

Birmingham City Council

Finance and Resources Overview and Scrutiny Committee

Date 16 November 2023



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

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1 Purpose

- 1.1 It was agreed at Co-ordinating Overview and Scrutiny Committee on 15 September 2023 that all O&S Committees will continue to scrutinise the delivery of existing 2023/24 savings. Appendix 1 sets out the red, amber, green (RAG) rated savings for 2023/24 by Committee and Directorate at the end of Quarter 1. Appendix 2 sets out the progress on delivery of savings during Quarter 2 for the services within the remit of the following Overview and Scrutiny Committees:
- Finance and Resources OSC
 - Co-ordinating OSC
 - Economy and Skills OSC
 - Education and Children and Young People OSC
 - Health and Adult Social Care OSC
 - Homes OSC
 - Neighbourhoods OSC
- 1.2 The Quarter 2 savings are not provided for the Sustainability and Transport OSC as the 100k savings reported within the remit for this Committee for Q1 were rated as Green.
- 1.3 This agenda item also provides an opportunity for the Committee to consider the following and implications for the Committee's work programme:
- The reports considered at City Council on 12 October regarding the Section 5 Notice and supplementary Section 114 Notice (Appendix 3)

- The Directions issued by the Secretary of State for the Department of Levelling Up, Housing and Communities in the House of Commons on 5 October and Explanatory Memorandum. (Appendix 4)

1.3 To assist with the task above the Scrutiny Team are in the process of contacting other authorities with similar experiences. Feedback on themes identified will be provided at the meeting.

2 Recommendations

The Committee:

2.1 Receives and notes the Quarter 1 2023/24 savings set out in Appendix 1.

2.2 Receives the update for Q2 2023/24 savings attached as Appendix 2 and examines progress on delivery of the 2023/24 savings and agrees any comments.

2.3 Considers the implications of recent events (highlighted in Section 1) on the scrutiny work programme.

3 Any Finance Implications

3.1 Financial implications are set out in the relevant appendices.

4 Any Legal Implications

4.1 Legal implications are set out in the relevant appendices.

5 Any Equalities Implications

5.1 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.2 The protected characteristics and groups outlined in the Equality Act are: Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion and Belief; Sex, and Sexual Orientation.

5.3 The Committee should ensure that it addresses these duties by considering them during work programme development, the scoping of work, evidence gathering and making recommendations. This should include considering: How policy issues impact on different groups within the community, particularly those that share a relevant protected characteristic; Whether the impact on particular

groups is fair and proportionate; Whether there is equality of access to services and fair representation of all groups within Birmingham; Whether any positive opportunities to advance equality of opportunity and/or good relations between people are being realised.

- 5.4 The Committee should ensure that equalities comments, and any recommendations, are based on evidence. This should include demographic and service level data and evidence of residents/service-users views gathered through consultation.

6 Appendices

- 6.1 Appendix 1: 2023/24 Savings Q1 Position by O&S Committee
- 6.2 Appendix 2: Update on Delivery of 2023/24 Savings During Q2 by O&S Committee
- 6.3 Appendix 3: Report to all Elected Members by Janie Berry Monitoring Officer, under Section 5 Local Government and Housing Act 1989 and Report to all Elected Members by Fiona Greenway, Section 151 Officer, under Section 114(2) Local Government Finance Act 1988
- 6.4 Appendix 4: Birmingham City Council, Directions made under local Government Act and Explanatory Memorandum

23/24 Savings Q1 Position by O&S Committee**Summary**

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

List of Savings Projects

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

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

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

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

Caveats:

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

Criteria for determining the RAG status of savings

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

Appendix 2: Co-ordinating Committee - 23/24 Savings Position as at Q2

Summary

This report updates Co-ordinating OSC on the progress in delivering the 23/24 savings agreed in the MTFS 2023/26 that fall under this committee portfolio.

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

Background

There are a number of savings proposals in 23/24 totalling £17.441m that fall under the committee portfolio and these are listed below on page 2 & 3.

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

Quarter 2 Position

Of the £17.441m, £2.400m is currently classified as Red and at high risk of non-delivery and the remaining £15.041m is Black indicating that the majority of these savings are highly unlikely to be delivered during 23/24.

The £2.400m at high risk is a 22/23 target associated with savings from IT&D service resign. The restructure/redesign of the service is currently underway but delays in concluding the restructure mean there is a risk that savings will not be realised in 23/24. Furthermore, some of the £2.400m was intended to be delivered through contract efficiencies which is also at risk due to higher than expected contract inflation.

The majority of the corporate cross cutting savings totalling £15.051m are within this committee portfolio and are assessed as unlikely to be realised in year during 23/24. A brief explanation of the reasons for why the savings cannot be realised in 23/24 are included in page 3 & 4 below. Work is underway to identify alternative in-year savings as part of the wider budget recovery work to mitigate the resulting budget gap and further updates on that work will be provided in due course.

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

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

Directorate	OSC Portfolio	Summary Description	Delivery Risk In-Year 2023/24 (Saving) £'000	Delivery Risk Over MTFS (Saving) £'000
Council Management	Co-ordinating OSC	B/F_IT&D Service Redesign Information Technology and Digital Service Redesign Changing from the existing process-heavy operating model, to a leaner, more efficient way of working that is centred on users and focusses on the transformation needs of the Council. We will also be reviewing how we manage third party contracts and IT suppliers to reduce our ongoing costs and gain maximum value from those engagements, this will include a full review of business managed IT spend across the Council to maximise opportunities to standardise and decommission obsolete technologies.	(2,400)	(2,400)
		TOTAL	(2,400)	(2,400)
Corporate Items	Co-ordinating OSC	Localities / Public Hub (Savings from implementation of EIP Model)	(2,500)	(2,500)
Corporate Items	Co-ordinating OSC	BCC Target Operating Model Design Principles - Voluntary Workforce Savings Programme	(2,000)	(2,000)
Corporate Items	Co-ordinating OSC	B/F_BCC Target Operating Model Design Principles - Voluntary Workforce Savings Programme	(2,000)	(2,000)
Corporate Items	Co-ordinating OSC	Traded Services – Review of traded services with a view to greater commercialisation and reduced GF subsidy)	(1,500)	(1,500)
Corporate Items	Co-ordinating OSC	B/F_Traded Services - Review of traded services with a view to greater commercialisation and reduced GF subsidy)	(1,600)	(1,600)
Corporate Items	Co-ordinating OSC	Automation – Use of Robotic Process Automation Technology to automate manual processes and reduce manual handling, leading to efficiencies in process and savings on time/resource required to deliver services.	(1,000)	(1,000)
Corporate Items	Co-ordinating OSC	B/F_Automation - Use of Robotic Process Automation Technology to automate manual processes and reduce manual handling, leading to efficiencies in process and savings on time/resource required to deliver services.	(850)	(850)
Corporate Items	Co-ordinating OSC	Reducing Workforce (Centres of Excellence) – Consolidation of similar roles and teams to reduce duplication of effort and achieve efficiency in resource/process	(1,791)	(1,791)
Corporate Items	Co-ordinating OSC	Automation (Voice Automation) – Use of voice automation technology to reduce volume of manual call handling, leading to efficiencies and better customer services.	(1,000)	(1,000)

Corporate Items	Co-ordinating OSC	B/F_New Ways of Working_Fieldworker. Rolling out field worker module to allow staff working in the field to update host systems directly rather than returning to office to update	(800)	(800)
		TOTAL	(15,041)	(15,041)

Narrative for 23/24 in-year Non-Delivery

Co-ordinating OSC

Dir	Summary Description	2023/24 (Saving) £'000	Explanation
Corporate	Localities / Public Hub (Savings from implementation of EIP Model)	(2,500)	A strategic partner is in place and the project is progressing however savings will take much longer to realise than anticipated. Much of the savings rely on disposal of existing assets or redesign of services which will not be in place by the end of this financial year.
Corporate	BCC Target Operating Model Design Principles - Voluntary Workforce Savings Programme (MARS)	(4,000)	MARS is live and at decision making stage. Potential savings in year (23/24) will be known mid October as well as ongoing savings. There is potential to improve on the savings target, pending decision making and financial approval of costs of exits.
Corporate	Traded Services – Review of traded services with a view to greater commercialisation and reduced GF subsidy)	(3,100)	An initial review identified the need to put in place a commercial team that would progress the review of traded services and implement a commercial strategy. Due to decisions around resourcing and funding the programme was paused.
Corporate	Automation – Use of Robotic Process Automation Technology to automate manual processes and reduce manual handling, leading to efficiencies in process and savings on time/resource required to deliver services.	(1,850)	The programme to deliver savings started in July 2023 and the first tranche of automations are forecast to be delivered by the end of December 2023. This will potentially provide one quarter of the annual savings from that tranche in Q4 (est. £200k - 300k). Going forward, work needs to be accelerated to identify and deliver higher value automations sooner. In addition, savings targets must also be applied to Directorate budgets in order to facilitate better engagement with the programme.
Corporate	Reducing Workforce (Centres of Excellence) – Consolidation of similar roles and teams to reduce duplication of effort and achieve efficiency in resource/process	(1,791)	Handed across from Adults on 1st August 2023, no discovery work has been completed to confirm the savings identified in MTFP. A paper will need to be taken to the next governance board to request funding to complete discovery work to confirm if savings are achievable or not

Corporate	Automation (Voice Automation) – Use of voice automation technology to reduce volume of manual call handling, leading efficiencies and better customer services.	(1,000)	Discovery work has been completed to validate the savings available which identified £250k in Yr 1 23/24. This requires proof of concept funding to be available which is currently going through the S151 spend control process to enable the tech purchase and installation to release the savings identified which are scalable upto £2m by year 3 25/56
Corporate	New Ways of Working_Fieldworker. Rolling out field worker module to allow staff working in the field to update host systems directly rather than returning to office to update	(800)	The functionality was initially piloted and then rolled out into a number of HRA services which has led to improved and efficient ways of working in those services. However, the savings need to come from general fund services and implementation of the IT functionality into general fund services has been delayed, partly due to the initial rollout into HRA services taking longer than anticipated.

Caveats:

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

Criteria for determining the RAG status of savings

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

Appendix 2: Economy & Skills Committee - 23/24 Savings Position as at Q2

Summary

This report updates Economy & Skills OSC on the progress in delivering the 23/24 savings agreed in the MTFS 2023/26 that fall under this committee portfolio.

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

Background

There are ten specific areas of savings in 23/24 totalling £10.544m that fall under the committee portfolio and these are listed below on page 2.

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

Quarter 2 Position

Of the Total £10.544m savings in this portfolio, £0.733m is green with low risk to delivery, £0.816m is Amber with medium risk to delivery and £8.995m is Black indicating that these savings are highly unlikely to be realised in 23/24 and alternative mitigation will need to be developed at least to balance the 23/24 budget.

The Amber items relate to vacancy management and review of £5k-£10k leases. Currently these savings are rated Amber denoting Medium Risk due to the lack of monitoring information available through Oracle. Work to deliver these savings is progressing but will need to be managed and monitored carefully throughout the year to ensure the full savings targets are achieved.

The £8.995m savings that will not be realised this year relate to Corporate Landlord (£0.500m), Disposal of Council Admin Buildings (£3.745) and Investment new Commercial Properties (£4.750m). A brief explanation of the reasons for why the savings cannot be realised in 23/24 are included in page 3 below. Work is underway to identify alternative in-year savings as part of the wider budget recovery work to mitigate the resulting budget gap and further updates on that work will be provided in due course.

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

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

Directorate	OSC Portfolio	Summary Description	Delivery Risk In-Year 2023/24 (Saving) £'000	Delivery Risk Over MTFS (Saving) £'000
Place, Prosperity & Sustainability	Economy and Skills OSC	Fees & Charges 5%	(83)	(83)
Place, Prosperity & Sustainability	Economy and Skills OSC	CAB Premises - Council House Commercialisation Income generation through improved commercial offer including banqueting and events.	(50)	(50)
Place, Prosperity & Sustainability	Economy and Skills OSC	Commercial Property - Lease Event Opportunities Review of commercial property leases – includes rent reviews and extension options	(600)	(600)
		TOTAL	(733)	(733)
Place, Prosperity & Sustainability	Economy and Skills OSC	3% Turnover factor (Vacancy management)	(666)	(666)
Place, Prosperity & Sustainability	Economy and Skills OSC	Review all £5-10k leases – with a view to optimising lease income.	(150)	(150)
		TOTAL	(816)	(816)
Corporate Items	Economy and Skills OSC	B/F_Corporate Landlord (Efficiencies in Asset Management through Consolidation and Rationalisation of Council Assets/ Buildings)	(500)	(500)
Place, Prosperity & Sustainability	Economy and Skills OSC	B/F_CAB Premises - excluding Council House. Reduced costs associated with Council Admin Buildings	(1,314)	(1,314)
Place, Prosperity & Sustainability	Economy and Skills OSC	CAB Premises - excluding Council House. Reduced costs associated with Council Admin Buildings	(2,431)	(2,431)
Place, Prosperity & Sustainability	Economy and Skills OSC	Commercial Property - Active Investment Additional income through investment in Public Works Loan Board (PWLb) compliant commercial property	(2,250)	(2,250)
Place, Prosperity & Sustainability	Economy and Skills OSC	Commercial Property - Blended Approach Investment and Lease Events Additional income generated through a combination of lease reviews and investment	(2,500)	(2,500)
		TOTAL	(8,995)	(8,995)

Narrative for 23/24 in-year Non-Delivery

Economy & Skills OSC

Dir	Summary Description	2023/24 (Saving) £'000	Explanation
PPS	Corporate Landlord (Efficiencies in Asset Management through Consolidation and Rationalisation of Council Assets/ Buildings)	(500)	Work is progressing through a strategic partner however the consolidation of asset related budgets, implementation of a new corporate landlord structure and the asset rationalisation necessary to deliver savings is taking much longer than anticipated.
PPS	CAB Premises - excluding Council House. Reduced costs associated with Council Admin Buildings	(3,745)	Not deliverable in this year savings. Future occupational needs of the office premises of the Council's workforce was not fully determined. Therefore the savings assuming the disposal of the Council owned buildings has not been made. The detailed rationale and reason for this is explained in the supporting paper presented to CLT in August 23.
PPS	Commercial Property - Active Investment Additional income through investment in Public Works Loan Board (PWLB) compliant commercial property	(2,250)	These values were predicated on acquisitions and generating income over 6 months the shift in borrowing costs versus income generation means this no longer stacks up. This has been a consistent picture across the year and therefore this is commercially unachievable. In addition, PWB rules have also tightened across the past 12 months meaning acquisitions for purely investment returns is no longer compliant.
PPS	Commercial Property - Blended Approach Investment and Lease Events Additional income generated through a combination of lease reviews and investment	(2,500)	These values were predicated on acquisitions and generating income over 6 months the shift in borrowing costs versus income generation means this no longer stacks up. This has been a consistent picture across the year and therefore this is commercially unachievable. In addition, PWB rules have also tightened across the past 12 months meaning acquisitions for purely investment returns is no longer compliant.

Caveats:

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

Criteria for determining the RAG status of savings

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

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

Summary

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

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

Background

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

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

Quarter 2 Position

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

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

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

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

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

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

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

Narrative for 23/24 in-year Non-Delivery

Education, Children & Young People OSC

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

Caveats:

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

Criteria for determining the RAG status of savings

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

Appendix 2: Finance & Resources Committee - 23/24 Savings Position as at Q2

Summary

This report updates Finance & Skills OSC on the progress in delivering the 23/24 savings agreed in the MTFS 2023/26 that fall under this committee portfolio.

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

Background

There are £13.845m worth of savings proposals that fall under the committee's portfolio during 23/24 and these are listed below on pages 2 and 3.

Each area has been risk rated to indicate the current level of confidence in achieving each savings target either in-year during 23/24 or over the longer term MTFS period 2023/26. Page 5 of this appendix explains the risk rating criteria.

Quarter 2 Position

Of the Total £13.845m savings in this portfolio, £1.486m is green with low risk to delivery, £7.899m is Amber with medium risk to delivery, £1m is Red with higher risk to delivery and £3.460m is Black indicating that these savings are highly unlikely to be realised in 23/24 and alternative mitigation options will need to be developed at least during 23/24 to balance the in-year budget.

There are a number of Amber items but that largest two areas totalling £6.338m of the total £7.899m relate to vacancy management and additional fees & charges income. Currently these savings are rated Amber denoting Medium Risk due to the lack of monitoring information available through Oracle. However, work to deliver these savings is progressing and there is some confidence that most if not all of the target will be achieved in year. These Amber areas will need to be managed and monitored carefully throughout the year to ensure the full savings targets are achieved.

There is £1m that is currently flagged at higher risk and this is associated with maximising use of grant funding. The total target for this area is £2m, options for covering £1m of this has been identified so far with work progressing to find the remaining £1m. The low confidence around finding the additional £1m is due to the wider financial challenges across Council budgets and our confidence level of finding additional grant funding to support existing expenditure.

There is also £3.460m savings that will not be realised this year and a brief explanation of the reasons for why the savings cannot be realised in 23/24 are included in page 3 below. Work is underway to identify alternative in-year savings as part of the wider budget recovery work to mitigate the resulting budget gap and further updates on that work will be provided in due course. Decisions will also need to be made around the longer term deliverability of these savings and where this is no longer possible they will need to be written off and longer term alternatives developed.

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

Directorate	OSC Portfolio	Summary Description	Delivery Risk In-Year 2023/24 (Saving) £'000	Delivery Risk Over MTFS (Saving) £'000
Council Management	Finance and Resources OSC	Application platform modernisation – step up saving from prior year.	(11)	(11)
Council Management	Finance and Resources OSC	Development & Commercial - Digital advertising income and offer up of growth	(60)	(60)
Council Management	Finance and Resources OSC	Procurement - 2020/21 Expenditure Budget covered by funding	(106)	(106)
Council Management	Finance and Resources OSC	Audit - increase trading opportunities with Police, Housing Associations and Acivico	(60)	(60)
Council Management	Finance and Resources OSC	Finance - refinancing legacy systems	(700)	(700)
Council Management	Finance and Resources OSC	Business Support Efficiencies – Deletion of vacant post	(50)	(50)
Council Management	Finance and Resources OSC	Customer Services Efficiencies – Deletion of vacant post	(50)	(50)
Council Management	Finance and Resources OSC	Review Human Resources Target Operating Model - reduce posts that are vacant	(170)	(170)
Council Management	Finance and Resources OSC	Human Resources reduce growth request in Medium Term Financial Plan (MTFP)	(113)	(113)
Strategic Equals & Ptnrship	Finance and Resources OSC	3% Turnover factor (Vacancy management)	(116)	(116)
Strategic Equals & Ptnrship	Finance and Resources OSC	Efficiencies amongst non-staffing budgets	(50)	(50)
		TOTAL	(1,486)	(1,486)
Corporate Items	Finance and Resources OSC	Maximise the Use of Grant Funding – Identifying opportunities to use grant funding to fund existing GF spend releasing GF budgets for savings.	(1,000)	(1,000)
Council Management	Finance and Resources OSC	Digital advertising on key assets to generate additional income	(200)	(200)
Council Management	Finance and Resources OSC	Operational Hub Programme – rationalisation of assets.	(161)	(161)
Council Management	Finance and Resources OSC	3% Turnover factor (Vacancy management)	(4,265)	(4,265)
Council Management	Finance and Resources OSC	Personal Assistant Allocation - review use of Personal Assistant Support	(200)	(200)
Council Management	Finance and Resources OSC	Fees & Charges 5%	(2,073)	(2,073)
		TOTAL	(7,899)	(7,899)
Corporate Items	Finance and Resources OSC	B/F_Maximise the Use of Grant Funding - Identifying opportunities to use grant funding to fund existing GF spend releasing GF budgets for savings.	(1,000)	(1,000)
		TOTAL	(1,000)	(1,000)

Corporate Items	Finance and Resources OSC	Improvements in Debt Management – Review Debt Management Process with a view to improving collection and reducing bad debt.	(1,900)	(1,900)
Corporate Items	Finance and Resources OSC	Automation (Oracle Optimisation) – Use of new oracle system to generate process efficiencies	(500)	(500)
Council Management	Finance and Resources OSC	Review all BCC leased properties and reduce cost of lease payments for assets	(460)	(460)
Council Management	Finance and Resources OSC	System Efficiencies	(600)	(600)
		TOTAL	(3,460)	(3,460)

Narrative for 23/24 in-year Non-Delivery

Finance & Resources OSC

Dir	Summary Description	2023/24 (Saving) £'000	Explanation
Corporate	Improvements in Debt Management – Review Debt Management Process with a view to improving collection and reducing bad debt.	(1,900)	The programme has been paused due to resourcing and focus on resolving oracle issues
Corporate	Automation (Oracle Optimisation) – Use of new oracle system to generate process efficiencies	(500)	No savings can be realised until current oracle issues are resolved.
Council Mgt	Review all BCC leased properties and reduce cost of lease payments for assets	(460)	Potential leased assets were reviewed for surrender/cost reduction options, however, none were identified to deliver any savings
Council Mgt	System Efficiencies	(600)	The proposal is a potential duplication of the oracle savings and will need to be written off and alternatives found through the budget recovery process.

Caveats:

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

Criteria for determining the RAG status of savings

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

Appendix 2: Health & Adult Social Care Committee - 23/24 Savings Position as at Q2

Summary

This report updates Health & Adult Social Care OSC on the progress in delivering the 23/24 savings agreed in the MTFS 2023/26 that fall under this committee portfolio.

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

Background

There are six specific areas of savings in 23/24 totalling £9.708m that fall under the committee portfolio and these are listed below on page 2.

Each area has been risk rated to indicate the current level of confidence in achieving each savings target either in-year during 23/24 or over the longer term MTFS period 2023/26. Page 3 of this appendix explains the risk rating criteria.

Quarter 2 Position

Of the £9.708m total £1.000m has been delivered (blue), £0.700m is green denoting low risk to delivery and the remaining £8.008m is Amber with medium risk to realising the savings in 23/24.

The Amber items totalling £8.008 relate to vacancy management, additional fees & charges income and savings through the wider Adults Transformation Programme. Currently these savings are rated Amber denoting medium risk partly due to the lack of monitoring information available through Oracle and partly due to the nature of changes being implemented, particularly through the adults transformation programme, which take much longer to realise.

However, work to deliver these savings is progressing and there is some confidence that most if not all of the target will be achieved in year. These Amber areas will need to be managed and monitored carefully throughout the year to ensure the full savings targets are achieved.

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

Directorate	OSC Portfolio	Summary Description	Delivery Risk In-Year 2023/24 (Saving) £'000	Delivery Risk Over MTFS (Saving) £'000
Adult Social Care	Health and Adult Social Care OSC	Looking at ways to enhance ICS/CCG partnership to harness pooled resources more efficiently eg BCF Inflation	(1,000)	(1,000)
		TOTAL	(1,000)	(1,000)
Adult Social Care	Health and Adult Social Care OSC	Special Impact team (SIT) complex case review accelerated and expanded to cover high cost packages	(500)	(500)
Adult Social Care	Health and Adult Social Care OSC	Case load packages Review	(200)	(200)
		TOTAL	(700)	(700)
Adult Social Care	Health and Adult Social Care OSC	3% Turnover factor (Vacancy management)	(2,850)	(2,850)
Adult Social Care	Health and Adult Social Care OSC	Fees & Charges 5%	(1,458)	(1,458)
Adult Social Care	Health and Adult Social Care OSC	Adults Transformation Programme. Savings from reducing demand for care services through building preventative and community models to provide low level, early interventions to help people live independently with minimal statutory support needed. At the programme's core is a strengths-based approach to adult social care provision, focussing on how individuals can lead fulfilling lives and filling in the gaps with support, rather than providing blanket support which invariably results in loss of independence and fulfilment. There are a range of initiatives included, (eg increased use of home adaptations, reenabling, review of complex care packages focusing on preparation for adulthood etc.), to ensure all levels and types of need, and all age groups, can be supported in this new way.	(3,700)	(3,700)
		TOTAL	(8,008)	(8,008)

Caveats:

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

Criteria for determining the RAG status of savings

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

Appendix 2: Homes OS Committee - 23/24 Savings Position as at Q2

Summary

This report updates Homes OSC on the progress in delivering the 23/24 savings agreed in the MTFS 2023/26 that fall under this committee portfolio.

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

Background

There are three specific areas of savings in 23/24 totalling £6.594m that fall under the committee portfolio and these are listed below on page 2.

Each area has been risk rated to indicate the current level of confidence in achieving each savings target either in-year during 23/24 or over the longer term MTFS period 2023/26. Page 3 of this appendix explains the risk rating criteria.

Quarter 2 Position

Of the £6.594m total £0.502m is green, £0.592m is Amber and £5.500m is Black for 23/24.

The £0.592m due from additional fees & charges income is currently rated Amber denoting Medium Risk due to the lack of monitoring information available through Oracle. However, increases to fees & charges agreed by full Council have been implemented and there is some confidence that most if not all of the target will be achieved in year. Performance against income targets will be monitored throughout the year to ensure the full savings targets are achieved before the risk rating is changed.

The £5.500m rated Black and will not be realised this year relates to savings from Reducing/ Eradicating expenditure on B&B Accommodation. Reasons for this is included below on page 2.

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

Directorate	OSC Portfolio	Summary Description	Delivery Risk In-Year 2023/24 (Saving) £'000	Delivery Risk Over MTFS (Saving) £'000
City Housing	Homes OSC	3% Turnover factor (Vacancy management)	(502)	(502)
City Housing	Homes OSC	Fees & Charges 5%	(592)	(592)
City Housing	Homes OSC	Reducing / Eradicating B&B Accommodation	(5,500)	(5,500)

Narrative for 23/24 in-year Non-Delivery**Homes OSC**

Dir	Summary Description	2023/24 (Saving) £'000	Explanation
City Housing	Reducing / Eradicating B&B Accommodation	(5,500)	Deferred to 2024/25, reinstated the £5.4m back in the 23/24 budget. Since target set, following pandemic and 45% increase in homeless assessments over 3 years and increasing evictions from PRS and additional demands from Home Office decisions/placements into Birmingham. Opening of Oscott Gardens and circa 50% prevention outcomes, stabilised but didn't reduce numbers in B&B. Currently met B&B reduction target (agreed with DLUHC for April - August 2023, with target of 0 over 6 weeks with dependents in B&B by July 2024. Costs across TA provision have risen, rent and service charge setting for 2024-25 will seek to reflect some of this.

Caveats:

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

Criteria for determining the RAG status of savings

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

Appendix 2: Neighbourhoods Committee - 23/24 Savings Position as at Q2

Summary

This report updates Neighbourhoods OSC on the progress in delivering the 23/24 savings agreed in the MTFS 2023/26 that fall under this committee portfolio.

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

Background

There are seven specific areas of savings in 23/24 totalling £5.846m that fall under the committee portfolio and these are listed below.

Each area has been risk rated to indicate the current level of confidence in achieving each savings target either in-year during 23/24 or over the longer term MTFS period 2023/26. Page 3 of this appendix explains the risk rating criteria.

Quarter 2 Position

Of the £5.846m £0.019m is green, £4.837m is Amber and £0.990m is Black for 23/24.

In relation to the £0.990m of savings associated with the customer services programme in bereavement, garden waste, markets and pest control, the programme team have delivered the agreed customer service improvements as scheduled. However this did not materialise in year savings due to savings being duplicated in service areas by other cross cutting proposals i.e. fees and charges/workforce savings etc however this has delivered improved customer service outcomes and an enhanced customer experience.

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

There are also savings targets associated with vacancy management and fees & charge increases. Currently these savings are rated Amber denoting Medium Risk due to the lack of monitoring information available through Oracle. Work to deliver these savings is progressing but will need to be managed and monitored carefully throughout the year to ensure the full savings targets are achieved.

List of Savings Projects & RAG status as at Q2

Directorate	OSC Portfolio	Summary Description	In-Year 2023/24 (Saving) £'000	Over the MTFS (Saving) £'000
City Ops	Neighbourhoods OSC	Removal of Universal Superloos	(19)	(19)
		TOTAL	(19)	(19)
City Ops	Neighbourhoods OSC	3% Turnover factor (Vacancy management)	(3,307)	(3,307)
City Ops	Neighbourhoods OSC	Fees & Charges 5%	(1,530)	(1,530)
		TOTAL	(4,837)	(4,837)
Council Management	Neighbourhoods OSC	Customer Services – Bereavement. Improvements in service design to deliver efficiencies	(710)	(710)
Council Management	Neighbourhoods OSC	Customer Services - Garden Waste. Introduce autorenewal and other process improvements to maximise levels of annual subscriptions.	(80)	(80)
Council Management	Neighbourhoods OSC	Customer Services - Markets	(100)	(100)
Council Management	Neighbourhoods OSC	Customer Services - Pest Control	(100)	(100)
		TOTAL	(990)	(990)

Narrative for 23/24 in-year Non-Delivery

Neighbourhoods OSC

Dir	Summary Description	2023/24 (Saving) £'000	Explanation
Council Mgt	Customer Services – Bereavement. Improvements in service design to deliver efficiencies	(710)	Service improvement in customer services has been achieved but this will not result in in year cashable savings but will deliver improved customer service and customer experience
Council Mgt	Customer Services - Garden Waste. Introduce autorenewal and other process improvements to maximise levels of annual subscriptions.	(80)	Service improvement in customer services has been achieved but this will not materialise in year savings but will deliver improved customer service and customer experience
Council Mgt	Customer Services – Markets	(100)	Service improvement in customer services has been achieved but this will not materialise in year savings but will deliver improved customer service and customer experience
Council Mgt	Customer Services - Pest Control	(100)	Service improvement in customer services has been achieved but this will not materialise in year savings but will deliver improved customer service and customer experience

Caveats:

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

Criteria for determining the RAG status of savings

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

Birmingham City Council

City Council

12th October 2023



Subject: Report to all Elected Members by Janie Berry, Monitoring Officer, under Section 5 Local Government and Housing Act 1989 *and*
Report to all Elected Members by Fiona Greenway, Section 151 Officer, under Section 114(2) Local Government Finance Act 1988

Report of: Janie Berry, Monitoring Officer and
Fiona Greenway, Section 151 Officer

Report author: Janie Berry and Fiona Greenway

Does the report contain confidential or exempt information? ☒ Yes ☐ No

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

The information in this report and its appendices is exempt from public disclosure under paragraphs 3 to 5 of Schedule 12A of the Local Government Act 1972. The exemptions relied on are as follows:

- Schedule 12A, paragraph 3 – ‘Information relating to the financial or business affairs of any particular person (including the authority holding that information)’;
- Schedule 12A, paragraph 4 – ‘Information relating to any consultations or negotiations, or contemplated negotiations, in connection with any labour relations matter arising between the authority or Minister of the Crown and employees of, or office holders under, the authority’; and
- Schedule 12A, paragraph 5 – ‘Information in respect of which legal professional privilege could be maintained in legal proceedings.’

These provisions apply because the information in this report relates to financial affairs pertaining to pay, as well as negotiations in connection with a labour relations matter and trade dispute over equal pay, which has arisen between Birmingham City Council (“the Council”) and its employees. Plus, legal proceedings have been taken by some employees involved in this trade dispute, and information relating to those proceedings is included in this report, as well as legal advice, in respect of which legal professional privilege could be maintained

1 Executive Summary

1.1 All Elected Members of Birmingham City Council are asked to consider and accept the Reports prepared by the Monitoring Officer and the Section 151 Officer issued on 21st September 2023, regarding the Council's failure to secure a decision relating to the implementation of a job evaluation programme (also known as Pay Equity System [PES]).

2 Recommendation(s)

Full Council is recommended to:

- 2.1 Agree to accept the report issued by the Monitoring Officer issued under Section 5 Local Government and Housing Act 1989; and
- 2.2 Agree to accept the report issued by the Section 151 Officer issued under Section 114 (2) Local Government Finance Act 1988.

3 Background

- 3.1 On 21st September 2023, the Monitoring Officer issued a Report under Section 5 Local Government and Housing Act 1989, as a result of the Council failing as at that date to secure a decision relating to the implementation of a job evaluation programme.
- 3.2 The key issues and context which triggered the issuing of the Section 5 Report are detailed in the report which appears as Appendix 1 attached.
- 3.3 Alongside the issuing of the Section 5 Report by the Monitoring Officer, the Section 151 Officer issued a report under Section 114 (2) Local Government Finance Act 1988 to provide her opinion that "omission of a decision by the Council Business Management Committee has resulted in (a) a decision which involves the authority incurring additional expenditure which is unlawful, and (b) the course of action (i.e. inaction) if pursued to conclusion would be unlawful and cause a loss or deficiency on the authority".
- 3.4 The key issues and context which triggered the issuing of the Section 114 (2) report are detailed in Appendix 2 attached.

4 Options considered and Recommended Proposal

- 4.1 In respect of both reports prepared by the Statutory Officers, the Council has the option to disagree with the contents of both reports. Should this occur, the Statutory Officers will need to consider the Council's reasoning and proposed response to address the concerns of omission of decision in respect of securing the implementation of a job evaluation programme. If the response is

deemed unsatisfactory to address the issues detailed within the Reports, the Statutory Officers may issue a further report pursuant to Section 5 Local Government and Housing Act 1989 and Section 114 (2) Local Government Finance Act 1988.

5 Legal Implications

5.1 Prior to issuing the reports, the Monitoring Officer and the Section 151 Officer consulted with each other and the Head of Paid Service.

5.2 Once issued, both Reports must be circulated to all Elected Members of the Council and the Reports must be considered by an Extraordinary Meeting of Full Council.

5.3 Section 5 Local Government and Housing Act 1989 places a duty on the Monitoring Officer to prepare a report if at any time:

“any proposal, decision or omission by the authority, has given rise to or is likely to or would give rise to a contravention of any enactment or rule of law or of any code of practice made or approved by or under any enactment.

This includes the proposals, decisions or omissions by any committee or subcommittee of the authority, by any person holding any office or employment under the authority or by any joint committee on which the authority is represented.”

5.4 Section 114 (2) Local Government Finance Act 1988 requires that:

5.5 “The chief finance officer of a relevant authority shall make a Report under this section if it appears to him that the authority, a committee or a joint committee on which the authority is represented:-

- a) Has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful;
- b) Has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or
- c) Is about to enter an item of account the entry of which would be unlawful”

6 Financial Implications

6.1 The financial implications are as detailed within the Cabinet Report of 25th July 2023, the Council Business Management Committee report of 1st September 2023, and the Section 114 (3) report of 5th September 2023, all of which are appended to the Section 5 Report at Appendix 1.

7 Public Sector Equality Duty

7.1 Whilst there are no equality issues directly arising from this report, there are a number of equality issues and duties to be addressed as part of the implementation of a job evaluation programme for the Council and these are

detailed within the reports appended to the Section 5 Report prepared by the Monitoring Officer.

8 Other Implications

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

The Council must operate within a robust governance framework

9 Background Papers

9.1 Not applicable.

10 Appendices

10.1 Appendix One: Report prepared by the Monitoring Officer under Section 5 Local Government and Housing Act 1989 dated 21st September 2023

- Cabinet Report – 25th July 2023;
- Council Business Management Committee Report (which contains exempt appendices in accordance with Schedule 12A Local Government Act 1972)
- Section 114(3) Report dated 5th September 2023

10.2 Appendix Two: Report prepared by the Section 151 Officer under Section 114(2) Local Government Finance Act 1988 dated 21st September 2023

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

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

Date of Report: 21st September 2023

Purpose of Report

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

Recommendations

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

Summary of key issues

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

Context

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

Timeline

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

Decision

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

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

Consequences of a Section 5 Report

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

Legal Framework

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

Next Steps

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

Appendices

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

Janie Berry

City Solicitor and Monitoring Officer, Birmingham City Council

21st September 2023

2023 Addendum to the Job Evaluation Joint Principles Document

Between:

Birmingham City Council (BCC)

And our Trade Unions:

GMB

Unison

Unite the Union (The TUs)

This is an addendum to the Job Evaluations Joint Principles Document, dated December 2020, and should be read in conjunction with it.

Preamble

All parties now recognise that the accrued and ongoing liability for Birmingham City Council arising from its current pay and grading structure gives rise to an unaffordable potential equal pay liability of up to £760m. We acknowledge this potential liability is ongoing and increasing, therefore the long term and sustainable resolution of all potential equal pay claims means that urgent resolution is of the utmost importance to the City Council, its employees, trade unions, and the Citizens of Birmingham.

There has been considerable history relating to the progression of these issues but there is now a desire by all parties to move forward and resolve potential equal pay issues through a jointly agreed process utilising the Gauge system of Job Evaluation.

We acknowledge that any further delay to the completion of this programme will have potentially severe negative consequences for the financial viability of the City Council, security of employment and provision of services to our Citizens.

The purpose of this addendum is to provide a safeguard and certainty that the 2023 job evaluation programme will be completed in a timeframe that best minimises any ongoing potential equal pay liability and provides sustainable equality in our pay and grading system.

Principles

We jointly agree:

- 1 That the job evaluation process set out in this document and any changes to
 terms and conditions must be complete and implemented by 1 April
2025 otherwise potential liability will increase further.
- 2 To doing all within our power to maintain satisfactory progress at all stages.
- 3 To facilitate the provision of accurate information and doing all we
 reasonably can to ensure that all job descriptions, person specifications
and other information accurately reflect the reality of how any role is con-
ducted.

- 4 That only persons who have the skills and knowledge to participate in evaluation programmes will take part in the programme, and that training, including equalities training, must be undertaken in order to do so.
- 6 That working with the West Midlands Local Government Employers Organisation (WME) and with assistance from the Local Government Association (LGA) we will implement the Gauge system of Job Evaluation.
- 7 Ultimately, given the urgency of completing the programme and potential ongoing financial liabilities, both parties acknowledge that without working together in positive partnership, BCC risks a statutory intervention. We give our commitment to working constructively, positively and respectfully to help achieve programme outcomes. If it appears at any stage that timescales and/or deadlines are at risk, the Chief Executive (Head of Paid Service) and senior Representatives (supported by appropriate officers from our TUs) will urgently review the issues.

This could arise if either management or trade unions believe this risk has materialised or is raised by audit committee or external audit or the Finance & Resources Overview and Scrutiny Committee.

Recruitment and Training of Analysts

BCC will proactively and expeditiously recruit and suitably train Analysts by the end of October 2023. This will run concurrently with Stage 1 (Job Information) below.

The Job Evaluation Programme Process

The Job Evaluation Programme is split into several stages. We agree the roles and responsibilities at each stage are as follows.

Stage 1 – Job Information

BCC will ensure that managers promptly and accurately complete Job Descriptions and Person Specifications (JDPS). TUs will encourage their members to accurately and promptly complete Job Context Questionnaires. These documents together comprise the Job Information. Managers will approve the Job Information, and in doing so will use reasonable endeavours to agree the information with the employee.

TU representatives will be invited to join the JDPS training that will be held for managers, and employees will be trained in the completion of the Job Context Questionnaire.

If the Job Information remains as not agreed, the matter will be referred to a panel consisting of a BCC Analyst and a TU Analyst. If consensus cannot be reached the matter will be referred to an independent Analyst appointed by WME. Their decision will be final.

Stage 2 – Evaluation and Moderation

Each evaluation will be conducted by an Analyst appointed by WME.

On a rolling ongoing basis, a joint assurance panel consisting of an Analyst appointed jointly by the TUs, a BCC Central Job Evaluation Team representative and a WME Analyst will be established to verify that the principles of the Gauge evaluation are being consistently applied by reviewing a sample of evaluated job roles.

As the Gauge scheme is supported wholeheartedly by the TUs it is agreed that no more than 10% of roles will be reviewed. In the event there is not unanimity by the job assurance panel that the process has been followed, the job will be re-evaluated once by a senior Analyst and that decision will be final.

Once all evaluation is complete, a joint moderation panel consisting of an Analyst appointed jointly by the TUs, a WME Analyst and a representative from Directorate Management at JNC level will be convened in each Directorate. The purpose of this panel is to review the relativity of ranking within the service.

This will be followed by a cross-Directorate moderation by a TU Analyst, WME Analyst and People Partners from across the City Council.

The Statutory Officers (Monitoring Officer, s.151 Officer and Head of Paid Service) and the People and Corporate Services Director (or their Strategic Director equivalent) will not participate in any moderation panels.

Stage 3 - Model/Structure

Once completed the pay and grading structure will be subject to collective negotiations before implementation across the Council. Both parties will work towards attaining a collective agreement to implement new terms and conditions.

This stage must be completed by April 2025.

Appeals

A joint appeals panel (A BCC representative, WME representative and TU representative) will be established to hear any individual appeals arising following the implementation of the new pay and grading structure. Decisions can be made by majority of panel members and will be final.

Appeals will only be accepted on the following grounds:

- The job evaluation scheme has been misapplied,
- The Job Information provided was in error or is now out of date, or
- The job evaluation process has not been followed.

In all appeals, evidence supporting the grounds of appeal must be provided.

Maintenance of the integrity of the system

A panel consisting of a representative from WME, TUs and the Pay Equity and Equal Pay Legal group will review the list of NJC roles evaluated in the previous six months and audit a sample of those roles. This panel will also review any NJC market supplements enacted during this period.

Governance

The overall governance and progress of the project will be overseen by the finance and resources overview and scrutiny committee and the audit committee as a mandatory item on their respective work programmes. External audit will be invited to undertake regular reviews of the governance and progress of this project and will submit their findings to the City Council's statutory officers and the audit committee.

Signed

Deborah Cadman	Representative	Representative	Representative
Chief Executive Officer	GMB	UNISON	Unite the Union

Date: [xx] July 2023

Public Report

Birmingham City Council

Report to Cabinet

25 July 2023



Subject: Permanent Pay Equity (Short-Form Report)

Report of: Deborah Cadman, Chief Executive and Head of Paid Service;
Janie Berry, City Solicitor and Monitoring Officer; and
Fiona Greenway, Interim Director of Finance and Section 151 Officer

Relevant Cabinet Member: Councillor John Cotton, Leader of the Council; and
Councillor Brigid Jones, Finance and Resources

Relevant O & S Chair(s):

Report authors: Darren Hockaday, Interim Director of People and Corporate Services; and
Robert Harris, Head of Law – Permanent Pay Equity

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
		If yes, name(s) of ward(s):
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010856/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential: The information in this report and its appendices is exempt from public disclosure under paragraphs 3 to 5 of Schedule 12A of the Local Government Act 1972. The exemptions relied on are as follows: <ul style="list-style-type: none">Schedule 12A, paragraph 3 – ‘Information relating to the financial or business affairs of any particular person (including the authority holding that information)’;Schedule 12A, paragraph 4 – ‘Information relating to any consultations or negotiations, or contemplated negotiations, in connection with any labour relations matter arising between the authority or Minister of the Crown and employees of, or office holders under, the authority’; andSchedule 12A, paragraph 5 – ‘Information in respect of which legal professional privilege could be maintained in legal proceedings.’ These provisions apply because the information in this report relates to financial affairs pertaining to pay, as well as negotiations in connection with a labour relations matter and trade dispute over equal pay, which has arisen between Birmingham City Council (“the Council”) and its employees. Plus, legal proceedings have been taken by some employees involved in this trade dispute, and information relating to those proceedings is included in this report, as well as legal advice, in respect of which legal professional privilege could be maintained.		

Executive Summary

1 Purpose of this paper

- 1.1 The purpose of this paper is to ask Cabinet to approve funding and procurement of the resources required to conduct a job evaluation study and implement a new pay structure that best delivers the objectives set out in this paper (see paragraph 2.8 below). Such resources are a permanent Pay Equity team and Pay Compliance unit, recruitment, training of personnel to carry out the job evaluation and pay and grading programme, and relevant licences as appropriate (detailed areas of financial approval are set out in section 6 below). Please note that options to deliver job evaluation for both NJC and JNC grades can require one or a combination of different methodologies. Internal-led methodologies will require additional resource to ensure the required capacity and capability to deliver within an ambitious timescale. Therefore, a range of funding up to a maximum level will cover different routes.
- 1.2 By Cabinet approving funding and procurement, this will enable the Council Business Management Committee (CBMC), which has delegated authority on HR-related matters, to subsequently approve the methodology that best meets the aims of the job evaluation study as set out below. This paper provides a framework to inform Cabinet of the options under consideration and their merits and risks.
- 1.3 This report should be read in conjunction with Appendix 1 (11.1), which provides background and detail of the context to this report.

2 Background

- 2.1 Given issues raised as a result of the implementation of the Oracle ERP System, the Council's leadership instructed the interim Director of Finance and Section 151 Officer and City Solicitor and Monitoring Officer to undertake a refreshed analysis and further due diligence of the Council's projected liability in relation to equal pay claims.
- 2.2 The estimated potential equal pay liability was made public in a Council statement on 28 June 2023. That statement gave a range of between £650m and £760m and an accrual rate of £5m to £14m per month.
- 2.3 The principal solution to the Council's equal pay issues is the delivery of new terms and conditions of employment following a consistently and objectively applied job evaluation study and a new pay structure that complies with the relevant provisions of the Equality Act 2010.
- 2.4 The estimated range of potential liability assumes that new terms and conditions will be implemented by 1 April 2025. Any delay to this implementation date will add to the potential liability estimate.
- 2.5 The implementation timescale is influenced by a combination of the selection of a methodology that delivers the objectives of the job evaluation study (see

paragraph 2.8 below) and maintaining stable industrial relations whereby the trade unions are engaged in the methodology and fully cooperate in support of its implementation. This is an integral part of the choice of methodology. A strict timescale with delivery gates will need to be adhered to where all parties are held to account on the outcomes required at each stage. BCC recognises three trade unions within collective bargaining, which will be referred to as Trade Unions within this report.

- 2.6 Close monitoring of the milestones and delivery of job evaluation is critical to achieve the implementation deadline of April 2025. To support delivery of the programme, in addition to the support and views of external audit, Finance and Resources Overview and Scrutiny Committee and Audit Committee will be invited to assist with the performance monitoring by the addition of job evaluation to their Committee work plans and therefore as a standing item at each meeting. If it becomes apparent, via this monitoring and oversight, that the deadline cannot be met, the Council may terminate the process and explore alternative routes to achieve the programme outcomes.
- 2.7 At the conclusion of the job evaluation study, it is the preference for the Council to seek a smooth and timely adoption of new terms and conditions through collective bargaining. Furthermore, unstable trade union relationships would lengthen any methodology and potential industrial action would delay any implementation and therefore add to the Council's accruing potential equal pay liability.
- 2.8 Two principal objectives are essential for a new job evaluation study:
 - 2.8.1 That it must be **objective, robust, reliable, and Equality Act 2010 compliant**; and
 - 2.8.2 That it must be carried out in the **shortest possible timescale** given the size of potential liability referred to above and the estimated accrual rate.
- 2.9

It is therefore imperative that a job evaluation study is conducted, a new pay structure created, and new terms and conditions are implemented with all speed to achieve the **1 April 2025** date. If the Council's job evaluation and pay and grading programme goes beyond that date, the current figure of £650m to £760m is likely to increase at the rate given at paragraph 2.2 above.

- 2.10 Funding for a job evaluation and pay and grading programme was approved by Cabinet in April 2022 and this programme was developed from that date until the end of 2022. The Programme Team re-evaluated the programme based on the identified need for a quicker delivery time.
- 2.11 A job evaluation programme requires the following elements: recruitment, training, evaluation, moderation, pay modelling, appeals, statutory consultation, and implementation of the new structure and new terms and conditions of

employment. A collective agreement exists with Job Evaluation principles aligned to the Gauge based methodology and agreed and signed in January 2021. If the Council were to step outside of the collective agreement arrangements in implementing a Job Evaluation scheme this could lead to an industrial dispute.

- 2.12 At the end of the job evaluation study, new terms and conditions of employment will need to be introduced. Only at this point will any of the current ongoing potential liability be brought to an end.
- 2.13 To highlight the challenge of changing/introducing terms and conditions of employment, there are several recent examples nationally where councils and trade unions have failed to reach agreement – this is increasingly common and consequently has led to an increase in dismissal and re-engagement processes to secure council-wide implementation. These councils used a Gauge-based methodology to evaluate jobs (as the current programme intends). Similarly, in another example, a council used an alternative outsourced methodology (not Gauge), and this too resulted in a stalemate and agreement with trade unions has so far not been possible to change terms and conditions of employment through a collective agreement, and dismissal and re-engagement is the only remaining option.
- 2.14 To minimise risk, changes to terms and conditions of employment through collective bargaining is better served with cooperative trade union relations in the run up to this part of the process, notwithstanding that there is inherent risk that the consultation process could be protracted based on any or all trade unions not accepting an outcome where roles have been downgraded for example.
- 2.15 When the Council had previously sought to address equal pay risks, it issued redundancy notices to employees in the role giving rise to such risks as the mitigation strategy. At the time, this led to an industrial dispute and strike action by the trade union representing workers in the said role. This serves to highlight the risk of any potential changes to grades and pay and the prospect of resulting industrial action.
- 2.16 The above serves to demonstrate the challenges that may face the Council irrespective of the methodology that is used to carry out its job evaluation study, noting the history of equal pay at the Council is not comparable with the majority of other councils.
- 2.17 Any job evaluation methodology has its risks, and the heightened challenge comes at the phase of changing terms and conditions of employment so as to implement the product of the job evaluation study. Any changes to terms and conditions will be contentious and have proved to be in the recent history of the Council as referred to at 2.15, this remains a significant risk. Decisions on job evaluation methodology, based on current assessments, need to take into account how to reduce the probability of non-acceptance and/or a trade dispute and potential strike action. However, whilst it is recognised that a constructive and stable relationship with the recognised trade unions, aided by their support

in using the current Gauge methodology will aim to mitigate potential issues at the implementation stage; this is not the only consideration. Upon implementation of any scheme, there are likely to be winners and losers. Some of those losers may well be members of the recognised trade unions.

- 2.18 Protecting the pay of those whose salary is downgraded may not always be possible, because of the ongoing equal pay risk that this may represent. In such situations it makes the possibility of a collective agreement being reached with the trade unions difficult, whichever methodology (NJC, GLPC or outsourced) is chosen. For this reason, dismiss and re-engage remains an option, but not preferred (as per 2.6).

3 The Current Programme

- 3.1 This Gauge-based job evaluation programme was based on the establishment of 12 panels, each led by a job evaluation analyst with a trade union evaluation partner and a management evaluation partner to evaluate the circa 3,200 roles that exist within the Council, Birmingham Children's Trust ("BCT"), Acivico, and maintained schools.
- 3.2 The re-evaluation of the programme was based upon concerns that it would not best meet the Council's objectives – particularly of timescale. Once this was understood, officers set about consultation and engagement with the trade unions to explore how the job evaluation programme could meet the two key objectives required (see paragraph 2.8 above).
- 3.3 The process of trade union engagement/consultation commenced in January 2023 and has continued intensively up until the finalisation of this paper. Engagement/consultation with the recognised trade unions looked to address concerns that may have had an influence on timescale to complete the programme. Essentially, the existing approach using the NJC Gauge methodology is resource intensive and open to the risk of an elongation of timescale.

4 Summary of Options Considered

- 4.1 The current programme is a **Gauge-based system** for all NJC (Green Book) grades on using existing assumptions whereby trade union colleagues partake in each evaluation panel is time consuming and assumes that experienced analyst resource could be found.
- 4.2 A **Gauge-based system partnering with West Midlands Employers** (and other sources of resource) for NJC roles where all panels are led by analyst-only panels. The reason this differs from option 1 is the trade union involvement as detailed in the new proposed draft addendum to the Principles Document (see appendix 1), which involves the trade unions in moderation and appeals, but no involvement in the evaluation stage other than potentially sampling (involvement in the benchmarking exercise has yet to be resolved as part of the addendum

document, shown in the appendix of this report). There are two inputs to the time in this particular methodology and approach, one is Trade Union involvement (dealt with within the addendum document), and the other is securing the scarce resource needed to enable this methodology. To ensure the integrity of the system, trade unions will do a sample of parallel evaluations. There is a risk to this option, in that the process would involve bringing in a large pool of resources that would need to be recruited, trained and developed. The best evidence to date indicates there is a national scarcity of suitably trained resource required to deliver the methodology.

In this option, if it appeared at any stage that timescales and/or deadlines are at risk, the Chief Executive (Head of Paid Service) and senior trade union representatives (supported by appropriate officers from our recognised trade unions) would urgently review the issues. This could arise if either management or trade unions believe this risk has materialised or is raised by Audit Committee, external audit or the Finance & Resources Overview and Scrutiny Committee.

In this option, all JNC roles would be evaluated using an outsourced provider.

4.3 A different job evaluation method can be used for NJC and JNC roles via an **outsourced programme** to an external supplier or suppliers. See table in section 5 below.

4.4 The **Greater London Provincial Councils Job Evaluation System (“GLPC”)** is a job evaluation methodology that is used by London councils and in some local authorities outside London. GLPC has similarities to the NJC (Gauge) scheme, but it is not identical. Nevertheless, an analyst-led process using GLPC (following similar processes as for the WME option (see 4.2) is expected to require similar resources. Because of its structure, GLPC has proven to be more effective than the NJC/Gauge route at producing clusters of roles so as to facilitate grade structuring. This can lead to more distinct grade boundaries.

Due to the unfamiliarity of this scheme compared with options at paragraph 4.1 and 4.2, there is increased risk as our employees are not familiar with the approach, and this would result in further training required. This process also does not form any part of a collective agreement, which may elongate the timeline.

5 Summary of options under consideration

5.1 To assist the Cabinet in its decision making, the above options have been considered and collated over an intensive seven-month period involving trade union consultation and engagement. These options are summarised in the table below, with their various risks and merits and to what extent they achieve the objectives identified at 2.8.

	Gauge+ via Panels	Gauge+ via WME	Outsource	GLPC
Estimated costs (inc. central team) based on several assumptions	£15.3m	£10.8m	£16m	£10.8m
Industrial Relations <i>Potential mitigations of industrial disputes are not explored for any the options in this paper</i>	<ul style="list-style-type: none"> Risk of no agreement on implementation Up to implementation this potentially reduces the risk of non cooperation with the Trade Union preferred methodology 	<ul style="list-style-type: none"> Risk of no agreement on implementation Up to implementation this potentially reduces the risk of non cooperation with the Trade Union preferred methodology 	<ul style="list-style-type: none"> Risk of no agreement on implementation 	<ul style="list-style-type: none"> Risk of no agreement on implementation
Principal risks	<ul style="list-style-type: none"> Inability to recruit analysts Availability of Management Partners Length of programme and consequent potential equal pay liability accrual 	<ul style="list-style-type: none"> Inability to recruit analysts Lack of certainty of timescale and consequent risk of increase in potential equal pay liability accrual Length of programme and consequent potential equal pay liability accrual 	<ul style="list-style-type: none"> Lack of Trade Union support (although some authorities have successfully outsourced with a degree of Trade Union cooperation) Length of programme and consequent potential equal pay liability accrual 	<ul style="list-style-type: none"> 'London Councils' only have 2 evaluators Inability to recruit analysts Lack of certainty of timescale and consequent risk of increase in potential equal pay liability accrual Length of programme and consequent potential equal pay liability accrual
All above options Equality Act 2010 compliant				

6 Recommendations

It is recommended that Cabinet:

- 6.1.1 Approves a budget of up to £20m to take account of any risks for an expedited programme to be funded from the Policy Contingency Fund, including the establishment of a Permanent Pay Equity team and adjacent Pay Compliance unit to ensure that the equitable pay position achieved through the permanent pay equity programme is maintained in the future (see appendix 4).
- 6.1.2 Notes that any scheme that is chosen must be implemented by April 2025, to avoid the potential liability increasing beyond the estimated range.
- 6.1.3 Notes that the decision-making body for the methodology will be the Council Business Management Committee, with monitoring and oversight to be provided by the Finance and Resources Overview and Scrutiny Committee and the Audit Committee, as a regular item on their respective work programmes.
- 6.1.4 Following the decision by Council Business Management Committee authorises the running of compliant procurement processes (via either a direct award or a mini competition) under a framework agreement or other compliant route (as more fully described in appendix 1) to appoint a supplier or suppliers that prove(s) to be the most economically advantageous to deliver an expedited programme. This is based on a combination of one or more different methodologies for NJC and JNC. The supplier(s) would be providing a programme of job evaluation, pay equity analysis, and the creation of a new pay model in consultation with the Council and the trade unions.
- 6.1.5 Delegates the award of the contract(s), following the outcome of the compliant procurement process or processes, to the Interim Director of People and Corporate Services in conjunction with the Interim Director of Finance and Section 151 Officer and the City Solicitor and Monitoring Officer.
- 6.1.6 Notes when delivered, these elements will, on the introduction of new terms and conditions of employment, stop the current accrual of potential equal pay liabilities; provide the Council with a statutory defence to any future equal value claims; and maintain a pay equity system within the Council.

7 Background

- 7.1 See appendix 1.

8 Options Considered

- 8.1 See appendix 1.

9 Consultation

9.1 See appendix 1.

10 Risk Management

10.1 The programme team has, as part of the CPMO process, established a full assessment of the risks involved in the programme, together with the proposed mitigations and contingencies where appropriate.

11 Compliance Issues:

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

11.1.1 The recommended decisions are consistent with the Council's overarching equal pay strategy, the primary objective of which is to draw a line under the issue of equal pay in the organisation.

11.2 Legal Implications

11.2.1 See appendix 1.

11.3 Financial Implications

11.3.1 See appendix 1.

11.4 Procurement Implications

11.4.1 See appendix 1.

11.5 Human Resources Implications

11.5.1 See appendices 1 and 4.

11.6 Public Sector Equality Duty

11.6.1 The recommended proposals will limit and address any adverse equality impact on staff at the Council in the quickest possible timeframe and, in the opinion of officers involved in the permanent pay equity programme, in the most reliable way. They will also ensure compliance with the Public Sector Equality Duty and with Part 5, Chapter 3 of the Equality Act 2010.

12 Appendices

12.1 Appendix 1: Permanent Pay Equity: Long-Form Report dated 25 July 2023

12.2 Appendix 2: Addendum to Principles Document

12.3 Appendix 3: Glossary

12.4 Appendix 4: Structures of Permanent Pay Equity Team and Pay Compliance Unit

13 Background Documents

13.1 Cabinet Report on Job Evaluation and Pay and Grading dated 26 April 2022

Glossary

APPENDIX 4

1.	Equality Act 2010
1.1	The Equality Act 2010 was enacted on 8 April 2010 and replaced the Equal Pay Act 1970. It is the primary piece of equal pay legislation in the UK and is concerned with the establishment of equal terms and conditions of employment for employees.
1.2	Section 66(1) of the Equality Act 2010 provides that every person's employment contract includes an <i>equality clause</i> , by which they are entitled to any term that a comparator of the opposite sex who is in the "same employment" enjoys that they do not or that is more favourable.
1.3	For the <i>equality clause</i> to bite, 'equal work' needs to be established. This can be done in three ways: <ul style="list-style-type: none">1) By a worker establishing that they are doing like work with a comparator of the opposite sex (i.e. they are doing the same, or broadly the same, job); or2) By a worker establishing that they are doing work rated as equivalent with that of a comparator of the opposite sex following a job evaluation study (i.e. they are doing different jobs at the same grade); or3) By a worker establishing that they are doing work of equal value to that of a comparator of the opposite sex (i.e. they are doing different jobs, either at different grades or where no job evaluation study has been carried out, but the 'value' of their work is equal).
2.	Equal Value
2.1	An employee can claim work of equal value if they are not employed on like work or work rated as equivalent , and provided they can show their work is equal to that of a comparator of the opposite sex in terms of the demands made on them by reference to factors such as effort, skill, and decision-making . This type of claim is usually brought where an employer has not undertaken a job evaluation study, or where the two jobs in question have different grades under such a study, but there are reasonable grounds for suspecting that the study was based on a system that discriminates because of sex or is otherwise unreliable.
3	Job Evaluation
3.1	A job evaluation study is a systematic procedure for analysing a group of jobs (as opposed to the individuals undertaking them). The results of the analysis are then used to give each job a numerical score in order to rank them, from the most valuable downwards. They will then be grouped into salary bands and all jobs

within a particular band will be "rated as equivalent" for the purposes of the Equality Act 2010.

A good job evaluation study typically possesses several key characteristics. Here are some important aspects to consider:

- **Validity:** The job evaluation study should accurately and reliably measure the factors that determine the value of different jobs. It should reflect the true distinctions between jobs based on factors such as skill, effort, responsibility, and working conditions.
- **Objectivity:** The evaluation process should be objective and unbiased. It should rely on standardised criteria and methods that are consistently applied to all jobs, regardless of personal characteristics or preferences.
- **Job-relatedness:** The study should focus on evaluating jobs based on their content and requirements, rather than the individuals performing them. It should consider the tasks, skills, knowledge, responsibilities, and qualifications necessary for each job.
- **Comprehensive:** A good job evaluation study should cover a wide range of job factors and dimensions. It should capture the full scope of job requirements and reflect the various aspects that contribute to the job's value.
- **Consistency:** The evaluation process should produce consistent results when applied to similar jobs within an organization. It should minimise subjective judgment and ensure that similar jobs receive similar evaluations and compensation.
- **Non-discriminatory and reliable:** The study should not be based on a system that discriminates because of sex, and it should not be otherwise unreliable.
- **Regular review:** A good job evaluation study should be periodically reviewed and updated to reflect changes in job roles, industry standards, and organisational needs. This ensures its ongoing relevance and effectiveness, and it provides assurance in terms of there being an ongoing application and embedding of the study and its methodology in the organisation.

By incorporating these characteristics, a job evaluation study can provide a solid foundation for fair and equitable compensation practices, supporting organisations in making informed decisions regarding job classification, pay structures, and salary administration. It also provides an employer with a statutory defence to **equal value** claims.

Public Report

Birmingham City Council

Council Business Management Committee

1st September 2023



Subject:	Pay Equity System
Report of:	Janie Berry, City Solicitor and Monitoring Officer. Fiona Greenway, Interim Director of Finance and Section 151 Officer; and Deborah Cadman, Chief Executive and Head of Paid Service
Relevant Cabinet Member:	Councillor John Cotton, Leader of the Council
Relevant O &S Chair(s):	Councillor Jack Deakin, Finance and Resources Overview and Scrutiny Committee
Report authors:	Darren Hockaday, Acting Director of People and Corporate Services

Does the report contain confidential or exempt information?

☒ Yes

☐ No

If relevant, provide exempt information paragraph number or reason if confidential:

The information in this report and its appendices is exempt from public disclosure under paragraphs 3 to 5 of Schedule 12A of the Local Government Act 1972. The exemptions relied on are as follows:

- Schedule 12A, paragraph 3 – *'Information relating to the financial or business affairs of any particular person (including the authority holding that information)';*
- Schedule 12A, paragraph 4 – *'Information relating to any consultations or negotiations, or contemplated negotiations, in connection with any labour relations matter arising between the authority or Minister of the Crown and employees of, or office holders under, the authority';* and
- Schedule 12A, paragraph 5 – *'Information in respect of which legal professional privilege could be maintained in legal proceedings.'*

These provisions apply because the information in this report relates to financial affairs pertaining to pay, as well as negotiations in connection with a labour relations matter and trade dispute over equal pay, which has arisen between Birmingham City Council ("the Council") and its employees. Plus, legal proceedings have been taken by some employees involved in this trade dispute, and information relating to those proceedings is included in this report, as well as legal advice, in respect of which legal professional privilege could be maintained.

1 Purpose

- 1.1 The purpose of this report is to agree a renewed Pay Equity System (PES) consisting of a job evaluation study and new pay structure, to be delivered by no later than 1st April 2025. A renewed PES is critical to ending pay inequity and ensuring all staff are treated fairly.
- 1.2 The options set out in this report are intended to deliver a job evaluation study and a new pay structure for NJC grades within Birmingham City Council (BCC), Birmingham Children's Trust (BCT), Acivico and maintained schools. A further report will be brought to this Committee at a future date that addresses JNC grades.
- 1.3 This is a supplemental report to that published on 25th August 2023, for the meeting of this Committee scheduled for 29th August 2023. This report has been updated to take into account the Council's Best Value Assessment of the job evaluation options detailed at Appendix 7 of the report and referenced at Section 9 of this report. Additional legal advice has been sought in respect of the four options as presented in the report published on 25th August 2023. The independent legal advice now received from two Leading Counsel advise that Option 3 cannot be lawfully supported (as detailed within the Legal Implications) and the proposed recommendation to the Committee is for Option 2 and Option 4 to be considered. Statutory Officers have also advised that Option 1 is incompatible with best value obligations as it exposes the Council to significant ongoing liability (as detailed within the Financial Implications).

2 Recommendations

- 2.1 To note:
 - 2.1.1 That the Committee is required to make a decision based on the two objectives (listed in i. and ii. below) that are essential for a new job evaluation study for BCC (as set out in the report to Cabinet on 25th July) and the assessment against Best Value principles (at Appendix 7):
 - i. That it must be objective, robust, consistently applied, and Equality Act 2010 compliant; and
 - ii. That it must be conducted in the shortest possible timescale given the size of potential liability referred to above and the estimated accrual rate and noting that Cabinet has recommended that implementation should be on or before 1st April 2025.
- 2.2 It is recommended:
 - 2.2.1 That the Council Business Management Committee consider the adoption of either Option 2 (see 2.2.2 below and section 7) or Option 4 (see 2.2.3 below) contained within this report and**

make a decision on the PES methodology to be delivered based on the respective merits and risks.

2.2.2 To note that Option 2 (NJC Gauge delivered in conjunction with West Midlands Employers (WME)) is set out at section 12 of this report and is conditional on:

- i. A signed Addendum to the Principles Collective Agreement between the recognised trade unions and BCC attached at Appendix 3 of this report, including Points of Further Clarification;
- ii. The assurances set out at paragraph 12.7;
- iii. An immediate start to implementation at the point of decision, Friday 1st September 2023; and,
- iv. If the Addendum is not signed by 09:00am Monday 11 September 2023, that then means Option 2 is not practical to implement and the Council reserves the right to choose an alternative PES.

2.2.3 To note that Option 4 (outsource to an external provider) is set out in Section 14 of this report.

2.3 That the committee notes that, if it becomes apparent at any stage of the process that the deadline of April 2025 cannot be met or other concerns become clear, such as a deviation from the methodology agreed and any associated agreements and lack of evaluator resource, the Council may terminate the process and explore alternative methodology routes to achieve the programme outcomes. Should the need for this arise, the recognised Trade Unions will be consulted and engaged appropriately.

3 Background and Context

3.1 The estimated potential equal pay liability was made public in a Council statement on 28 June 2023. That statement gave a range of between £650m and £760m and an accrual rate of £5m to £14m per month. Since publishing this statement, the Council has received correspondence from one of the recognised Trade Unions advising of further potential Equal Pay claims being issued against the Council. This has the capability to further increase the potential financial liability on the Council.

3.2 Given issues raised as a result of the implementation of the Oracle ERP System, the Council's leadership instructed the interim Director of Finance (and S151 Officer) and Monitoring Officer to undertake a refreshed analysis and further due diligence of the Council's projected liability in relation to potential equal pay liabilities.

3.3 The principal solution to the Council's equal pay issues is the delivery of new terms and conditions of employment following a job evaluation study and a new pay structure that complies with the relevant provisions of the Equality Act 2010.

- 3.4 The estimated range of potential liability assumes that new terms and conditions will be implemented by no later than 1st April 2025. Any delay to this implementation date will add to the potential equal pay liability estimate.
- 3.5 Two objectives are essential for a new job evaluation study for BCC:
- 3.5.1 That it must be objective, robust, consistently applied, and Equality Act 2010 compliant; and
 - 3.5.2 That it must be conducted in the shortest possible timescale given the size of potential liability referred to above and the estimated accrual rate and noting that Cabinet has recommended that implementation should be on or before 1st April 2025.
- 3.6 On 25 July 2023, the Cabinet approved a budget of up to £20m for the delivery of a PES and ancillary resources in pursuit of the PES and for the establishment of a permanent Pay Equity Team and Pay Compliance Unit to ensure the maintenance of the PES once completed. The Cabinet further agreed that the delivery date for the PES must be no later than 1st April 2025 in order to limit the further accrual of the potential equal pay liability.
- 3.7 The Council is committed to working with relevant stakeholders (including Trade Unions) to make this happen as soon as possible, so that the focus of the organisation can return to delivering “best in class” services, tackling inequality and making Birmingham a great place to live for all its citizens. For any of the options to be successful it is imperative that there is a positive collaboration between the Trade Unions and the Council.
- 3.8 Unstable Trade Union relationships would lengthen the progression of any methodology and potential industrial action would delay any implementation and therefore add to the Council’s accruing potential equal pay liability. At the conclusion of the job evaluation study, it is the preference for the Council to seek a smooth and timely adoption of new terms and conditions through collective bargaining with its three recognised Trade Unions.

4 Implementation assurance and governance

- 4.1 Close monitoring of the milestones and delivery of job evaluation is critical to achieve the implementation deadline of 1st April 2025. The following will support delivery of the programme:
- Challenge and oversight of External Audit.
 - Regular oversight by the Council’s Statutory Officers and Corporate Leadership Team.
 - Finance and Resources Overview and Scrutiny Committee and Audit Committee will contribute to the performance monitoring by the addition of job evaluation to their respective Committee work plans as a standing item on their agenda.

- 4.2 Monitoring and oversight may be modified or enhanced as the programme progresses.
- 4.3 If it becomes apparent at any stage of the process that the deadline cannot be met or other concerns become clear, such as a deviation from the methodology agreed and any associated agreements and lack of evaluator resource, the Council may terminate the process and explore alternative methodology routes to achieve the programme outcomes. Should the need for this arise, the recognised Trade Unions will be consulted and engaged appropriately.

5 Job evaluation study

- 5.1 A job evaluation study starts with the Recruitment and Training of those who will participate. Once that is complete it comprises the following stages:
- Stage 1: Job Information
 - Stage 2: Evaluation and Moderation
 - Stage 3: Model and Structure
- 5.2 This is followed by a period of negotiation and implementation of a new pay and grading structure.
- 5.3 Any appeals by employees against outcomes will occur after the date of implementation of a new structure and new terms and conditions of employment.
- 5.4 To aid the maintenance of the job evaluation system, there is some advantage for the Council to seek to procure a single evaluation methodology throughout NJC and JNC roles. This would promote equity in the entire pay system and ensure that all roles are evaluated on an equal basis with the boundary between NJC and JNC roles properly defined.
- 5.5 However, it is recognised that to provide a robust job evaluation methodology for JNC graded employees, an alternative option may be required as the NJC Gauge methodology is not applicable. Therefore, references to time stated for the PES options in this paper does not account for JNC grade evaluation and there is no decision being sought from the Committee for this cohort.

6 The Current Job Evaluation Programme

- 6.1 The current programme was approved in the April 2022 Cabinet report on 'Job evaluations and Pay and Grading'. Hereinafter this will be referred to as "the current programme".
- 6.2 The current programme is based on the establishment of 12 panels, each led by a job evaluation analyst with a trade union evaluation partner and a management evaluation partner to evaluate the circa 3,200 roles that exist within the Council, Birmingham Children's Trust ("BCT"), Acivico, and maintained schools.

- 6.3 The approach of this option is set out in a collective agreement called “Joint Principles for Job Evaluation” dated December 2020. Hereinafter called the “Principles Document”.
- 6.4 The current programme is calculated by the project team to take more than 54 months to deliver.

7 Developments since April 2022

- 7.1 Contained within the private report.

8 Alternative options to the current programme

- 8.1 From officers’ assessment of the situation, informed by engagement with external audit and external lawyers, and the recent announcement of the Council’s potential equal pay liability, it is clear that an end-to-end job evaluation process plays a pivotal role in the resolution of the equal pay issues facing the Council.
- 8.2 An approach will be needed that meets the required criteria and provides the Council with a proven, objective, and consistent job evaluation methodology or methodologies that can deliver all original programme objectives, end-to-end, to achieve an implementation date of no later than 1 April 2025.
- 8.3 Given the concerns outlined (at section 7 above) about the current programme and the need to meet the key objectives it has been essential to review a number of methodologies.
- 8.4 The City Council and our recognised Trade Union partners have been engaged in consultation since January 2023 with the aim of reaching agreement on a job evaluation methodology that both meets the April 2025 deadline and provides a robust pay equity solution which protects the Council from future equal pay claims. The Unions have adopted a positive and co-operative approach to discussions over a Gauge WME option and share our commitment to delivering a new and equitable pay and grading system by the crucial April 2025 deadline.
- 8.5 It became apparent early on that application of the current programme (Option 1 below), that is the full NJC Gauge system would not meet the deadline of April 2025. In addition, given our unique and challenging history of equal pay claims and previous unsuccessful equal pay studies, there is a risk of inequity in assessments caused by role enrichment. We also note paragraph 4.3, in which the Council may terminate any process and explore an alternative methodology should it become apparent the deadline cannot be met.
- 8.6 There are four options for a PES to be considered by the Committee:
- 8.6.1 Option 1: Use the current approach of NJC Gauge system in full (the current programme). *(NB: as referenced in para 1.3 this option is further discounted due to the Best Value assessment)*
 - 8.6.2 Option 2: Use an adapted version of NJC Gauge in co-operation with West Midlands Employers (“WME”), Version A (“WME Gauge A”).

8.6.3 Option 3: Use an alternative adapted version of NJC Gauge in co-operation with West Midlands Employers, Version B (“WME Gauge B”). *(NB: as referenced in para 1.3 this option is no longer proposed for the Committee’s consideration)*

8.6.4 Option 4: Outsource job evaluation to a third-party specialist supplier.

9 Option considerations

9.6 Best Value Assessment

9.7 On Tuesday 29th August 2023 the Leader of the Council received a letter from the Department for Levelling Up, Housing & Communities (DLUHC) Minister Lee Rowley MP. This letter asks for assurances that the options presented to the Council Business Management Committee (CBMC) and any decision taken related to equal pay complies with the Council’s Best Value duty under the terms of the Local Government Act 1999.

9.8 The Best Value Duty relates to the statutory requirement for local authorities and other public bodies (defined as best value authorities in 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”. In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget, provide statutory services, and secure value for money in all spending decisions.

9.9 This letter of 29th August states that “Given the size of the unweighted litigation liability as communicated by your officers - £1.15bn – it is prudent that I seek written assurances that decisions taken by the Authority represent value for money and do not adversely impact on the level of support the Government may need to provide”.

9.10 On Tuesday 29th August 2023 the Leader of the Council (and chair of the Committee) proposed adjourning the Council Business Management Committee until Friday 1st September 2023 to enable an assessment of the options in the report against the Best Value Duty to be completed to supplement this report.

9.11 A summary of this assessment is at Appendix 7.

10 Common stages in the process

10.1 Each of the options have common stages. These are:

10.2 Stage 1: Job Information

10.3 The role holder and their line manager define a Job Description and Person Specification (JDPS). Where possible, this should be by agreement. This is supplemented using a questionnaire, of varying length dependent on the solution being used, which should cover areas that remain unclear from the JDPS. The

JDPS and the questionnaire are called the 'Job Information' and it is this critical documentation that is used to evaluate the role.

10.4 Stage 2: Evaluation and Moderation

- 10.5 The evaluation scoring system is applied, using factors and weightings to arrive at a score. Where there is ambiguity, help text is used to provide clarity. For roles where there are many incumbents, for example an administrative assistant, a solution known as 'benchmarking' is used. This works by first agreeing which roles are going to be included as 'benchmark roles' then taking a sample of each role and evaluating that rather than every role individually. Following evaluation, scores are moderated, generally by a local panel followed by a business wide panel, to ensure consistency and fairness.

10.6 Stage 3: Model and Structure

- 10.7 The scored roles are placed into a grading system with cut off points and salary points awarded against each. This is negotiated with Trade Unions with the aim of reaching a collective agreement so that the new pay and grading system applies to all employees. Once individuals are informed of their new pay and grade, there is normally a right of appeal following implementation.
- 10.8 The options identified in paragraph 8.6 are examined in detail in the following sections, along with the advice of Officers. In formulating their advice, the Council has taken legal advice from four leading KCs with specialist knowledge in employment law and equal pay, including knowledge and understanding of the Council's Equal Pay litigation with one KC having consistently represented the Council in previous Equal Pay litigation, as well as considering the views of external auditors, input from the Local Government Association (LGA), and the experience of other Local Authorities.

11 Option 1 - Use the unadapted NJC Gauge system in full (the current programme)

- 11.1 A detailed analysis of each of the options is presented in the private report.

12 Option 2 - Use an adapted version of NJC Gauge in co-operation with West Midlands Employers ("WME"), Version A ("WME Gauge A")

- 12.1 A detailed analysis of each of the options is presented in the private report.

13 Option 3 - Use an alternative adapted version of NJC Gauge in co-operation with West Midlands Employers, Version B ("WME Gauge B").

- 13.1 A detailed analysis of each of the options is presented in the private report.

14 Option 4 - Outsource job evaluation to a third-party specialist supplier

- 14.1 A detailed analysis of each of the options is presented in the private report.

15 Option parameters and risks

- 15.1 Contained within the private report.

16 Consultation

- 16.1 Throughout 2023, BCC has been in consultation with the recognised Trade Unions, seeking a way to accelerate a job evaluation study while maintaining robust and defensible outcomes.

17 Risks

Industrial relations

- 17.2 BCC is clear in the objectives it must deliver to stem its potential equal pay liabilities and any delay to that delivery is likely to see the estimated potential liability grow. Therefore, any decision taken will need to balance speed, certainty, and the effect on industrial relations.
- 17.3 For simplicity, the risk of an industrial dispute in relation to PES is categorised in 2 phases.
- The first is based upon the decision on the PES methodology and any subsequent impact this may have on the delivery/performance of the PES and consequently delay the target date of April 2025 incorporation.
 - The second risk is at the end of the process where trade unions and employees know the financial impact the PES and where BCC will seek a collective agreement to incorporate new terms and conditions.

18 Compliance Issues:

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

18.1.1 The recommended decisions are consistent with the Council's overarching equal pay strategy, the primary objective of which is to draw a line under the issue of equal pay in the organisation.

- 18.2 Procurement Implications

18.2.1 See Appendix 1.

- 18.3 Public Sector Equality Duty

18.3.1 The recommended proposals will limit and address any adverse equality impact on staff at the Council in the quickest possible time and, in the opinion of officers involved in the permanent pay equity programme, in the most reliable way. They will also ensure

compliance with the Public Sector Equality Duty and with Part 5, Chapter 3 of the Equality Act 2010.

19 Financial Implications

19.1 Contained within the private report.

20 Legal Implications

20.1 Contained within the private report.

21 Background documents

21.1 Cabinet Report – 26th April 2022 – ‘Job Evaluation/Pay & Grading’

21.2 Cabinet Report – 25th July 2023 – ‘Job Evaluation’

22 Appendices

22.1 Appendix 1: Procurement advice (Exempt)

22.2 Appendix 2: Consultation Process (Exempt)

22.3 Appendix 3: Addendum to Principles Document Option A (Exempt)

22.4 Appendix 4: ~~Addendum to Principles Document Option B~~ (REMOVED)

22.5 Appendix 5: ~~WME Letter regarding Benchmark Role Analysis options 24082023~~ (REMOVED)

22.6 Appendix 6: Glossary

22.7 Appendix 7: Best Value Assessment of Options (Exempt)

Report to all Elected Members of Birmingham City Council
Under
Section 114 (3) of the Local Government Finance Act 1988
By
Fiona Greenway CPFA
Interim Director of Finance (Section 151 Officer), Birmingham City Council
Date of Report: 5th September 2023

Purpose of Report

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

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

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

Recommendations

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

Summary of key issues

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

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

Consequences of a Section 114 Notice

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

- a. Elected Members must by law agree to cease all non-essential expenditure and reduce the Council's operational and service delivery costs immediately.
- b. Financial Controls will be exercised by a S151 Spend Control Board. Based on this S114 report, from this date this S151 Spend Control Board will be chaired by the Section 151 Officer. The controls will mean that from this date:
 - i. The Council is prevented, without explicit agreement of the Section 151 Officer, from entering into any new agreement or commitment for expenditure until Full Council has met to consider the Section 114 report. These controls may be re-applied after the date of this Full Council meeting.
 - ii. Temporary Measures are now in force such that all non-essential expenditure will now stop with immediate effect without written confirmation from the Section 151 Officer. For avoidance of doubt, non-compliance with this requirement will be considered a disciplinary matter by the Council. This supersedes all previous guidance on non-essential expenditure, with no exclusions or delegations of authority to Corporate Leadership Team (CLT).
 - iii. The controls outlined in (i) and (ii) will apply to all services being delivered through companies controlled by the Council, or where the Council supplies funding to companies that are jointly or partly owned by the Council.
 - iv. The Financial Controls apply to all Council services, including statutory services, services delivered through controlled companies and connected entities. A framework will be set in place to ensure this happens whilst ensuring that key services to children and vulnerable people are not affected because of these controls.
 - v. Spending Controls will now remain in place for the foreseeable future, with a Financial Recovery Plan reported to Full Council on a quarterly basis moving

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

- vi. Due to the significant potential Equal Pay liability, and no route for financing or limiting this liability, the Council's Capital Financing Requirement will need to be reviewed and re-calculated as a potential route to financing the liability. This means that no further loans will be sought from the Public Works Loan Board (PWLb) unless these are to be applied for capital purposes for which the Council is in contract, for the replacement of existing maturing loans, the maintenance of working capital, or other specified matters agreed by the PWLB in conjunction with DLUHC and the Section 151 Officer.
 - vii. Financial controls will generally have an adverse impact on the profit and loss accounts of various accounts and entities in receipt of support from the Council. The boards of these companies may look to the Council to make up for the lost funding from revenue resources. However, based on the current financial position of the Council, and the issuance of a S114 notice, the Council is unlikely to be able to consider provision of such support.
 - viii. If Financial Controls are not adhered to, or do not achieve the required outcomes, a further S114 notice will need to be issued.
- c. The Council has already implemented Financial Controls on spending – these are detailed in the report to Cabinet on 25 July of this year (entitled Medium Term Financial Plan (MTFP) Refresh – update to Cabinet at Quarter 1 of the 2023/24 Financial Year). This report extends these controls, such that, **the Council is prevented, without explicit agreement of the Section 151 Officer, from entering into any new agreement or commitment for expenditure until Full Council has met to consider the Section 114 report.**
- d. Depending on the outcome of the Full Council meeting, these Financial Controls may need to remain in place until a solution is found to fund the costs of these Equal Pay claims. This is because the Council will lack the resources to maintain spending in all areas moving forward.

Financial Situation

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

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

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

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

Legal Framework

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

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

Next Steps

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

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

Fiona Greenway CPFA

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

5th September 2023

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

Purpose of Report

1. Members of the Council are asked to consider this Report by the Section 151 Officer (the Chief Finance Officer). The Report is made under section 114 (2) of the Local Government Act 1988 because the Section 151 Officer is of the opinion that:
 - a. The omission of a decision by the Council Business Management Committee has resulted in (a) a decision which involves the authority incurring additional expenditure which is unlawful, and (b) the course of action (i.e. inaction) if pursued to conclusion would be unlawful and cause a loss or deficiency on the authority.
2. This Report is being issued alongside a Section 5 Report from the Monitoring Officer, dated 21st September 2023, because:
 - a. The Council Business Management Committee agreed, on Friday 1st September 2023, to proceed with Option 2, on the basis that a signed addendum would be returned to the Council by the three recognised Trade Unions by 09:00 on Monday 11th September 2023.
 - b. On Monday 11th September 2023 two of the recognised Trade Unions responded confirming that they are unwilling to accept the proposed addendum, and the third has not responded to date.
 - c. As a result, the decision made by Council Business Management Committee on Friday 1st September 2023 is no longer valid.
 - d. The Monitoring Officer has since informed the Leader of the Council and Chair of the Council Business Management Committee of the options to move forwards, on Monday 11th September 2023 and Tuesday 12th September 2023.
 - e. A date for the Council Business Management Committee has not been agreed, with no intention to set a date or make a decision as a result.
 - f. There is currently no methodology proposed to resolve the Equal Pay challenges facing the Council, and hence no process to limit the accrual of additional liability past 1st April 2025 (as the current estimates of potential liability of £650m to £760m assume that a new Pay Equity System is implemented on 1st April 2025; at present, the potential liability is accruing at a range of £5m-£14m per month).
 - g. Further details of this omission can be found within the Section 5 Report from the Monitoring Officer dated 21st September 2023.
3. As a result of the omission of a decision by the Council Business Management Committee, and since the liability will now continue to accrue, it is my opinion that the Council is now (a) accruing additional unlawful expenditure in the form of a growing liability, and (b) making a decision (by omitting a decision) that will result in a loss or deficiency for the Council and council tax payers. As such this triggers a notice under section 114 (2) of the Local Government Finance Act 1988.
4. The Section 114 Notice is issued following consultation with both the Chief Executive (Head of Paid Service) and the Monitoring Officer. Following the issuance of the Section 114 Notice the

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

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

Recommendations

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

Summary of key issues

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

Consequences of a Section 114 (2) Notice

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

Legal Framework

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

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

Next Steps

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

Fiona Greenway CPFA

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

21st September 2023

BIRMINGHAM CITY COUNCIL DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999

Signed on behalf of the Secretary of State for Levelling Up, Housing and Communities.

1. The Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State”) has carefully considered the following in respect of Birmingham City Council (“the Authority”):
 - a. The Section 114 notices issued by the Authority on 5 September 2023 and 21 September 2023.
 - b. The Section 5 notice issued by the Authority on 21 September 2023.
 - c. The first and second reports produced by the Department for Education’s Special Educational Needs and Disabilities Commissioner, published in May 2022 and February 2023 respectively.
 - d. The results of an anonymous survey of Councillors conducted by the Labour’s BAME group officer, published in November 2022 which revealed concerns about a toxic culture and lack of representation of BAME councillors in senior positions.
 - e. The report produced by the Local Government and Social Care Ombudsman, published in July 2023.
 - f. A Regulatory Notice issued to the Authority by the Regulator of Social Housing on 24 May 2023.
 - g. Discussions between Ministers and Officials of the Department for Levelling Up, Housing and Communities and Members and Officers of the Authority.
 - h. The Authority’s current equal pay situation, which poses an acute financial risk and has been allowed to develop over a number of years.
 - i. The statutory recommendations issued to the Council by external auditors on 29 September 2023.
 - j. The representation made on 22 September by the Authority on the proposed Directions.
 - k. A representation from a Trade Union received on 20 September.
 - l. Two representations from members of the public received on 21 September and 27 September.
2. The Secretary of State is satisfied that the Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (“the 1999 Act”).
3. The Secretary of State, having considered the representations made by the Authority as required by section 15(9) of the 1999 Act considers it necessary and expedient, in accordance with his powers under section 15(5) and (6) of the 1999 Act, to direct the Authority as set out below in order to secure the Authority’s compliance with the requirements of Part I of the 1999 Act, in particular:
 - a. To address systemic weaknesses in the Authority’s governance function, to secure improvements in transparency and formal decision making.

- b. To deliver financial sustainability, including by closing any short or long-term budget gaps - which should include taking action to expediate the closure of the equal pay liability.
 - c. To ensure compliance with all relevant rules and guidelines relating to the financial management of the Authority.
 - d. To agree as necessary any changes needed to the Authority's operating model and redesign of council services to achieve value for money and financial sustainability.
 - e. To achieve improvements in relation to the proper functioning of the Authority's IT.
 - f. To address the serious failings and ensure conformity with the best value duty, thereby delivering improvements in services and outcomes for the people of Birmingham.
4. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs:
- a. The Authority to take the actions set out in Annex A to these Directions.
 - b. That the functions of the Authority specified in Annex B to these Directions shall be exercised from the date of these Directions by the Commissioners acting jointly or severally; the Commissioners being persons nominated by the Secretary of State for the purposes of these Directions as long as those nominations are in force.
 - c. That, from the date of these Directions, the Authority shall comply with any instructions of the Commissioners in relation to the exercise of the functions specified in Annex B, and shall provide such information and assistance as the Commissioners may require for the purpose of exercising the functions specified in Annex B.
5. These Directions shall remain in force until 4 October 2028 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Signed on behalf of the Secretary of State for Levelling Up, Housing and Communities.

Maxwell Soule
Senior Civil Servant in the Department for Levelling Up, Housing and Communities
Date: 5 October 2023

ACTION THE AUTHORITY IS REQUIRED TO TAKE

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

“the Authority” includes the Leader, the Cabinet, members of the Cabinet, any committee or subcommittee of the executive, any committee or subcommittee of the Council, any officer of the Council or any other person who has responsibility for exercising the function or other decision making in relation to the matter in question.

The actions to be taken by the Authority are:

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

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

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS

In this Annex –

“the Authority” includes the Leader, the Cabinet, members of the Cabinet, any committee or subcommittee of the executive, any committee or subcommittee of the Council, any officer of the Council or any other person who has responsibility for exercising the function or other decision making in relation to the matter in question.

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

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

The Commissioners shall exercise:

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

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

BIRMINGHAM CITY COUNCIL DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999

EXPLANATORY MEMORANDUM

1. The Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State”) has exercised his powers under section 15(5) and (6) of the Local Government Act 1999 (“the 1999 Act”) in relation to Birmingham City Council (“the Authority”) to secure its compliance with the best value duty.
2. This Memorandum is intended as a companion document to the Directions issued on 5 October 2023. It summarises the circumstances in which the Secretary of State has made the Directions, his reasons for this exercise of his powers, and the implications of the Directions for the Authority.

The context for the Directions

3. The Authority has been beset by systemic failings over several years including weak governance, poor culture, a challenging relationship with trade unions and ineffective service delivery. These failings have been exacerbated by instability and churn at senior officer level. The Authority was in non-statutory intervention from 2015-2019 with an Advisory Panel, following the Kerslake report into the Trojan Horse affair. This found failings in governance, transparency, and financial management. When stepping down the Advisory Panel noted that, whilst progress had been made, significant challenges remained. In the intervening time, the Authority has used different models to support improvement work.
4. On governance, whilst the Authority has commissioned an independent review which is due to report in the next few weeks, the seriousness and scale of the Equal Pay liabilities and failed implementation of the Oracle financial ledger system (estimated to be up to £100 million) highlight critical weaknesses in the Authority’s broader internal control environment. There are also media reports of an internal report by the Labour Party that found a ‘dysfunctional’ climate amongst members, with associated implications for good governance and effective scrutiny.
5. On financial governance, concerns have been present since the original intervention in 2015 and have been recently precipitated by the Authority’s handling of the issues relating to Equal Pay and Oracle. The 5 September 2023 Section 114 notice was issued due to several factors, including correspondence from the external auditors Grant Thornton raising concerns around the provisions for Equal Pay in prior year accounts. Their assessment was that the size of the revised estimated Equal Pay (which the Authority currently estimates to be up to £760 million) means that the 2020/21 and 2021/22 accounts were materially misstated, and that the Authority did not have sufficient reserves to mitigate the cost of the liability due for these years. In addition to the acute financial position stemming from Equal Pay, the Authority is dealing with other difficulties. These include the costs of resolving the Oracle implementation,

estimated at £100 million, and the Authority's lack of progress in delivering planned savings.

6. On culture and leadership, the Authority has experienced extremely high levels of churn of senior staff in recent years. In the eight years prior to 2022, and following the 2014 Kerslake report, there had been nine Chief Executives and nine Directors of Children's Services. The Kerslake report also highlighted a culture of sweeping problems under the carpet or blaming them on others, rather than tackling them head-on.
7. On services, the Authority has historic issues with its waste services as shown in the non-statutory intervention and recent cases considered by the Local Government and Social Care Ombudsman; a Department for Education Special Educational Needs and Disabilities intervention is in place; and the Local Government Social Care Ombudsman and Regulator of Social Housing have recently raised significant concerns with the Authority about service delivery. The ongoing Equal Pay dispute is also causing continued friction with trade unions and there are risks of industrial action and impacts to service delivery.
8. On capacity or capability to improve, the Kerslake report found that successive administrations had failed the City. It warned that the Authority lacked a clear vision, had failed to tackle deep-rooted problems such as low skills and was not doing enough to provide consistently good quality services. These problems have endured as highlighted by the Equal Pay liability issue and failed implementation of the Oracle financial ledger system.
9. In April this year, Lee Rowley MP, Parliamentary Under Secretary of State for Local Government and Building Safety, wrote to the then Leader of the Authority requesting an independent governance review following concerns raised in reports by the Department for Education's Commissioner for Special Educational Needs at the Authority, the Local Government and Social Care Ombudsman, and the Housing Ombudsman. The scope of the review was then extended, with input from the Department, to include two further serious weaknesses in the Authority's broader internal control environment – the flawed implementation of a new financial ledger system, Oracle, and the Authority's handling of its significant Equal Pay liabilities. Concerns regarding Equal Pay and the Authority's response to these challenges have continued to grow over the Summer. In August, the Parliamentary Under Secretary of State for Local Government and Building Safety wrote to the Leader seeking assurances about whether the Authority were compliant with its best value duty.
10. On 1 September the Council Business Management Committee met to discuss the process for Equal Pay resolution and chose the option recommended by officers to minimise trade union involvement in the resolution process. However, under the agreed approach, trade unions were required to sign an addendum agreeing to minimise their role and accept the timescale for resolution. This should have happened by Monday 11 September, however the unions rejected this approach and sought renegotiation.
11. On Tuesday 5 September the Section 151 Officer issued a Section 114 notice. As laid out in the 151 officer's 114 report, the notice was issued due to several

factors, including correspondence from the external auditors Grant Thornton raising concerns around the provisions for Equal Pay in prior year accounts. Their assessment was that the size of the revised estimated Equal Pay (which the Authority estimates at up to £760 million) means that the 2020/21 and 2021/22 accounts were materially misstated, and that the Authority did not have sufficient reserves to mitigate the cost of the liability due for these years.

12. The stated purpose of this Section 114 report was to ensure that Members of the Authority understand the severity of the financial implications of the Equal Pay claims. The report was considered at an extraordinary meeting of Full Council on 25 September. At this meeting the Authority agreed to accept the Section 114 notice, agreed to continue spending control measures under the direction of the Section 151 Officer until a balanced budget for 2024/25 has been approved, and agreed to endorse the financial recovery plan set out by the Chief Executive.
13. In light of the above, and discussions between the Department and the Authority, the Department is particularly concerned about the ongoing issues facing the Authority and the scale of the financial risks. The Authority has failed to provide adequate assurance to Ministers and the Department on its actions to address the issues, considering the scale and pace of the response required. The Authority's situation is severe, and the improvement and recovery journey is likely to take a number of years.
14. A letter to the Authority of 19 September included a detailed description of the Directions that the Secretary of State proposed to make under sections 15 and 16 of the 1999 Act. The Directions set out the functions that the Commissioners will exercise, give responsibilities to Commissioners and require the Authority to take certain actions. The Secretary of State is also considering exercising his powers to direct a local inquiry, and may then want to consider the intervention package as a whole in light of that local inquiry.
15. This Memorandum explains the content of the Directions as finalised in the light of the representations received from the Authority, GMB Union and members of the public, together with the Directions and related material, and is published at www.gov.uk.

Representations

16. Before making Directions, the Secretary of State is required under section 15(9) of the 1999 Act to give the Authority an opportunity to make representations about the proposed Directions. We received four representations on the proposed intervention package, one from the Authority, one from the GMB Union and two from members of the public.
17. A joint representation from the Leader, Councillor John Cotton, and Chief Executive, Deborah Cadman OBE, of the Authority acknowledged the analysis of the challenges which led to the 'minded to' intervention package and welcomed the move to appoint Max Caller CBE as Lead Commissioner, noting his previous experience as a non-executive director at the Authority. The representation highlighted their desire for further clarity on the format, scope and timelines of the local inquiry, noting the Authority announced in June this

year its intention to hold a judge led inquiry into the causes of its Equal Pay liabilities. The Authority has also called for discussions regarding links between the statutory intervention being proposed under the Local Government Act 1999, and other statutory interventions, including the Special Education Needs and Disability (SEND) Commissioner and the intense dialogue with the Regulator for Social Housing (RSH). The representation also requests that the diverse nature of Birmingham is a factor in determining other commissioner appointments so as to give confidence to local communities and key partners alike.

18. The representation from the GMB Union requests that Commissioners are directed to engage with settlement talks with the GMB regarding Equal Pay.
19. One representation from a member of the public raised their concerns that Commissioners will only be empowered to provide strategic support and that operational change is necessary in relation to Oracle and the waste service. They were also complimentary of the Chief Executive. Another representation from a member of the public raised concerns about the costs of Commissioners.

The intervention package

20. Having carefully considered the evidence, together with the representations received, the Secretary of State is confident that there is a sufficient basis on which to found his considerations and, accordingly, is satisfied that the Authority is failing to comply with its best value duty.
21. The Secretary of State considers it necessary and expedient, in accordance with his powers under section 15(5) and (6) of the 1999 Act, to put in place an intervention package to secure the Authority's future and sustainable compliance with its best value duty.
22. The intervention will consist of the appointment of Commissioners to exercise specific functions of the Authority, if necessary, alongside Directions to the Authority. The Secretary of State considers that this package will address the failings identified above and the representation received from the Authority.

Commissioners

23. The evidence presents a strong case for intervention to deliver the improvements required. Therefore, the Secretary of State is nominating Commissioners for five years to ensure that the Authority acts immediately to meet its duty under Part I of the 1999 Act. The Secretary of State has nominated individuals with significant experience and expertise in local authority governance, finance, HR/ Equal Pay, housing, ICT and commercial projects given the failings of the Authority described above.
24. The Secretary of State has nominated the following people as Commissioners:
 - Max Caller CBE. Max has more than 50 years' experience in local government and is the former Chief Executive of the London Borough of Hackney and London Borough of Barnet, as well as the former Chair of the Local Government Boundary Commission for England. He has experience in multiple interventions and Best Value roles, including as Commissioner in Slough and Tower Hamlets and Best Value Inspector

in Northamptonshire and Liverpool. The Secretary of State has nominated Max as Lead Commissioner to bring together the team, set the direction and co-ordinate work so as to exercise the Directions.

- John Coughlan CBE. John has significant expertise in local authority governance, is the former Chief Executive of Hampshire County Council and has extensive experience of local government interventions especially in children's services. John has been asked to focus on broad improvement and governance, by supporting cultural change and transformation and driving forward work on the long-term sustainability of the Authority. His role will operate alongside his role as Commissioner for Special Educational Needs and Disability services in Birmingham, for which he reports to the Secretary of State for Education.
- Chris Tambini. Chris is the former Director of Corporate Resources at Leicestershire County Council, where he has held other roles including Section 151 Officer and Head of Strategic Finance. He was the President of the Society of County Treasurers and also worked at city unitary councils. Chris will focus on the financial position and recovery of the Authority. This will include supporting the Authority's work to develop and implement a plan for managing the significant Equal Pay liabilities that led to the Section 114 notices, and overseeing the steps needed to manage other budget pressures for 2023/24 and beyond, and to return the Authority to a position of long-term financial sustainability. It will also include considering what action may be necessary to ensure the Authority has appropriate and effective processes, governance and capacity in relation to its overall financial management.
- Pam Parkes FCIPD. Pam is the current Executive Director for People and Transformation at Essex County Council, is a FCIPD qualified senior practitioner and was part of the Best Value Inspection Team in Thurrock Council. Pam will focus on supporting Birmingham to improve its Human Resource and Organisational Design capacity and to find solutions to the Equal Pay issue, including ensuring that appropriate steps are being taken at the required pace to address and manage its Equal Pay liabilities, in a way that is both sustainable and represents value for money.
- Jackie Belton. Jackie is the Chief Executive of the London Borough of Bexley, the former Executive Director of Operations at the London Borough of Newham where she was responsible for Housing, Planning, Regeneration and Environment, and was Assistant Director of Housing Strategy at the London Borough of Camden. Jackie will focus on supporting the Authority's housing function.
- Myron Hrycyk. Myron is the Cabinet Office's Crown Representative for Oracle, IBM and Microsoft. Myron has held prior senior executive roles as Group Chief Information Officer and Chief Procurement Officer at Severn Trent Water and as Chief Information Officer at Yusen Logistics. Myron has worked in a range of sectors including Financial Services, Technology, Utilities and Logistics. Myron will focus on supporting the

Authority to rectify its Oracle issues, improve IT and provide commercial insight.

25. The Secretary of State has directed the Commissioners to exercise certain functions, if necessary, and to have a role in overseeing other functions or actions which the Authority is to perform. The Commissioners are accountable to the Secretary of State, in that they have been nominated by him and can have their nomination withdrawn by him. The Commissioners will report to the Secretary of State on the progress of the intervention within the first six months, and thereafter at six-month intervals – or at any other time deemed necessary by the Secretary of State.
26. Commissioners are nominated for the period from 5 October 2023 to 4 October 2028 or such earlier or later time as the Secretary of State determines. The Secretary of State may, if he considers it appropriate, nominate further Commissioners.
27. The Directions provide that the Commissioners' reasonable expenses and such fees as the Secretary of State determines are to be paid to them by the Authority.¹ The Secretary of State is mindful of the need for Commissioner remuneration to represent value for money for local taxpayers. In recognition of the nature and scale of the intervention, he has determined fees of £1,200 a day for the Lead Commissioner and £1,100 for other Commissioners.

Powers to be exercised by the Commissioners

28. The evidence set out above highlights failures in governance, financial governance, decision making, culture and leadership, services and capacity and capability to improve.
29. For these reasons, the Directions enable the Commissioners to exercise the following functions:
 - a. All functions associated with the governance and scrutiny of strategic decision making by the Authority.
 - b. All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority.
 - c. The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs, and all functions associated with the strategic financial management of the Authority, to include:
 - i. providing advice and challenge to the Authority on the preparation and implementation of a detailed action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;
 - ii. providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy

¹ Fees for Pam Parkes will be paid to her employer, Essex County Council.

- (MTFS) for the Authority, strictly limiting future borrowing and capital spending;
 - iii. scrutiny of all in-year amendments to annual budgets;
 - iv. the power to propose amendments to budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty;
 - v. providing advice and challenge to the Authority on the preparation of sustainable and affordable capital, investment and treasury management strategies; including on any requirement for an appropriate debt reduction plan or for any revisions to the Authority's minimum revenue provision (MRP) policy;
 - vi. providing advice and challenge to the Authority on a suitable scheme of delegations for financial decision-making;
 - vii. ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.
- d. All functions relating to the appointment and dismissal of persons to positions the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers, to include:
- i. The functions of designating a person as a statutory officer and removing a person from a statutory office;
 - ii. The functions under section 112 of the Local Government Act 1972 of –
 - 1. Appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and
 - 2. Dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.
- e. All functions to define the officer structure for the senior positions, to determine the recruitment processes and then to recruit the relevant staff to those positions.
- f. All functions associated with the Authority's operating model and redesign of services to achieve value for money and financial sustainability.
- g. All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions.
30. The Secretary of State considers that most decisions should continue to be made by the Authority. Commissioners will uphold proper standards and due process and recommend action to the Authority. The Secretary of State's intention is that the powers he is providing to the Commissioners be used to ensure that the Authority takes the necessary steps to achieve the best possible outcome for Birmingham residents and the public purse. The Commissioners

should not hesitate to exercise their functions if they determine it to be necessary to do so.

31. The exercise of these functions should enable the Commissioners to make sure that the Authority has made sufficient improvement within the next five years to be able to comply with its best value duty on a sustainable basis.

Political Advisors

32. In addition to the Commissioner team as set out above, the Secretary of State has appointed two political advisors to support the political leadership of the Authority as they take the difficult decisions that will be required:

- Lord John Hutton. John held roles as Defence Secretary and Business Secretary under the previous Labour Government. In 2010 he led a major review of public sector pension provision, and more recently he was appointed Chair of Make UK. He is currently the Prime Minister's Trade Envoy to Turkey and a current member of the House of Lords.
- John Biggs. John is the former Executive Mayor of the London Borough of Tower Hamlets and held prior roles there as Leader of the Labour Group and Council Leader. He has also served in the London Assembly. He has now retired from elected politics.

33. The Secretary of State has directed the Authority to meet the fees of the political advisors, at £1,100 a day.

Directions to the Authority

34. To achieve and facilitate the objectives of the intervention, the Secretary of State has also directed the Authority to take the following actions:

- a. Prepare and agree an Improvement Plan, which considers actions to secure continuous improvement and restore public trust across all the Authority's functions with a particular focus on housing, waste, finance, HR, governance and corporate services; to the satisfaction of the Commissioners (which may include or draw upon improvement or action plans prepared before the date of these Directions), within six months, with resource allocated accordingly.
- b. In the first 12 months to review the provision and operation of corporate services, (including HR, legal, internal audit, risk management, IT and systems, procurement and the PMO), to enable and support the effective delivery of front-line services and the smooth running of the Authority, and to implement any required changes thereafter to the satisfaction of Commissioners.
- c. To secure as soon as practicable that all the Authority's functions are exercised in conformity with the best value duty thereby delivering improvements in services and outcomes for the people of Birmingham.
- d. To report to the Commissioners on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as Commissioners may direct.
- e. To undertake in the exercise of any of its functions any action that the Commissioners may reasonably require to avoid so far as practicable

incidents of poor governance, poor financial governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.

- f. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
 - i. to any premises of the Authority;
 - ii. to any document relating to the Authority; and
 - iii. to any employee or member of the Authority.
- g. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions.
- h. To pay the Commissioners reasonable expenses, and such fees as the Secretary of State determines are to be paid to them. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.
- i. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

Duration of the intervention

- 35. The Secretary of State considers that any aspect of the Directions should only be in force long enough to achieve the stated objectives of the intervention. The Directions will remain in force until 4 October 2028 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date. The Secretary of State may decide to extend Directions beyond this date, or it may be appropriate to return functions before this time.
- 36. The Secretary of State has asked for an initial report from the Commissioners within the first six months, and thereafter at six-monthly intervals. This allows ongoing review of whether it would be appropriate to change any element of the intervention, to expand the functions of the Commissioners or for any function exercisable by the Commissioners to be returned to the Authority.
- 37. Where the Authority and Commissioners agree that it would be appropriate for the exercise of a function to be returned to the Authority, the Commissioners will report this to the Secretary of State, setting out reasons, including clear evidence as to why the public could be expected to have confidence in the Authority exercising this function in compliance with the best value duty. The Secretary of State will carefully consider any such reports and, if agreed to, further Directions will be issued to this effect amending these Directions made on 5 October 2023. The Secretary of State has not ruled out the possibility that further functions might be brought under the control of the Commissioners.