# Birmingham City Council Report to Cabinet

16<sup>th</sup> April 2019



Subject: Capita ICT Service Transition update

Report of: Director of Digital & Customer Services

Relevant Cabinet Member: Cllr Brigid Jones - Deputy Leader

Relevant O&S Chair: Cllr Sir Albert Bore, Chair, Resources O&S Committee

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Are specific wards affected?  If yes, name(s) of ward(s):	□ Yes	<ul><li>⋈ No – All wards</li><li>affected</li></ul>					
Is this a key decision?	⊠ Yes	□ No					
If relevant, add Forward Plan Reference:							
Is the decision eligible for call-in?	⊠ Yes	□ No					
Does the report contain confidential or exempt information?	⊠ Yes	□ No					
Appendix 8.2 contains information which is deemed exempt due to on-going commercial discussions regarding the contract, to disclose information at this stage in negotiations may have an adverse effect on these proceedings. Commercially sensitive information is also contained in this appendix.							

# 1 Executive Summary

1.1 The purpose of this report is to update Cabinet on the progress of the transition of ICT services from Capita, last reported to Cabinet in 27th March 2018. It proposes a recommended option of a partial termination for convenience of the Capita ICT services contract with an agreed commercial settlement with Capita and insourcing of many of the services. This is a different approach to that agreed with Cabinet on 27<sup>th</sup> March 2018, which proposed a phased transition of services.

#### 2 Recommendations

#### That Cabinet:

- 2.1 approves the partial termination of the Capita ICT Services contract ("Option 1") as set out in paragraph 4 of this report and delegates authority to the Deputy Leader, the Chief Financial Officer and the Acting Director of Digital and Customer Services to implement. Note that this recommendation supersedes the decision made by Cabinet on 27th March 2018 (specifically paragraph 2.1).
- 2.2 approves the transfer into the Council of up to 342 Capita employees and Council employees currently seconded to Capita who manage the Councils ICT Services.
- 2.3 approves subject to consultation the transfer out of 24 seconded Council employees currently delivering services to schools to Capita.
- 2.4 approves the funding requirement of £7.641m from the Invest to Save Reserve as set out in paragraph 7.3.11 of this report to enable implementation of Option 1, to be repaid over 3 years between 2020/21 to 2022/23.
- 2.5 authorises the Assistant Director Property Services to undertake the surrender and/or termination of any lease or licence to give effect to the above recommendations.
- 2.6 authorises the City Solicitor to negotiate, execute, seal and complete all necessary agreements and documentation to give effect to the above recommendations.

2.7 notes the financial information provided to support the recommendations in this report in the Exempt Appendix 8.2.

## 3 Background

- 3.1 The Council's contract with Capita for ICT services commenced in 2006 for a ten-year period with an option to extend for a maximum of a further five years. This extension was exercised in 2011 as the 4th Deed of Variation and as a result the contract is due to terminate on the 31<sup>st</sup> March 2021.
- 3.2 In October 2016 Cabinet approved the Information & Communications Technology & Digital Strategy (2016 2021) and associated funding to guide the prudent use, maintenance and development of the Councils ICT assets to and beyond the end of the existing 'Service Birmingham' contract in 2021. The strategy described the need for investment, which along with a transition to a new ICT Operating Model would enable the Council to deliver the savings associated with the service between 2017 and 2021. In January 2017 the Council formed the "Service Birmingham Transition Programme" and initiated contract negotiations with Capita with key objectives to:
- 3.2.1 Save £43m in total across 4 years to 2020/21, of which £10.020m was revenue from the Core ICT Contract cost in 2017/18, as set out in the Medium-Term Financial Plan 2017+. The sale of the Council stake in Service Birmingham agreed by Cabinet in November 2017, which took place in January 2018 delivered one-off resources which were used to deliver the savings of £10.020m in 2017/18 and contributed to savings of £12.050 in 2018/19.
- 3.2.2 Reach a negotiated position with Capita that;
  - Allows the Council moving forward to gradually take back full control of its ICT & Digital from Capita/Service Birmingham.
  - Allows the Council to deliver the ICT & Digital projects in a manner that represents value for money and meets the needs of the Directorates and the wider Council.
  - Gives the Council flexibility to deliver an ICT & Digital Service and future Operating Model that can flex as the wider Council transforms.
  - Gives the Council the right to go to the market as it selects solutions or implements new capability to test that it always getting real value for money.

- Potentially allows the Council to select multiple suppliers, and in doing so avoid penalty charges.
- 3.3 Informed by these negotiations the 27<sup>th</sup> March 2018 Cabinet approved a plan which enabled a series of phased service changes combining service transition from Capita to the Council and transformation to deliver the required service outcomes and savings. Cabinet were also appraised on the risks associated with the transition of services and agreed that to fully implement the Council's objectives the Council would need to pay contractual penalties. Cabinet were also informed that it had not been possible to agree any new mechanisms to assure the Council savings. The current contract does not incentivise either parties to work together to minimise costs. Capita as service provider takes all the risk and benefits of any cost savings. Discussions with Capita on the potential for the Council to share new cost savings from any tactical activity, particularly in 2018/19, did not achieve any results.
- 3.4 The 27<sup>th</sup> March 2018 Cabinet report identified a shortfall against the 2018/19 savings of £3.5m and this was met through one off in year savings.
- 3.5 The plan approved by Cabinet in 27<sup>th</sup> March 2018 assumed that the Council would take a phased approach to the transition and transformation of services, thereby delivering efficiencies from the service. Significant issues were experienced in implementing this approach. It became apparent by September 2018 that the savings programmed for 2019/20 and future years were at significant risk of non-delivery and consequently alternative options were required to secure a more assured delivery of the savings targets set out in the Medium-Term Financial Plan.
- 3.6 A new approach to split transition from transformation was instigated to mitigate this significant risk, to enable savings to be realised rather than be lost due to further delays. Once the ICT service is within the Council's control, the transformation will also be more assured. The new transition approach would mean the Council takes back control "as-is" and then develops and transforms the service when it has greater control. This would also mitigate the risk of significant impact on the ICT & Digital Strategy and the Council Plan.
- 3.7 The Council proposes to leave certain services with Capita until the end of the existing contract. This is primarily due to it not being possible to move some of these services before that date without unacceptable risk. These include; data centres, offshore SAP support, corporate telephony and some IT support. The existing contractual relationship (the Service Delivery Agreement) will continue to govern the delivery of these services. The approximate value of these

services over the remaining term is £8.3m and there are no staffing implications associated with these services.

- 3.8 Section 4 details the transition options considered and the choices about timing of exit. The Exempt Appendix 8.2 details the financial position of the options.
- 3.9 Based on the initial review of the financial position, and after confirmation from the Council's ICT and HR teams that it was achievable, negotiations with Capita for an exit in August 2019 were started in January 2019. The negotiations progressed well, and a settlement agreement was reached mid-March 2019. Option 1 reflects this settlement agreement.
- 3.10 The contracts for the delivery of ICT services delivered to Schools were transferred to Capita at the start of the outsourced contract in 2006. Capita have developed those relationships with schools, and it has developed as an independent business. It now delivers a range of services to schools and other educational establishments outside the Council's boundary. The Council has very limited impact and influence over this service, how it is delivered or pricing. Schools continue to purchase these services directly from Capita on an annual basis.
- 3.11 A multi-disciplinary team from Digital and Customer Services, Finance, Legal and HR with support from external specialists have been working on the delivery of the ICT & Digital strategy since 2017. A further report will be presented to Cabinet on the 14<sup>th</sup> May 2019 to update Cabinet on the progress made on the implementation of the Councils ICT & Digital Strategy, including future plans.

### 4 Options considered and Recommended Proposal

- 4.1 Investigations from Oct 2018 to Jan 2019 have shown that bringing the Council ICT services in-house will deliver a significant gross reduction in cost against existing capital and revenue spend. This is detailed in the Exempt Appendix 8.2 to this report. The cost model information supporting this was provided by Capita, working with the Council's advisors over this period.
- 4.2 Stepped contractual early termination payments payable to Capita mean that analysis was necessary to evaluate the optimum exit date considering the practicalities, the risks, the costs and the lead time of transferring the service back. Significant due diligence was undertaken to identify the optimum time for

transfer to maximise the financial benefits and reduce risk to service delivery arrangements.

- 4.3 In the Exempt Appendix 8.2 the forecast costs and benefits of transitioning the services has been modelled. The model demonstrates that the financial benefit that is achievable declines over time, mostly in a linear fashion, consequently the most favourable is the earliest practical exit date to deliver the maximum financial benefit.
- 4.4 The earliest practical date for exit when considering the risks of transferring the Council ICT services back and the lead time required for staff consultation is August 2019. This date was proposed by Capita during the negotiations.
- 4.5 Having reviewed the approach several options were considered as follows:

	Option 1	Option 2	Option 3
	Settlement agreement - as negotiated	Contract expires naturally	Full termination
Description	The Council partially terminates the contract for convenience on the mutually agreed negotiated terms.	The contract expires naturally at the end of March 2021.	The Council fully terminates the contract for convenience and pays all contractual obligations.
Summary and reasoning	Recommended. Highest equal net benefit, de-risk of transfer by leaving some services with Capita.	Not recommended. Lowest net benefit.	Not recommended. High risk to service continuity for data centres and SAP support
Capita retained services	Capita would retain certain services to be delivered under the existing contract terms (SDA) but with increased cost to the Council (margin). These include: data centres, offshore SAP support, Corporate telephony and some IT support.	None	None
Re-procurement of services required on transition	None	Data centres, SAP offshore support, Corporate telephony and some IT support.	Data centres, SAP offshore support, Corporate telephony and some IT support.

Table 1: Options Appraisal

Further implications from the options considered are provided in the Exempt Appendix 8.2.

When the contract was let in 2006 the Council required Capita to take on the responsibility of servicing the contracts for ICT services to Schools. The schools market has developed significantly since 2006 and is highly competitive with many service providers with leading edge products which are used to improve and manage educational establishments and improve educational outcomes.

Significant investment is required to maintain a market presence and develop products if the Council were to re-enter the ICT services to schools market putting the Council at reputational and financial risk. Schools also purchase contracts on an annual basis and the market is shrinking due to consolidation as the Schools join up into multi-academy trusts. Therefore, as part of its consideration the continued delivery of ICT services to Schools was reviewed and as Schools contract directly with Capita without any involvement from the Council, it was not felt in the interests of those Schools' customers to impact that arrangement.

#### 5 Consultation

#### Internal

- 5.1 Senior officers in Finance, Legal, HR and Procurement have been involved in detailed negotiations since January 2019 with Capita.
- 5.2 The Leader and Deputy Leader have been consulted regarding the contents of this report.
- 5.3 The Cabinet Member for Finances and Resources, the Chair of Resources Overview and Scrutiny Committee, the Leader of the Conservative Party, the member with responsibility for ICT matters from the Conservative Party, Leader Liberal Democrat Party and the member with responsibility for ICT matters from the Liberal Democrat Party have been consulted regarding the contents of this report.
- 5.4 Capita ICTDS (formerly Service Birmingham Ltd) has continued to undertake informal and formal communication with the Council staff seconded to the existing service supported by the Council's Chief Information Officer.
- 5.5 Engagement with trade union representatives started on 23rd January 2019 by the Council's Chief Information Officer.

#### External

Gowling WLG are externally appointed legal advisors who have reviewed the original Capita contract and its various schedules in support of the development of the various negotiation options and in accordance with instructions have advised on the process, issues and risks around the transition approach.

# 6 Risk Management

6.1 The risks detailed below are the risks associated with the partial transfer of the Service at will (Option 1). Exempt Appendix 8.2 contains a full risk assessment with mitigation activity on the transition of ICT services.

Risk	Probability / impact	Mitigation	Post Mitigation Probability / Impact
Staff Retention Capita staff may leave ahead of transfer	Medium / High	Union and staff engagement have already started and will continue regularly throughout transition. Key roles have been identified, plans and budget has been put in place to transfer knowledge and skills in case these key staff do not TUPE over to the Council.  We are also working with all staff, as part of the "Shaping of the Future" workshops to reduce the uncertainty for staff.	Low / Medium
Third party contracts  There are over 240 third party sub-contractors to Capita Birmingham that will novate across to the Council on transfer.  Capita provide procurement support as a shared function within their main business and therefore some staff will not transfer to the Council.  The risk is that the sub-contract management will not be fully resourced	Medium / High	The Council are creating new procurement capacity to support the management of these additional contracts.  These additional resources are fully funded and allocated in the budget.	Low / Medium

Risk	Probability / impact	Mitigation	Post Mitigation Probability / Impact
Service Continuity There may be gaps in the service at day one which would impact service delivery	Medium / Medium	The Council have met Capita weekly, held workshops and built an "as-is" blueprint to reduce this uncertainty and understand the existing service. Due diligence has been carried out e.g. visits to Datacentre sites, review of Assets, review of Third-Party contracts reconciled back to the Capita Cost model and cross referenced against the as-is blueprint. All the identified gaps are being filled as part of the transfer plan and the activity is fully costed and is within the budget.	Low / Low
In-Flight Projects There is a risk that inflight projects will hinder transfer, resulting in delays to the project delivery or cost overruns.	Medium / Medium	Prioritisation of projects will reduce the number in-flight. The Council and Capita are agreeing a process to ensure there is a seamless handover of the remaining projects with no impact to service continuity, ensuring finances are dealt with and resources in place. A clear plan will be agreed with Directorates to mitigate any risks to ongoing service delivery.	Low / Low

Table 2: Risks

6.2 Refer to the Exempt Appendix 8.2 for additional commercially sensitive risks.

## 7 Compliance Issues

- 7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?
- 7.1.1 The Council's objectives and priorities as detailed in the Council Plan approved by Cabinet on the 26 June 2018 will be supported by the adoption of this proposal which is consistent with the ICT & Digital Strategy (2016 2021) approved by Cabinet in October 2016.
- 7.1.2 The Council Plan approved by Cabinet in June 2018 stated that the Council must:
  - Have greater integration between our services/functions
  - Make much better use of customer insight and business intelligence to ensure we make informed decisions and deploy all our resources appropriately
  - Be leaner and more agile, with fewer layers of management and increased spans of control.
  - Work more collaboratively as 'One Council'.
  - Further consolidation of support services to realise efficiencies
- 7.1.3 All of which are supported by the Councils ICT & Digital Strategy.
- 7.2 Legal Implications
- 7.2.1 The Council are under a duty under Section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The implementation of the Savings Plan will deliver economy.
- 7.2.2 As a result of the partial termination of the contract with Capita, those employees currently on secondment will return to the City Council and Capita

employees will transfer to the Council in accordance with the TUPE Regulations. All staff will be subject to engagement and consultation sessions.

- 7.2.3 Other legal implications are covered in the Exempt Appendix 8.2.
- 7.3 Financial Implications
- 7.3.1 This report updates Cabinet to the financial implications resulting from transition, including the delivery of savings and the impact of meeting costs of transition, and how transition of service will impact the savings target and the LTFP.
- 7.3.2 The ICT service has a controllable net budget of £50.728m in 2018/19 and £44.624m in 2019/20. The forecast budget over the period of the Long-Term Financial Plan (LTFP) is set out in the Table 3. This incorporates a range of budget adjustments driven by prior year approved decisions, including approved savings in the MTFP, funding of inflationary and other service pressures.

ICT & D Budget and LTFP	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Gross Expenditure Budget	60,354	52,977	49,615	44,992	46,104	45,774	45,914	46,927	48,979	48,979	48,979
External Income Budget	(9,626)	(8,353)	(8,353)	(8,353)	(8,353)	(8,353)	(8, 353)	(8, 353)	(8, 353)	(8, 353)	(8, 353)
Controllable Expenditure Budget	50,728	44,624	41,262	36,639	37,751	37,421	37,561	38,574	40,626	40,626	40,626

Table 3: ICT & D budget

7.3.3 The savings included in the 27<sup>th</sup> March 2018 Cabinet paper are summarised in Table 4. They were intended to be achieved through a combination of saving the estimated Capita margin at that time, restructuring the service, delivering tactical savings from the ICT Supply chain, and savings associated with the replacement of the existing SAP ERP system.

5 year Business Plan Summary Option B Service transfer and IT & D transition	18/19	19/20	20/21	Total	21/22	22/23	Total
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Savings per business case details not shown	1,083	11,589	16,611	29,283	16,611	16,611	62,505
Target savings required MTFP	4,608	11,353	12,854	28,815			
Differences per Option B	3,525	(236)	(3,757)	(468)			

- 7.3.4 Option B in the business case presented in 27<sup>th</sup> March 2018 aimed to deliver savings of £29.283m (Table 4) over the three years to 2020/21 against the approved target savings in the 2018+ MTFP of £28.815m over the period; a surplus of £0.468m compared to the MTFP. Option B involved the achievement of efficiency savings, headcount reduction and tactical savings in ICT procurement. The efficiency savings related to the implementation of the "standardise, simplify and share" design principles from the ICT & Digital Strategy e.g. application rationalisation, data centres, data and voice networking etc.
- 7.3.5 During 2018/19 the planned savings from headcount reductions has been exceeded through voluntary redundancy. Further savings on ICT procurement costs were also assumed based on accurate and timely information on spend being available. The implementation of the ICT & Digital Strategy savings shown in the 27<sup>th</sup> March 2018 report were thought to be achievable at that point in time but were determined not to be deliverable as planned.
- 7.3.6 The options in relation to the potential early termination are explained in Exempt Appendix 8.2 of this report.
- 7.3.7 In preparing this business case, extensive due diligence has been carried out in relation to the forecast future budget for ICT&D as set out in the Council's approved LTFP in order to ensure that the transition and the further ICT strategy programme will achieve the savings targets and other financial obligations set out in the plan. The outcome of this work is summarised in the Exempt Appendix 8.2.
- 7.3.8 ICT Implementation strategy programme: The proposed initiatives within the ICT Strategy programme aims to deliver £19.026m of savings over the 5-year period to 2023/24. Detailed business cases are currently being developed. The savings have been re-profiled based on the revised approach outlined in this Cabinet report.
- 7.3.9 The ICT Strategy programme involves the following example activities:
  - Simplifying the Council's wide area network reducing core contract costs of service and increase flexibility in service offering removing the dependency on our property portfolio

- Simplifying the Council's voice network removing our reliance on old technology.
- Rationalisation of the datacentre hosting environment simplifying the technology used and reducing the number of datacentres in use.
- Reducing the number of applications the Council uses and reducing the overall software costs through the adoption of a more pay-as-you use charging scheme and centralised software licencing.
- Simplification of a managed mobile environment reducing complexity cost and improving agility.

Savings from this programme enable the use of flexible capital receipts of £11.142m as previously approved via the 27<sup>th</sup> March 2018 Cabinet report, and from the IT base budget (prudential borrowing budget).

- 7.3.10 Over the period 2018/19 to 2020/21, there is a total investment of £28.895m in the ICT Strategy Implementation Programme, and the Information and Management Strategy. The revenue consequences of this expenditure and previous expenditure will total £35.108m, which will be funded by flexible capital receipt of £11.142m and IT base revenue budget of £23.966m. All the above are in line with the Council ICT&D strategy approved by Cabinet in October 2016.
- 7.3.11 To enable the recommendations in this report £7.641m will be required to be funded from the Invest to Save Reserve and this will be paid back over the period 2020/21 through to 2022/23 as set out in table 10 of Exempt Appendix 8.2.
- 7.4 Procurement Implications
- 7.4.1 There is no immediate requirement to procure new services to deliver ICT service. Other than those retained by Capita until the end of the contract, the existing services will transfer to the Council.
- 7.4.2 Existing services that will remain with Capita will require further definition and will incur increased costs. These have been included in the financial modelling. The services remaining include: Data Centres, SAP offshore support, Corporate telephony and hardware support.

- 7.4.3 The Council will need to integrate a 'Supplier Management Function' to manage the contracts novated from Capita Birmingham and manage the remaining Council to Capita contracts within the Council's existing procurement and commissioning structure. There is provision to fund this increased resource requirement included in the cost modelling.
- 7.4.4 By March 2021, the Council will need to migrate the remaining Capita provided services to new suppliers and this has been accommodated with the investment set aside by Cabinet in October 2016.
- 7.5 Human Resources Implications
- 7.5.1 The Service is made up of 342 employees working on the Councils core ICT Services (147 seconded and 195 Capita employees) and 151 working on ICT Services to schools (24 seconded and 127 Capita employees). All data is at 18th February 2019. The proposed transfer date of staff associated with the Councils core ICT Services is 1st August 2019.
- 7.5.2 The proposal associated with the transfer of the Councils core ICT service were presented to BCC Trade Union colleagues at the Corporate S188 Trade Union meeting held on 23rd January 2019 where they were offered the opportunity to raise questions. A further engagement session was held on the 4th March 2019. The purpose of this session was to clarify who is to be consulted and by whom. In this instance, it will be for Capita HR to share with Capita Staff representatives, any proposed measures.
- 7.5.3 It is the responsibility of Capita to inform/consult with their employees through "appropriate" elected representatives who could be trade unions or representatives. As Capita do not formally recognise trade unions, they must arrange elections amongst the affected employees in order to elect representatives to consult on their behalf, about the transfer.
- 7.5.4 Formal consultation by Capita will commence once the Staff representatives have received training and therefore it is anticipated that consultation will begin at the end of April 2019. The purpose of the consultation is to review any measures proposed by the Council. Any proposals will become clearer once we have received the anonymised data from Capita, which will shape consultation. Consultation is scheduled to continue through to June 2019.
- 7.5.5 We are reviewing on a monthly basis, any vacancies that are arising in Capita to ensure that posts are recruited to, in order to avoid a gap in skills and

knowledge. To this effect, Capita are only recruiting to critical posts and have agreed to continue to work with the Council following the termination notice, to avoid any gaps in the service.

- 7.5.6 At this stage, we are not proposing any immediate redesign post transfer, as we wish to stabilise the service and ensure that we take on board the views of the staff prior to any review. We are working with all staff, as part of the "Shaping of the Future" workshops and engagement sessions. In addition to this, we will be providing regular newsletters and updates to all staff to ensure that they are fully informed of what is happening, during all phases of the transition programme. Staff induction arrangements post transfer are already captured in the HR plan to ensure a seamless transfer and welcome all staff to the Council.
- 7.5.7 Subject to Cabinet approving Option 1 in this report, and subject to consultation, the 24 BCC staff currently seconded to Capita as part of LINK2ICT will transfer from the Council to Capita. The proposed transfer date is yet to be agreed with Capita. Capita have admitted body status to the West Midlands Pension Fund.
- 7.6 Public Sector Equality Duty
- 7.6.1 In October 2016 Birmingham City Council Cabinet approved the ICT & Digital Strategy for the period 2016 -2021. The work to implement the strategy has two major projects:
  - 1. An Investment Programme implementing replacement and new, enabling ICT assets in line with the strategy and in support of the Council's new Business Architecture.
  - 2. An ICT Transition Programme to take BCC up to and beyond the end of the Service Birmingham partnership with Capita and the ending of the Joint Venture with Service Birmingham.
- 7.6.2 An Equality Analysis was completed during the development of the ICT & Digital Strategy (2016-2021 and for the Cabinet report of the 27th June (see Appendix 8.1). There has been no change to that analysis.

## 8 Appendices

- 8.1 Equality Impact Analysis
- 8.2 Exempt Appendix

## 9 Background Documents

# 9.1 List of Supporting Documents

- Report to Cabinet October 2016 Birmingham City Council Information & Communications Technology & Digital Strategy (2016 -2021)
- Report to Cabinet October 2016 Birmingham City Council Strategic
   ICT & Digital Investment Programme (2016 2021)
- Report to Cabinet of 27 June 2017 Delivery of Savings against Service Birmingham ICT Contract
- Report to Cabinet of 14 November 2017 Budget savings proposals, ending the Joint Venture (JV) with Capita for Service Birmingham and proposing new contractual arrangements up to 2020 / 2021
- Report to Cabinet of 27 March 2018 Outcome of final stage negotiations between BCC and Capita - proposed IT and Digital Service Transition Roadmap to 2020/21, with associated investments and benefits