market conditions prevailing at the time.

It will actively manage its relationships with its counterparties in these transactions in such a manner as to secure this objective and will avoid overreliance on any one source of funding if this might jeopardise achievement of the above.

TMP 1.6 Legal and regulatory risk management

The City Council will ensure that all of its treasury management activities comply with its statutory powers and regulatory requirements. It will demonstrate such compliance, if required to do so, to all parties with whom it deals in such activities. In framing its credit and counterparty policy under TMP1.1 Credit and counterparty risk management, it will ensure that there is evidence of counterparties' powers, authority and compliance in respect of the transactions they may effect with the organisation, particularly with regard to duty of care and fees charged.

The City Council recognises that future legislative or regulatory changes may impact on its treasury management activities and, so far as it is reasonably able to do so, will seek to manage the risk of these impacting adversely on the organisation.

TMP 1.7 Operational risk, including fraud, error and corruption

The City Council will ensure that it has identified the circumstances which may expose it to the risk of loss through inadequate or failed internal processes, people and systems or from external events. Accordingly, it will employ suitable systems and procedures, and will maintain effective contingency management arrangements, to these ends.

TMP 1.8 Price risk management

The City Council will seek to ensure that its stated treasury management policies and objectives will not be compromised by adverse market fluctuations in the value of the sums it invests *or borrows*, and will accordingly seek to manage the effects of such fluctuations.

TMP 1.9 Inflation risk

The City Council will keep under review the sensitivity of its treasury assets and liabilities to inflation and will seek to manage the risk accordingly in the context of the whole organisation's inflation exposures.

TMP 2 Performance measurement

The City Council is committed to the pursuit of value for money in its treasury management activities, and to use of performance methodology in support of that aim, within the framework set out in its treasury management policy statement.

Accordingly, the treasury management function will be the subject of ongoing analysis of the value it adds in support of the City Council's stated business or service objectives. It will be the subject of regular examination of alternative methods of service delivery, of the availability of fiscal or other grant or subsidy incentives, and of the scope for other potential improvements. The performance of the treasury management function will be measured using the criteria set out in **Schedule to TMP 2**.

TMP 3 Decision-making and analysis

The City Council will maintain full records of its treasury management decisions, and of the processes and practices applied in reaching those decisions, both for the purposes of learning from the past, and for demonstrating that reasonable steps were taken to ensure that all issues relevant to those decisions were taken into account at the time. The issues to be addressed and processes and practices to be pursued in reaching decisions are detailed in the **Schedule to TMP 3**.

TMP 4 Approved instruments, methods and techniques

The City Council will undertake its treasury management activities by employing only those instruments, methods and techniques detailed in **the Schedule to TMP 1.1**, and within the limits and parameters defined in TMP1 Risk management.

Where the City Council intends to use derivative instruments for the management of risks, these will be limited to those set out in its annual Treasury Strategy. The Council will seek proper advice and will consider that advice when entering into arrangements to use such products to ensure that it fully understands those products (*note: the City Council's current Treasury Strategy does not approve any use of derivatives*).

This organisation has reviewed its classification with financial institutions under MIFID II and has set out in the schedule to this document those organisations with which it is registered as a professional client and those with which it has an application outstanding to register as a professional client.

TMP 5 Organisation, clarity and segregation of responsibilities, and dealing arrangements

The City Council considers it essential, for the purposes of the effective control and monitoring of its treasury management activities, for the reduction of the risk of fraud or error, and for the pursuit of optimum performance, that these activities are structured and managed in a fully integrated manner, and that there is at all times a clarity of treasury management responsibilities.

The principle on which this will be based is a clear distinction between those charged with setting treasury management policies and those charged with implementing and controlling these policies, particularly with regard to the execution and transmission of funds, the recording and administering of treasury management decisions, and the audit and review of the treasury management function.

If and when the City Council intends, as a result of lack of resources or other circumstances, to depart from these principles, the responsible officer will ensure that the reasons are properly reported in accordance with TMP6 Reporting requirements and management information arrangements, and the implications properly considered and evaluated.

The responsible officer will ensure that there are clear written statements of the responsibilities for each post engaged in treasury management, and the arrangements for absence cover. The responsible officer will also ensure that at all times those engaged in treasury management will follow the policies and procedures set out. The present arrangements are detailed in **Schedule to TMP 5.1** *and the Delegations to Treasury Management staff* **Schedule to TMP 5.3**.

The responsible officer will ensure there is proper documentation for all deals and transactions, and that procedures exist for the effective transmission of funds. The present arrangements are detailed in **Schedule to TMP 5.1**.

The delegations to the responsible officer in respect of treasury management are set out in **Schedule to TMP 5.3**. The responsible officer will fulfil all such responsibilities in accordance with the City Council's policy statement and TMPs and, if a CIPFA member, the Standard of Professional Practice on Treasury Management.

TMP 6 Reporting requirements and management information arrangements

The City Council will ensure that regular reports are prepared and considered on the implementation of its treasury management policies; on the effects of decisions taken and transactions executed in pursuit of those policies; on the implications of changes, particularly budgetary, resulting from regulatory, economic, market or other factors affecting its treasury management activities; and on the performance of the treasury management function.

As a minimum:

The City Council meeting will receive:
- an annual report on the Treasury Management Policy, Strategy and plan to be pursued in the coming year

The Cabinet will receive:
- Regular monitoring reports on treasury management activities and risks. *This encompasses the TM Code requirement for* a mid year review;
- an annual report on the performance of the treasury management function, the effects of the decisions taken and the transactions executed in the past year, and any circumstances of non-compliance with the City Council's treasury management policy statement and TMPs.

The City Council's Cabinet is considered to be an appropriate equivalent to the "Full Board" in the Code for receiving these reports.

The appropriate City Council body responsible for scrutiny, such as an audit or scrutiny committee, will have responsibility for the scrutiny of Treasury Management policies and practices.

The Treasury Management *prudential* indicators will be reported as detailed in the Sector-specific Guidance Notes.

The present arrangements and the form of these reports are detailed in **Schedule to TMP 6**.

TMP 7 Budgeting, accounting and audit arrangements

The responsible officer will prepare, and this organisation will approve and, if necessary, from time to time will amend, an annual budget for treasury management, which will bring together all the costs involved in running the treasury management function, together with associated income. The matters to be included in the budget *report* will at minimum be those required by statute or regulation, together with such information as will *assist in* demonstrat*ing* compliance *of the budget* with TMP1 Risk management, TMP2 Performance measurement, and TMP4 Approved instruments, methods and techniques. The responsible officer will exercise effective controls over this budget and will report upon and recommend any changes required in accordance with TMP6 Reporting requirements and management information arrangements.

The City Council will account for its treasury management activities, for decisions made and transactions executed, in accordance with appropriate accounting practices and standards, and with statutory and regulatory requirements in force for the time being.

TMP 8 Cash and cash flow management

Unless statutory or regulatory requirements demand otherwise, all monies in the hands of this organisation will be under the control of the responsible officer and will be aggregated for cash flow and investment management purposes. Cash flow projections will be prepared on a regular and timely basis, and the responsible officer will ensure that these are adequate for the purposes of monitoring compliance with TMP1(1.2) Liquidity risk management, and for the purpose of identifying future borrowing needs (using a liability benchmark where appropriate). The present arrangements for preparing cash flow projections, and their form, are set out in **Schedule to TMP 8**.

TMP 9 Money laundering

The City Council is alert to the possibility that it may become the subject of an attempt to involve it in a transaction involving the laundering of money. Accordingly, it will maintain procedures for verifying and recording the identity of treasury management counterparties and reporting suspicions and will ensure that staff involved in this are properly trained. The present arrangements, including the name of the officer to whom reports should be made, are detailed in **Schedule to TMP 9**.

TMP 10 Training and qualifications

The City Council recognises the importance of ensuring that all staff involved in the treasury management function are fully equipped to undertake the duties and responsibilities allocated to them. It will therefore seek to appoint individuals who are both capable and experienced and will provide training for staff to enable them to acquire and maintain an appropriate level of expertise, knowledge and skills. The responsible officer will recommend and implement the necessary arrangements, including the specification of the expertise, knowledge and skills required by each role or member of staff.

The responsible officer will ensure that Council members tasked with treasury management responsibilities, including those responsible for scrutiny, have access to training relevant to their needs and those responsibilities.

Those charged with governance *have an* individual responsibility to ensure that they have the necessary skills to complete their role effectively.

The present arrangements, including a knowledge and skills schedule, are detailed in **Schedule to TMP 10**.

TMP 11 Use of external service providers

The City Council recognises that responsibility for treasury management decisions remains with the organisation at all times. It recognises that there may be potential value in employing external providers of treasury management services, in order to acquire access to specialist skills and resources. When it employs such service providers, it will ensure it does so for reasons which will have been submitted to a full evaluation of the costs and benefits. It will also ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented and subjected to regular review. It will ensure, where feasible and necessary, that a spread of service providers is used, to avoid over-reliance on one or a small number of companies. Where services are subject to formal tender or re-tender arrangements, legislative requirements will always be observed. The monitoring of such arrangements rests with the responsible officer, and details of the current arrangements are set out in **Schedule to TMP 11**.

TMP 12 Corporate governance

The City Council is committed to the pursuit of proper corporate governance throughout its businesses and services, and to establishing the principles and practices by which this can be achieved. Accordingly, the treasury management function and its activities will be undertaken with openness and transparency, honesty, integrity and accountability.

The City Council has adopted and has implemented the key principles of the Code. This, together with the other arrangements detailed in the schedules to this document, are considered vital to the achievement of proper corporate governance in treasury management, and the responsible officer will monitor and, if and when necessary, report upon the effectiveness of these arrangements.

Section 151 Officer: **Rebecca Hellard**

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Date ______________________

Appendix C1

TREASURY MANAGEMENT MONITORING DASHBOARD: 30 SEPTEMBER 2022

Item 10

		value	comparator	difference
1	**Gross loan debt**	**£m**	**£m**	**£m**
	at month end	**3,233**		
	year end Forecast (vs Plan)	3,272	3,452	-180
	year end Forecast (vs Pru Limit for loan debt)	3,272	4,126	-854

Forecast year end debt is currently below the year end plan. The Forecast year end debt is well within the prudential limit for loan debt, set for unplanned cashflow movements.

2	**short term borrowing**			
	at month end (vs Plan)	304	563	-259
	interest rate year to date on outstanding deals (vs assumption)	1.68%	1.00%	0.68%

Short term borrowing resumed in quarter 2 and is expected to increase further in the year, in line with the approved Strategy. Bank rate is expected to increase further having seen consecutive rises this year so future borrowing is likely to be above the planned rate.

3	**Treasury investments**			
	at month end (vs Plan)	71	40	31
	interest rate year to date on outstanding deals (vs assumption)	1.86%	0.75%	1.11%

Treasury investments are on average closer to the target of £40m although Bank Rate rises throughout the year mean that investment yields are higher than planned.

4	**Long term loans taken**			
	year to date (vs Plan)	25	90	-65
	ave. interest rate obtained (vs assumption)	4.02%	2.35%	1.67%

The £25m PWLB loan taken in September 2022 has been at a higher rate than planned due to the rise in gilt yields on the back of successive Bank Rate increases by the Bank of England. However this has reduced some refinancing risk from future interest rate rises.

5	**Assurance**	
	were Credit criteria complied with?	**yes**
	were investment defaults avoided?	**yes**
	was the TM Code complied with?	**yes**
	were prudential limits complied with?	**yes**

These are key performance indicators for treasury management which in normal circumstances should all be yes. Investment quality is kept under continual review with support from the Council's treasury advisers.

Appendix C2

Treasury Management: portfolio overview			
This appendix summarises the Council's loan debt and treasury management investments outstanding			
	this quarter		last quarter
	30/09/2022 **£m**		**30/06/2022** **£m**
PWLB	**2,484.2**		**2,489.2**
Bonds	**373.0**		**373.0**
LOBOs	**71.1**		**71.1**
Other long term	**-**		**2.5**
Salix	**0.3**		**0.3**
Short term	**304.5**		**98.9**
Gross loan debt	**3,233.1**		**3,035.0**
less treasury investments	**(70.8)**		**(61.2)**
Net loan debt	**3,162.3**		**2,973.8**
Budgeted year end net debt	**3,496.6**		**3,496.6**
Prudential limit (gross loan debt)	**4,126.0**		**4,126.0**

Short term borrowing has increased in quarter 2 to meet the Council's borrowing requirements in line with the approved Strategy.

Treasury investments by source	**£m**
UK Government	**0.0**
Money Market Funds	**62.5**
Banks and Building Societies	**8.3**
	70.8

Treasury investments by credit quality			**£m**
AAA			**0.0**
AAAmmf			**62.5**
AA			**8.3**
A			**0.0**
			70.8

In line with the Strategy, the Council holds its treasury investments in diversified liquid funds of high credit quality.

Investments as Accountable Body

These are investments made as Accountable Body on behalf of others, and are not the Council's own money.

	Getting Building Fund	Growing Places Fund	AMSCI	Regional Growth Fund	GBSLEP Fund	LGF3	LGF4	NMCL	Total
	£m	**£m**	**£m**	**£m**	**£m**	**£m**	**£m**	**£m**	**£m**
UK Government	2.3	0.0	30.1	0.0	0.0	0.0	0.0	0.0	**32.4**
Birmingham City Council[1]	0.0	0.0	0.0	0.0	2.2	0.0	0.0	0.0	**2.2**
Money Market Funds	0.6	7.3	11.5	7.8	0.0	0.2	1.9	3.2	**32.5**
	2.9	**7.3**	**41.6**	**7.8**	**2.2**	**0.2**	**1.9**	**3.2**	**67.1**

[1] These funds have been lent to the Council by agreement at a commercial rate

Appendix C3

Treasury management: summary of delegated decisions in the quarter

This appendix summarises decisions taken under treasury management delegations to the Strategic Director of Council Management (Section 151 Officer) during the quarter.

1. Short term (less than 1 year)	**borrowing**		**investments**
	£m		£m
opening balance	**99**		**-61**
new loans/investments	**333**		**-538**
loans/investments repaid	**-128**		**528**
closing balance	**304**		**-71**

These loans and investments are for short periods from one day up to 365 days. Short term loans have increased to meet the Council's borrowing requirements, in line with the approved Strategy.

2. Long term borrowing:					
date	**lender**		**£m**	**rate**	**maturity**
23/09/2022	PWLB	Fixed Maturity Rate loan	25	4.02%	23/09/2032

Long term borrowing taken to reduce refinancing risk in an increasing interest rate environment.

3. Long term loans prematurely repaid:				
date	**lender**	**£m**	**rate**	**maturity**

No long term loans were prematurely repaid.
In line with treasury management practices, the Council will repay long term loans prematurely if this provides a financial saving to the Council.

4. Long term treasury investments made:				
date	**borrower**	**£m**	**rate**	**maturity**

No long term investments were made. The Council is a substantial net borrower and usually has cash to invest for relatively short periods.

Weighted average interest rate

20,000,000	1.70%	340,000	
5,000,000	1.45%	72,500	
10,000,000	1.70%	170,000	
35,000,000		582,500	**1.66%**
45,000,000	1.67%	752,400	
2,452,749	1.92%	47,093	
47,452,749		799,493	**1.68%**

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: AUDIT COMMITTEE

Report of: Director of the Adults and Social Care Directorate

Date of Meeting:

Subject: Ombudsman Public Interest Report concerning a complaint about the Top up fee arrangement complaint

Wards Affected: All

1. Purpose of Report

a) In December 2006, the Audit Committee endorsed a framework for informing and involving Members of the Council when the Local Government and Social Care Ombudsman issues a report.

b) The aim of this report is to inform members about the Ombudsman's report, issued on 10 November 2022, regarding a care home top up fee arrangement complaint.

c) As the Ombudsman has found fault causing injustice and have made recommendations to remedy the injustice caused, it should be considered by this Committee on behalf of the City Council.

2. Recommendations

That the Audit Committee notes the Director of Adults and Social Care's response to the Local Government and Social Care Ombudsman's recommendations.

3. Background Information

3.1 A copy of the Local Government and Social Care Ombudsman's report dated 2 September 2022 is appended to this report. All Ombudsman reports are anonymous, so, whilst the events described are real, the names of those involved are not included.

3.2 The essence of the complaint:

- Mrs X complained the Council failed to properly explain or advise her about the need for top up fees for her mother, Mrs Y's care home, and has wrongly required her to pay these fees since her mother moved to the care home in 2007. Mrs X says this has placed her family under unnecessary financial strain for many years.

4. The Key Events

4.1 In 2007 Mrs Y was discharged from hospital to a nursing home, Care Home 1. Mrs X says the Council chose and arranged the placement at Care Home 1 and that she was required to pay a top up fee. She says the Council did not give her any information about top up fees or why she was required to pay one. Mrs X assumed that all care home placements involved a top up fee. The Council does not have any records of the arrangements for this placement in 2007.

4.2 Mrs Y was admitted to hospital in 2011 and Mrs X initially did not want Mrs Y to return to Care Home 1 when she was discharged. Mrs X found an alternative care home but was told this home would charge a top up fee. The Council also found several alternative care homes which would have required a top up fee from Mrs X. These homes were not able to offer Mrs Y a placement. There is no record of what information or explanation the Council gave Mrs X about the top up fees, but the notes do record Mrs X was not happy about paying a top up fee.

4.3 As Mrs X could not find a suitable alternative care home, it was agreed that Mrs Y would return to Care Home 1. The Council provided a copy of the care home placement agreement and third party funding agreement. This states it should be completed where a third party has agreed to pay a weekly top up amount because the home chosen has a fee which is greater than the Council would usually expect to pay. It specifies a top up of £50 a week. While the agreement provided is signed by the Council, it is not signed by either Care Home 1 or Mrs X.

4.4 Mrs X says she repeatedly questioned the need for the top up fee and what it related to. She says the Council did not consider whether she could afford to pay the top up fee and her concerns were not recorded.

4.5 The Council's records show that Mrs X told the Council at a review meeting in July 2019 that she was finding it difficult to pay the top up fee. The notes state they discussed looking at alternative nursing homes and trying to negotiate a lower top up fee. Mrs X did not want Mrs Y to move to another home.

4.6 Mrs X contacted the Council again the following month as she had completed a financial assessment form as part of the reassessment of Mrs Y's contribution towards the cost of her care. The form referred to family or friends paying a top up fee because Mrs Y had chosen more expensive accommodation than the Council was able to pay for. This prompted Mrs X to research top up fees and to question why they were not offered a home where a top up fee was not needed. She felt the Council had not offered her the correct support at a sad and stressful time and asked the Council to look into this.

4.7 In subsequent discussions with the Council Mrs X reiterated the Council had placed Mrs Y at Care Home 1 without informing her about top up fees and without offering the choice of a home without a top up fee. Mrs X also said she had learnt that other individuals with placements funded by the Council did not have to pay top up fees and she asked for the same parity for Mrs Y. An officer informed Mrs X that there were no records of discussions about Mrs Y's placement in 2007 as the file had been destroyed. But they said a social worker would have told Mrs X about top up fees at the time of the placement and that she would have had a choice of placements, as this was the Council's policy. The Council suggested looking for an alternative care home that does not charge a top up fee.

4.8 The Council also contacted Care Home 1 to explain Mrs X was not able to afford the top up and to ask whether the charges could be disregarded.

4.9 Mrs X had accrued arrears of top up fees of £2,298. Care Home 1 offered to waive future top up fees if Mrs X cleared these arrears. Mrs X was unhappy she was expected to pay the arrears. She said she had stopped paying the top up fees when she complained to Care Home 1 about them in September 2019. She asserted that had the care home dealt with her queries promptly these arrears would not have accrued.

4.10 In June 2020 Mrs X made a formal complaint to the Council. She complained the Council had arranged the placement at Care Home 1 in 2007 and had not given her any choice of alternative care homes. Mrs X complained she was led to believe all nursing homes had top up fees which had to be paid by a third party. But her mother-in-law had now moved to Care Home 1 and was not paying a top up fee. She had looked at moving Mrs Y to another care home but did not consider this the right thing to do as Mrs Y had been at Care Home 1 a long time and was settled. Mrs X asked the Council to investigate whether she should have had to pay top up fees for all this time.

4.11 The Council responded to Mrs X's complaint in February 2021. It apologised for the delay in responding. The Council referred to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 which specified a time limit for making complaints. Although Mrs X complained she had been charged a top up fee since 2007, the Council would only consider events over a 12 month period. The Council noted the top up fee arrangement stopped on 1 May 2020 and advised it would consider the period 1 May 2019 to 30 May 2020.

4.12 The Council calculated that during this period Mrs X would have been charged top up fees of £5,200. As Mrs X had not paid all the fees, the Council offered to pay the arrears of £2,298 directly to Care Home 1 and to reimburse Mrs X the balance of £2,902. It also offered to pay Mrs X £250 for her time and trouble.

4.13 Mrs X was not satisfied by the Council's response and asked for her complaint to be reviewed. The Council's response confirmed it had checked with Care Home 1 and the outstanding balance in relation to top up fees had been waived from October 2019.

4.14 The Council also confirmed it carried out financial assessments to establish whether service users were required to fund or contribute towards their placement. It stated Mrs Y was not a self-funder and that the top up payment was a private arrangement between the care home and the family. As such the Council was not required to carry out a financial assessment for Mrs X.

4.15 Again, the Council only considered the 12 month period starting 1 May 2019. As Care Home 1 had waived the arrears, the Council recalculated the top up fees for the period 1 May 2019 to 30 September 2019 and offered to reimburse Mrs X £2,300. It would also reimburse a payment of £1,500 Mrs X had made and again offered £250 for her time and trouble.

4.16 Mrs X maintains the Council was wrong to require her to pay a top up fee from 2007 and has asked the LGSCO to investigate her concerns.

4.17 The Council confirmed its offer to Mrs X totalling £4,050 still stands.

5. The Ombudsman's Findings – Upheld: Maladministration and injustice under Section 31(2) of the Local Government Act 1974

5.1 The failure to provide sufficient information about top up fees to enable Mrs X to make an informed choice about placements for her mother is fault. In the absence of an available care home placement which was within the Council's usual cost and could meet her needs, the Council should not have asked Mrs X to pay a top up fee. Requiring her to do so is fault.

5.2 The LGSCO are concerned that the Council considers the top up fee was a private matter between Care Home 1 and Mrs X and that there was no need for it to carry out a financial assessment. This is not the case. Legislation and government guidance, both before and since the implementation of the Care Act 2014 are clear that the council must be satisfied the third party is able and willing to pay the additional cost of any preferred accommodation for the likely duration of the placement. And that the third party must enter into a written agreement with the council to pay the additional cost.

5.3 The Council's Care Home Placement Agreement and Third Party Funding Agreement states it is a three way agreement between the Council, care home provider and the contributor. It can be terminated by either the provider or the

Council and states that should the contributor be unable to pay the top up they should contact the Council. It is therefore disingenuous of the Council to refer to the top up fee as a private matter between the care home and Mrs X, when clearly it is not.

5.4 There is no evidence of any consideration as whether Mrs X could afford to pay the top up fee either in the short term or for the duration of the arrangement. This is fault, as is the failure to ensure there was a signed written agreement in respect of the top up fees. Neither Mrs X nor Care Home 1 have signed the Council's care home placement agreement or third party funding agreement.

5.5 In 2019 the LGSCO found fault with the Council's practice of treating third party top up fees as a private matter between the care home and the third party. In that case we made recommendations that the Council review its third party top up fee arrangements to ensure all top up agreements were compliant with statutory guidance.

5.6 Since the LGSCO's decision in 2019 the Council has drafted new guidance for its staff and reviewed the information available to care providers and the public. It has not yet implemented these changes but states it will do so imminently.

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5.7 The LGSCO also consider there to be fault in the way the Council has dealt with Mrs X's complaint. The Council claims the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 limit its investigation to a 12 month period. This is not an accurate reflection of the provisions of these regulations. Regulation 12 states a complaint must be made no later than 12 months after either:

- the date on which the matter complained of occurred; or
- if later, the date on which the matter complained of came to the complainant's notice.

5.8 In addition, the regulation states the time limit does not apply where the complainant has good reason for not making a complaint within the time limit and that despite the delay, it is still possible to investigate the complaint effectively and fairly.

5.9 The LGSCO consider the Council's decision to limit Mrs X's complaint to the period 1 May 2019 to 30 May 2020 was flawed. The time taken to investigate Mrs X's complaint is also unacceptable and is fault. The Council's complaints procedure states it will respond to complaints at stage 1 of the process within 20 working days. In this instance the Council took eight months to respond.

6. The Ombudsman's Recommendations

6.1 To remedy the injustice caused by the faults identified, the Council has agreed to complete the following:

- apologise to Mrs X and pay her £250 to recognise the distress, time and trouble she has experienced;
- refund Mrs X the top up fees she has paid since Mrs Y returned to
- Care Home 1 in March 2011;
- provide reminders/training to relevant staff of the importance of keeping clear records. The Council must be able to show it has offered at least one available and suitable care home. The Council should document why a care home is suitable for the individual, any challenge to what is suitable, and the outcome of that challenge.
- provide reminders/training to ensure relevant staff correctly consider and apply the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Council's complaints procedure when responding to complaints.

7. The Council's View

7.1 The Council accepted the Ombudsman's recommendations at the draft report stage.

7.2 The Council has subsequently carried out the following actions:

All recommendations from the Ombudsman have been implemented outlined in section 6.1.

8. Legal and Resource Implications

8.1 The agreed payments will be made from an appropriate budget.

9. Risk Management & Equality Impact Assessment Issues

9.1 This was a historical case; Adult Social Care have previously amended the top up policy and procedures as a result of the Care Act 2014 and previous Ombudsman recommendations. There is a risk of future complaints in relation to third party top ups, these will be considered by the service, appropriate case audits and mitigate risks accordingly.

10. Compliance Issues

10.1 The top up policy was amended following the introduction of the Care Act 2014, this case predates the policy changes. All social workers have been reminded about the importance of discussing third party top ups with family members and noting this on the Adult Social Care system. Case file audits will be completed on any future complaints that involve a third party top up. All Ombudsman recommendations will be implemented without delay.

11. Recommendations

That the Audit Committee notes the actions being taken in response to the Local Government and Social Care Ombudsman's report.

Contact officer:	**Dawanna Campbell, Acting Assistant Practice Manger, Legal and Governance**
e-mail address:	**Dawanna.Campbell@birmingham.gov.uk**
	Graeme Betts, Director of the Adults and Social Care Directorate
e-mail address:	**Graeme.betts@birmingham.gov.uk**

Local Government &
Social Care
OMBUDSMAN

Report by the Local Government and Social Care Ombudsman

Investigation into a complaint about Birmingham City Council (reference number: 21 003 197)

2 September 2022

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

> apologise

> pay a financial remedy

> improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs X	The complainant
Mrs Y	The complainant's mother

Report summary

Adult social care
Mrs X complained the Council failed to properly explain or advise her about the need for top up fees for her mother, Mrs Y's care home, and has wrongly required her to pay these fees since her mother moved to the care home in 2007. Mrs X says this has placed her family under unnecessary financial strain for many years.

Finding
Fault causing injustice and recommendations made.

Recommendations
The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. ***(Local Government Act 1974, section 31(2), as amended)***

To remedy the injustice caused we recommend the Council:

- apologise to Mrs X and pay her £250 to recognise the distress, time and trouble she has experienced;
- refund Mrs X the top up fees she has paid since Mrs Y returned to Care Home 1 in March 2011;
- provide reminders/training to relevant staff of the importance of keeping clear records. The Council must be able to show it has offered at least one available and suitable care home. The Council should document why a care home is suitable for the individual, any challenge to what is suitable, and the outcome of that challenge.
- provide reminders/training to ensure relevant staff correctly consider and apply the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Council's complaints procedure when responding to complaints.

The complaint

1. Mrs X complained the Council failed to properly explain or advise her about the need for top up fees for her mother, Mrs Y's care home, and has wrongly required her to pay these fees since her mother moved to the care home in 2007. Mrs X says this has placed her family under unnecessary financial strain for many years.

Legal and administrative background

2. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. ***(Local Government Act 1974, sections 26(1) and 26A(1), as amended)***

How we considered this complaint

3. We produced this report after examining relevant documents and speaking to the complainant.

4. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

Charging for residential care

5. The care and support planning process will identify how best to meet a person's needs. As part of that process, the council must give the person a clear explanation of how it has assessed their ability to pay for their care; and the amount of any contribution the person must pay.

6. Where a council is meeting needs by arranging a care home, it must ensure a person has a genuine choice of accommodation. The council should give the person clear and balanced information to make the best choice. It must ensure there is at least one accommodation option available that is affordable and within the council's 'usual cost'. If no accommodation is available within the usual cost the council must arrange care in a more expensive setting. In such circumstances, the council must not ask for the payment of a 'top up' fee.

7. A person can choose accommodation that is more expensive than the council would usually pay if a third party is willing to pay the additional cost - a top up fee. But if a person is placed in more expensive accommodation solely because the council has failed to arrange accommodation at the anticipated cost, then a top up fee will not be payable.

8. In such circumstances, the council needs to ensure the person paying the top up enters a written agreement with the council and can meet the extra costs for the likely duration of the agreement.

9. The council must provide the third party with enough information and advice to support them to understand the terms of the proposed written agreement before entering into it.

What happened here

10. In 2007 Mrs Y was discharged from hospital to a nursing home, Care Home 1. Mrs X says the Council chose and arranged the placement at Care Home 1 and that she was required to pay a top up fee. She says the Council did not give her any information about top up fees or why she was required to pay one. Mrs X assumed that all care home placements involved a top up fee. The Council does not have any records of the arrangements for this placement in 2007.

11. Mrs Y was admitted to hospital in 2011 and Mrs X initially did not want Mrs Y to return to Care Home 1 when she was discharged. Mrs X found an alternative care home but had been told this home would charge a top up fee. The Council also found several alternative care homes which would have required a top up fee from Mrs X. These homes were not able to offer Mrs Y a placement. There is no record of what information or explanation the Council gave Mrs X about the top up fees, but the notes do record Mrs X was not happy about paying a top up fee.

12. As Mrs X could not find a suitable alternative care home, it was agreed that Mrs Y would return to Care Home 1. The Council has provided a copy of the care home placement agreement and third party funding agreement. This states it should be completed where a third party has agreed to pay a weekly top up amount because the home chosen has a fee which is greater than the Council would usually expect to pay. It specifies a top up of £50 a week. While the agreement provided is signed by the Council, it is not signed by either Care Home 1 or Mrs X.

13. Mrs X says she repeatedly questioned the need for the top up fee and what it related to. She says the Council did not consider whether she could afford to pay the top up fee and her concerns were not recorded.

14. The Council's records show that Mrs X told the Council at a review meeting in July 2019 that she was finding it difficult to pay the top up fee. The notes state they discussed looking at alternative nursing homes and trying to negotiate a lower top up fee. Mrs X did not want Mrs Y to move to another home.

15. Mrs X contacted the Council again the following month as she had completed a financial assessment form as part of the reassessment of Mrs Y's contribution towards the cost of her care. The form referred to family or friends paying a top up fee because Mrs Y had chosen more expensive accommodation than the Council was able to pay for. This prompted Mrs X to research top up fees and to question why they were not offered a home where a top up fee was not needed. She felt the Council had not offered her the correct support at a sad and stressful time and asked the Council to look into this.

16. In subsequent discussions with the Council Mrs X reiterated the Council had placed Mrs Y at Care Home 1 without informing her about top up fees and without offering the choice of a home without a top up fee. Mrs X also said she had learnt that other individuals with placements funded by the Council did not have to pay top up fees and she asked for the same parity for Mrs Y. An officer informed Mrs X that there were no records of discussions about Mrs Y's placement in 2007 as the file had been destroyed. But they said a social worker would have told Mrs X about top up fees at the time of the placement and that she would have had a choice of placements, as this was the Council's policy. The Council suggested looking for an alternative care home that does not charge a top up fee.

17. The Council also contacted Care Home 1 to explain Mrs X was not able to afford the top up and to ask whether the charges could be disregarded.

18. Mrs X had accrued arrears of top up fees of £2,298. Care Home 1 offered to waive future top up fees if Mrs X cleared these arrears. Mrs X was unhappy she was expected to pay the arrears. She said she had stopped paying the top up fees when she complained to Care Home 1 about them in September 2019. She asserted that had the care home dealt with her queries promptly these arrears would not have accrued.

19. In June 2020 Mrs X made a formal complaint to the Council. She complained the Council had arranged the placement at Care Home 1 in 2007 and had not given her any choice of alternative care homes. Mrs X complained she was led to believe all nursing homes had top up fees which had to be paid by a third party. But her mother-in-law had now moved to Care Home 1 and does not pay a top up fee. She had looked at moving Mrs Y to another care home but did not consider this the right thing to do as Mrs Y had been at Care Home 1 a long time and was settled. Mrs X asked the Council to investigate whether she should have had to pay top up fees for all this time.

20. The Council responded to Mrs X's complaint in February 2021. It apologised for the delay in responding. The Council referred to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 which specified a time limit for making complaints. Although Mrs X complained she had been charged a top up fee since 2007, the Council would only consider events over a 12 month period. The Council noted the top up fee arrangement stopped on 1 May 2020 and advised it would consider the period 1 May 2019 to 30 May 2020.

21. It calculated that during this period Mrs X would have been charged top up fees of £5,200. As Mrs X had not paid all the fees, the Council offered to pay the arrears of £2,298 directly to Care Home 1 and to reimburse Mrs X the balance of £2,902. It also offered to pay Mrs X £250 for her time and trouble.

22. Mrs X was not satisfied by the Council's response and asked for her complaint to be reviewed. The Council's response confirmed it had checked with Care Home 1 and the outstanding balance in relation to top up fees had been waived from October 2019.

23. The Council also confirmed it carried out financial assessments to establish whether service users were required to fund or contribute towards their placement. It stated Mrs Y was not a self-funder and that the top up payment was a private arrangement between the care home and the family. As such the Council was not required to carry out a financial assessment for Mrs X.

24. Again, the Council only considered the 12 month period starting 1 May 2019. As Care Home 1 had waived the arrears, the Council recalculated the top up fees for the period 1 May 2019 to 30 September 2019 and offered to reimburse Mrs X £2,300. It would also reimburse a payment of £1,500 Mrs X had made and again offered £250 for her time and trouble.

25. Mrs X maintains the Council was wrong to require her to pay a top up fee from 2007 and has asked us to investigate her concerns.

26. In response to our enquiries the Council states its records in 2007 were in paper format rather than electronic. Its records are brief and it is not able to confirm what discussions took place about Mrs Y's placement. Its records from 2011 are electronic, and the Council states they show Mrs Y's family was supported to find an alternative placement and that it was the family's request she return to Care Home 1.

27. The Council has also confirmed its offer to Mrs X totalling £4,050 still stands.

Conclusions

28. We are not able to establish what happened when Mrs Y moved to Care Home 1 in 2007. There are no records made at the time of any discussions about how the care home was chosen or how it would be funded. This is not surprising given the passage of time but means we would not be able to reach a sound, evidence-based decision. We will not therefore consider the events of 2007 any further.

29. There are however more detailed records about Mrs Y's placement at Care Home 1 in 2011. It is clear Mrs X did not initially want Mrs Y to return to Care Home 1 when she was discharged from hospital in 2011. Both Mrs X and the Council found alternative care homes, which the Council then contacted about a placement for Mrs Y. These care homes all had top up fees and either did not have availability or could not meet Mrs Y's needs.

30. According to the Council's notes, an officer informed Mrs X of vacancies at two other care homes, which Mrs X declined as they were too far away. There is no indication in the records provided whether these care homes charged a top up fee or whether they would be able to meet Mrs Y's needs.

31. The Council's records show that when Mrs Y was due to be discharged the only interim care bed available was at Care Home 1. The notes state the only other bed was at one of the care homes Mrs X had declined due to their location. The notes go on to say the Council would offer Mrs X this placement although it considered it likely she would decline. There is no record the Council discussed an interim placement at this care home with Mrs X before agreeing a placement at Care Home 1.

32. Nor are there any records of the Council discussing top up fees with Mrs X in 2011. The failure to provide sufficient information about top up fees to enable Mrs X to make an informed choice about placements for her mother is fault. In the absence of an available care home placement which was within the Council's usual cost and could meet her needs, the Council should not have asked Mrs X to pay a top up fee. Requiring her to do so is fault.

33. It is of concern that the Council considers the top up fee was a private matter between Care Home 1 and Mrs X and that there was no need for it to carry out a financial assessment. This is not the case. Legislation and government guidance, both before and since the implementation of the Care Act 2014 are clear that the council must be satisfied the third party is able and willing to pay the additional cost of any preferred accommodation for the likely duration of the placement. And that the third party must enter into a written agreement with the council to pay the additional cost.

34. The Council's Care Home Placement Agreement and Third Party Funding Agreement states it is a three way agreement between the Council, care home provider and the contributor. It can be terminated by either the provider or the Council and states that should the contributor be unable to pay the top up they should contact the Council. It is therefore disingenuous of the Council to refer to the top up fee as a private matter between the care home and Mrs X, when clearly it is not.

35. There is no evidence of any consideration as whether Mrs X could afford to pay the top up fee either in the short term or for the duration of the arrangement. This

is fault, as is the failure to ensure there was a signed written agreement in respect of the top up fees. Neither Mrs X nor Care Home 1 have signed the Council's care home placement agreement or third party funding agreement.

36. In 2019 we found fault with the Council's practice of treating third party top up fees as a private matter between the care home and the third party. In that case we made recommendations that the Council review its third party top up fee arrangements to ensure all top up agreements were compliant with statutory guidance.

37. Since our decision in 2019 the Council has drafted new guidance for its staff and reviewed the information available to care providers and the public. It has not yet implemented these changes but states it will do so imminently. We have not therefore made any recommendations about this issue in this report.

38. We also consider there to be fault in the way the Council has dealt with Mrs X's complaint. The Council claims the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 limit its investigation to a 12 month period. This is not an accurate reflection of the provisions of these regulations. Regulation 12 states a complaint must be made no later than 12 months after either:

- the date on which the matter complained of occurred; or
- if later, the date on which the matter complained of came to the complainant's notice.

39. In addition, the regulation states the time limit does not apply where the complainant has good reason for not making a complaint within the time limit and that despite the delay, it is still possible to investigate the complaint effectively and fairly.

40. Mrs X complained in 2019 that she had only just become aware that not every care home placement required a top up fee. She then made a formal complaint in 2020, less than 12 months later. The Council's response to Mrs X's complaint does not suggest she was aware of the circumstances in which top up fees could be charged before 2019, or question whether she had good reason not to complain sooner. Nor does it consider whether it was, in any event, still possible to investigate the complaint.

41. We consider the Council's decision to limit Mrs X's complaint to the period 1 May 2019 to 30 May 2020 was flawed. The time taken to investigate Mrs X's complaint is also unacceptable and is fault. The Council's complaints procedure states it will respond to complaints at stage 1 of the process within 20 working days. In this instance the Council took eight months to respond.

Recommendations

42. To remedy the injustice caused we recommend the Council:

- apologise to Mrs X and pay her £250 to recognise the distress, time and trouble she has experienced;
- refund Mrs X the top up fees she has paid since Mrs Y returned to Care Home 1 in March 2011;
- provide reminders/training to relevant staff of the importance of keeping clear records. The Council must be able to show it has offered at least one available and suitable care home. The Council should document why a care home is

suitable for the individual, any challenge to what is suitable, and the outcome of that challenge.

- provide reminders/training to ensure relevant staff correctly consider and apply the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the Council's complaints procedure when responding to complaints.

43. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. ***(Local Government Act 1974, section 31(2), as amended)***

Decision

44. The Council's failure to provide sufficient information about top up fees to enable Mrs X to make an informed choice about placements for her mother is fault. Requiring Mrs X to pay a top up fee when the Council could not identify an available care home placement within Mrs Y's personal budget that could meet her needs is also fault. These faults have caused Mrs X an injustice.

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE

22 November 2022

SCHEDULE OF OUTSTANDING MINUTES

Note: As of 30 September 2021 – Responses to outstanding actions to be made within a 2 month period unless there is an exceptional reason.

(grey)	Completed & discharged
(yellow)	Approaching 2 months
(red)	2 months +

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
377 19/10/2021	**ASSURANCE SESSION – THE DEPUTY LEADER'S PORTFOLIO** **Additional Recommendations:** That the Audit Committee; (ii) Agreed for a briefing to be offered to all Members of the Council on Cyber Security, GDPR and roles related to data processing. (Outstanding) **COMPLETED & DISCHARGED**	Peter Bishop – Director, Digital & Customer Services to lead on responses. (ii) Briefing will be arranged to be delivered to an early meeting of the 2022-23 Audit Committee. **Response provided at 18 October meeting.**
442 29/03/2022	**ADOPTION OF ACCOUNTING POLICES FOR 2021/22** (i) Members requested that Officers facilitate a future training session in relation to the valuation process associated with the Council's plant and property.	This training session will be arranged during the early stages of the 2022-23 municipal year. **Briefing scheduled for 24 November 2022 between 1700 – 1900 hours**
513 18/10/2022	**ASSURANCE SESSION - CABINET MEMBER DIGITAL, CULTURE, HERITAGE & TOURISM PORTFOLIO** **Additional actions:**	

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
	(ii) Agreed for a briefing note to be shared on the implementation of Oracle; including details on the final expenditure (i.e. additional expenditure; ongoing expenditure); start of the project figures; what actual spend was; how late was the delivery and the learnings from this process.	Sara Pitt
	(iii) Agreed for a briefing note to be shared on data breaches, security training and work undertaken to capture the 15% of the Council who had not undertaken this training.	Cheryl Doran
	(iv) Agreed for a briefing note to be shared on the uptake of the annual training across the Council, non-compliance and risks associated with the roles of an elected member (in particular to Audit Committee).	Janie Berry
514 18/10/2022	**BIRMINGHAM AUDIT ANNUAL FRAUD REPORT 2021/22** (ii) Agreed for a briefing note on Financial Investigators role and powers to be provided. **COMPLETED & DISCHARGED**	John Preston / Craig Price **Briefing note circulated to members on 07/11/2022 by Craig Price**