

Birmingham City Council

Report to Cabinet

30th July 2019



Subject: BIRMINGHAM CITY COUNCIL ASSURANCE
FRAMEWORK 2019 -20+

Report of: THE CHIEF EXECUTIVE

Relevant Cabinet Member: Councillor Ian Ward, Leader

Relevant O &S Chair(s): Councillor Carl Rice – Co-ordinating O&S Committee

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

1 Executive Summary

- 1.1 In March 2019 Cabinet considered the latest stock-take report of the Council's improvement journey prior to submission of this report to the Secretary of State. Cabinet also endorsed an outline plan of improvement areas for 2019-20 whilst also agreeing to report, voluntarily, to the Secretary of State in autumn 2019 and spring 2020.
- 1.2 In order to ensure that the Council continues to make progress whilst continuing to benefit from sector-leading advice and support, this report proposes that Cabinet endorse the adoption of an innovative new model of "progressive assurance." This model would entail the formation of a quarterly Strategic Programme Board and the invitation of specialist Non-Executive Advisors (aligned to specific risk and professional areas of focus) to support the Council Management Team for twelve

months from July 2019 to July 2020. This proposal builds on analysis of assurance and improvement models across a range of different sectors and seeks to embed an innovative and novel model with wider applicability and learning for Local Government. The Ministry of Housing, Communities and Local Government has been engaged in the design of this model and, pending Cabinet approval, would be invited to endorse and partner with the Council in the implementation of this approach in 2019-20.

2 Recommendations

That Cabinet

- 2.1 Approves the new model and the establishment of a quarterly Strategic Programme Board as detailed below as option two
- 2.2 Authorises the allocation of policy contingency funding of £112.5k in 2019/20 for costs associated with the establishment and work of the Board. Costs are detailed in Section 7.3 below
- 2.3 Notes that £37.5k will be requested as pressure funding during the 2020/21 budget process for costs that will be incurred in 2020/21
- 2.4 Delegates authority to the Assistant Chief Executive in consultation with the Leader to procure and appoint specialist external advisors to sit on the Strategic Programme Board and to procure appropriate professional support to enable the effective running of this new model of progressive assurance, in line with financial and procurement implications outlined in 7.3 and 7.4.

3 Background

- 3.1 The Kerslake Review of the Council's governance arrangements took place in 2014. Following this review the Birmingham Independent Improvement Panel was set up in 2015 to provide external challenge and support to the Council to effect the improvements recommended in the Kerslake report. The Panel provided challenge and support to the Council for four years and stood down at the end of March 2019.
- 3.2 In March 2019 Cabinet received a stocktake report detailing the final formal assessment of the Council's improvement journey. It was accompanied by the final in-year update to the Corporate Governance Improvement Plan 2018-19; a narrative regarding service transformation and improvement; and a summary of the high level corporate governance improvement priorities for 2019/20. These were submitted for consideration by the Secretary of State for Housing, Communities and Local Government in April 2019, together with the Birmingham Independent Improvement Panel's own assessment and letter.
- 3.3 Subsequently, the Council has been considering how best to continue with our service improvement and transformation journey with a focus on maintaining the impetus, continuing to benefit from external experience and securing the trust and confidence of local stakeholders and Government. A model of "progressive

assurance” has been designed to provide all stakeholders (Government, Elected Members, partners, citizens, internal and external Audit, Overview and Scrutiny and the sector as a whole) with confidence that the improvement work is proceeding with appropriate pace and quality in delivery including foresight regarding future risks and third-party support and challenge.

3.4 In addition to the proposed assurance model, the Council has made a series of commitments at Cabinet in March 2019 and at full Council in April 2019. These are as follows:

- commission an independent review of the Council’s model of waste collection and disposal services;
- a formal review of the industrial relations framework in 2019 with peer support and exemplar case studies provided by UK Core Cities and supported by the LGA;
- commissioning of the Chartered Institute for Public Finance and Accounting (CIPFA) to provide formal third party challenge and support to the Council throughout 2019-20. This is already underway and it is proposed that CIPFA be invited to provide an independent and public report on the Council’s financial resilience to the Council’s Cabinet and the Secretary of State on a six monthly basis during 2019-20;
- “temperature takes” with key stakeholders such as partnership chairs, opposition members and key partners to provide a live report against which to judge progress.

3.5 Additional improvement activities will involve self-assessment of partnership working, proactive engagement with regulatory reviews of statutory partnership activity, regular engagement and self-reflection with key ‘critical friends’, listening to and engaging and consulting with citizens, using mechanisms such as the Citizens’ Panel, the Residents’ Survey, Beheard, social media and our new model for localism.

4 Options considered and Recommended Proposal

4.1 **Option one** – allow improvement areas to be monitored, challenged and supported through the Council’s performance management framework and overview and scrutiny arrangements. Whilst the performance framework has been significantly improved in 2018-19, stakeholders may not regard the framework to be sufficiently mature, and it may fail to provide them with the necessary assurance of our commitment to maintain concerted focus around dedicated budget delivery, improvement and transformation activity.

4.2 **Option two** – establish a quarterly Strategic Programme Board (SPB). This proposal builds on a range of assurance models across the public and private sector and supports the introduction of a SPB to provide subject matter expertise

whilst assuring the Council's Cabinet and Chief Executive that progress in these areas is validated.

- The purpose of this board will be to provide additional advice and input to the Council on the following key areas of improvement activity:
 - Waste management and industrial relations
 - Outcomes for vulnerable adults and children
 - Financial resilience
 - Risk management
 - Good governance, culture change and organisational development and
 - Peer support to the Chief Executive and Cabinet in leading this transformation process.

A diagram for the proposed SPB arrangement and governance is attached as Appendix 1.

- Membership of the SPB will include all members of the Council Management Team, external advisors (Non-Executive Advisors) in the priority areas and an external advisor of a peer local government Chief Executive.
- The Non-Executive Advisors, in addition to sitting on the SPB, will also offer challenge and support outside the board meetings. An outline job description for the external advisors is included as Appendix 2.
- Non-Executive Advisors will have recourse to brief and seek support from the Leader of the Council where appropriate.
- The model will be supported by the Council's Programme Management Office in support of lead Directors, with programme documentation and draft reports to the Secretary of State reviewed and endorsed by the SPB prior to submission.
- The SPB would commence in July 2019 and exist in that form for a period of 12 months.

5 Consultation

- 5.1 Consultation has taken place with the Deputy Leader, Opposition Leaders, Council Management Team, Ministry of Housing Communities & Local Government, the Local Government Association and HS2 assurance representatives.

6 Risk Management

- 6.1 The following arrangements are in place.
- Revised risk management framework to systematically identify, evaluate and manage risks associated with Council activities.

- Audit Committee to receive regular audit reports and monitor the overall effectiveness of the risk management approach, inviting risk owners for a more in-depth review as required.
- Council Management Team receiving monthly update on risks and challenges, challenging the completeness and robustness of mitigating actions.
- Monthly progress reports to the Deputy Leader.

7 Compliance Issues

7.1 The recommended decisions are consistent with the City Council's priorities, plans and strategies, supporting the Council's stated commitment to improvement.

7.2 Legal Implications.

- 7.2.1 The Council is a best value authority within the meaning of Part 1 of the Local Government Act 1999. As a best value authority, the Council has an obligation under section 3 of the Local Government Act 1999 to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" (the best value duty). The Council exercises its best value duty by establishing the Strategic Programme Board.
- 7.2.2 The legal powers the Council is utilising in this report is Section 111 of the Local Government Act 1972 which empowers the Council to do anything, including incurring expenditure, which is conducive or incidental to the discharge of any of its functions; and section 1 of the Localism Act 2011 ("general power of competence") which provides power to do anything that individuals generally may do.
- 7.2.3 The Non-Executive Advisors will be self-employed consultants, not Trustees or Directors of the Council. The Council will enter into a contract with each successful candidate which will set out the terms of their consultancy. The contract will need to include:
- A liability clause to protect the Council for any loss, liability, costs, damages or expenses arising from any breach of the contract including any negligent or reckless acts or omissions in the provision of services. Liability will be capped at a maximum of 150% of the indicative contract value (equivalent to £18,000)
 - Indemnification for the advisor from future risks resulting from their advice
 - A requirement for the advisor to have the necessary insurance in place
 - Robust provision around Data Protection and confidentiality
 - A requirement to inform the Council of any conflicts of interest that arise

- That the Council retains intellectual property rights over material produced by the advisors on behalf of the Council
- A stipulation that the contract will be terminated if the advisor causes any reputational damage to the Council.

7.2.4 Consideration will also need to be given to:

- Whether DBS checks are required.
- Advisors will have to take an IR35 Employment Status Test.

7.3 Financial Implications

7.3.2 It is estimated that the costs of the proposed model, including the work of the Board and commissioning of specialist external advisors and appropriate professional support, is £150k over the operational period.

7.3.3 It is proposed that £112.5k be allocated from policy contingency to support the effective operation of the SPB from July 2019 to March 2020 and that pressure funding of £37.5k is requested through the 2020/21 budget process to fund activity from April to July 2020.

7.3.4 Fees for each of the external advisers are anticipated as circa £1,000 per day with an estimate of 12 days input over the twelve month period, a total estimated spend of £72,000 of the £150,000 estimated costs.

7.3.5 As per the recommendation in this report, it is proposed that the Assistant Chief Executive be responsible, within existing delegations, to authorise this expenditure, to procure specialist external advisors and appropriate professional support to enable the effective running of this new model.

7.4 Procurement Implications (if required)

7.4.1 Procurement of advisers will be carried out in accordance with the council's standing orders and procurement governance arrangements and approved under Chief Officer delegation.

7.4.2 Given the unique blend of skills and experience required of the Non-Executive Advisors, and the urgency with which this model is to be launched, procurement is anticipated to be through a single contractor negotiation with the identified advisors.

7.5 Human Resources Implications (if required)

7.5.1 There are no specific HR implications arising from this proposal, although, industrial relations, workforce strategy and culture change/organisational development will all fall within the scope of the SPB.

7.6 Public Sector Equality Duty

- 7.6.1 An improved, more effective, more responsive Council will improve outcomes for protected characteristic groups. There are no adverse implications for protected groups arising from this report.

8 Appendices

- 8.1 Appendix 1 – Birmingham City Council Improvement Framework 2019-20+
- 8.2 Appendix 2 – Outline job description for Non-Executive Advisors
- 8.3 Appendix 3 – Risk Assessment

9 Background Documents

- 9.1 Kerslake Review 2014
- 9.2 Stocktake Report 2019 (presented at Cabinet 26 March 2019)
- 9.3 Corporate Governance Improvement Plan March 2019 (presented at Cabinet 26 March 2019)
- 9.4 Birmingham City Council - Priorities for Improvement 2019-20 (presented at Cabinet 26 March 2019)