

Birmingham City Council

City Council

09 June 2020



Subject: Annual Report: Late Reports not on the Forward Plan and Those Authorised for Immediate Implementation

Report of: Catherine Parkinson, Interim City Solicitor and Monitoring Officer

Report author: Emma Williamson, Head of Scrutiny Services

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:

1 Executive Summary

1.1 The Constitution¹ states that a report will be submitted to Council on an annual basis detailing:

- those reports authorised for immediate implementation: i.e. where “... the interests of the Council are jeopardised unless an executive decision is implemented immediately then the Chief Executive in consultation with the Leader (or Deputy Leader in his/her absence) may designate such executive decision as so urgent that its implementation cannot wait until the expiry of the call-in period”;
- those decisions not on the Forward Plan, i.e. notification published the required 28 days ahead of consideration, and thus requiring the agreement of the Chair of a relevant Overview and Scrutiny Committee of the matter to which the decision relate

1.2 This report sets out that information for the 2019/20 municipal year

2 Recommendations

2.1 That Council notes the report.

¹ Part B6.2; as agreed by City Council September 2019

3 Reports Not on the Forward Plan

- 3.1 Key decisions are made by Cabinet and must first be published in the Cabinet's Forward Plan in so far as they can be anticipated, and at least 28 days before the meeting. If a key decision is not on the Forward Plan, then it may still be taken by Cabinet provided it meets the requirements set out in the Constitution (Part B3.5).
- 3.2 There was one report not on the Forward Plan in the 2019/20 municipal year: Home to School Transport – Medium Term Service Provision Arrangements, agreed at the Special Cabinet meeting called on 22 May 2019. The reason given was as below:

The Cabinet report relates to the collapse of ATG Group who provided home to school transport to the Council. This is an unprecedented transaction in terms of fluidity. As a result, officers have encountered challenges on seeking a recommendation option to ensure service continuity statutory for vulnerable children and young people. This report contains planning assumptions based on best information available to officers from the Administrators as of 13 May 2019. The Cabinet report asks for agreement to a number of actions for which immediate implementation is required that will enable transport provision where possible to until medium-term solutions can be reached.

The Council has a statutory duty to provide transport to education providers for eligible children. With regards to ATG this is 1,600 children and 210 routes. It has therefore been crucial to undertake detailed discussions quickly and to seek agreement from Cabinet to extend the transitional service agreement as soon as possible before it expires and services cease. Additionally, it is crucial to be able to begin working with Administrator in conjunction with West Midlands Combined Authority to make a recommendation to the Administrator on the Council preferred bidders prior to the sale taking place. Lastly, officers need approval to begin negotiations with the purchaser of ATG to allow for a smooth transition of services and minimal disruption to vulnerable children and young people. If the Council is not able to make swift decisions commensurate to the speed of the sale it runs the risk that major risk and / or issues could occur during mobilisation and implementation

4 Reports authorised for Immediate Implementation

- 4.1 Six reports were authorised for immediate implementation and so were not subject to call-in. The reports were:

Title	Decision Maker	Reason Given	Date of Meeting
Home to School Transport – Medium Term Service Provision Arrangements	Cabinet	See above	22 May 2019 (Special Cabinet)

Title	Decision Maker	Reason Given	Date of Meeting
Highway Maintenance and Management PFI Contract	Cabinet	To enable a commercial settlement to be reached prior to 30 June 2019. After this date an acceptable settlement might not otherwise have been possible.	25 June 2019
Contract Award: Home to School Transport	Cabinet	To award the contract in time to ensure continuity of service – the administrator has indicated that to allow an orderly transfer of services to a new provider and to enable service continuity for adult transport services, it was willing to extend the contract to 31 August 2019 but not any further.	15 July 2019 (Special Cabinet)
Capita ICT Service Transition – Authority to Seal Documentation	Cabinet Member / Chief Officer	The timescales to achieve a sealed Settlement Agreement and the necessary Contract variation agreement were tight and a call-in period would have pushed the timescales beyond 1st August transition date thereby impacting the TUPE transfer and commercial position.	26 July 2019
Emergency decision - Commonwealth Games – National Express Bus Depot relocation	Acting Chief Executive	BCC required to enter into a sale, relocation and development funding agreement; awaiting the next Cabinet meeting would result in an unacceptable delay to the programme.	31 December 2019

Title	Decision Maker	Reason Given	Date of Meeting
Perry Barr Regeneration Scheme	Cabinet	<p>The Report is recommended to be exempt from call in for the following reasons:</p> <ol style="list-style-type: none"> 1. The PBRs programme has critical milestones that need to be met to achieve the commitments made by BCC to host the Birmingham 2022 Commonwealth Games; 2. With respect to above, all PBRs plots need to be completed and handed over to the OC prior to 31 March 2022; 3. Plot 1 is on the critical path and will provide 670 beds for Games Time 4. Negotiations with the recommended contractor for Plot 1 have now been concluded and contract execution is required by no later than 20 March 2020 in order to commence works on site on 30 March 2020 and thereafter maintain programme; 5. Approval of the RFBC is required to allow BCC to enter into contract with the recommended contractor by this latest date (20 March 2020). 	17 March 2020