

# Birmingham City Council

## Report to Cabinet

27 July 2021



**Subject:** Response to Recovery

**Report of:** Robert James, Managing Director of City Operations

**Relevant Cabinet Member:** Councillor Ian Ward (Leader), Councillor Paulette Hamilton

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

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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: <b>009145/2021</b>		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

### 1 Executive Summary

- 1.1 This report seeks to inform Cabinet of the Council's plan to end the current state of emergency on 2 August 2021, subject to specific conditions being met. This will enable the Council to increase its focus on supporting Birmingham residents and businesses to recover from the impacts of the pandemic.
- 1.2 The report seeks Cabinet approval for authority to be delegated to the Director of Public Health in consultation with the Director of Council Management, the City Solicitor, the Leader and the relevant Cabinet Member (depending on the proposed spend) to use COVID-related government funding to respond quickly to future

threats from the virus and in doing so to protect the residents of Birmingham and the wider West Midlands. This delegation would be up to 31 March 2022, and on the basis the Director of Public Health will provide updates to Cabinet at least every two months on progress, decisions taken and spending in relation to the associated budgets and funding streams.

- 1.3 The report also seeks Cabinet approval for authority to be delegated to the Managing Director of City Operations in consultation with the Director of Council Management, the Leader and the relevant Cabinet Member to use the £2.9m award to the Council for the current financial year (FY2021/22) under the National Leisure Recovery Fund to support the Council's key Leisure partners, who have been significantly impacted by the pandemic. This would be on the basis the Managing Director of City Operations will provide quarterly updates on spend against the £2.9m funding award.

## **2 Recommendations**

- 2.1 That Cabinet notes the Council's plan to end the current state of emergency on 2 August 2021. This decision being subject to specific conditions being met including the majority of current, national restrictions being lifted on the 19 July 2021, the final date in the government's roadmap.
- 2.2 That Cabinet delegate authority to the Council's Director of Public Health in consultation with the Director of Council Management, the City Solicitor, the Leader and the relevant Cabinet Member (depending on the proposed spend) to use the Test & Trace budget and other related COVID funding sources to best mitigate risks arising from the ongoing pandemic, especially where there is a need to respond quicker than the Council's statutory decision making process would allow, until 31 March 2022. This is on the basis that the Director of Public Health will update Cabinet at least every two months on progress, decision taken and the use of the budgets and funding.
- 2.3 That Cabinet delegate authority to the Managing Director of City Operations in consultation with the Director of Council Management, the Leader and the relevant Cabinet Member to approve Leisure Supplier Relief payments during FY2021/22, up to a maximum of £2.9m, the amount the Council has been award via the National Leisure Recovery Fund. This is on the basis that the Managing Director of City Operations will provide quarterly updates to Cabinet on payments made against the £2.9m funding award.

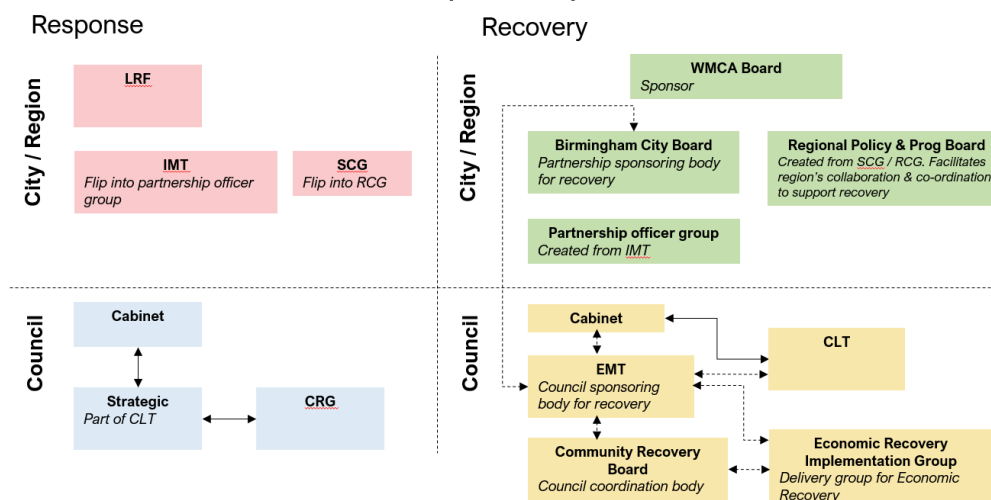
## **3 Background**

- 3.1 The Council implemented its pandemic plan in January 2020 and has been operating under emergency arrangements since declaring a Major Incident in March

2020. These arrangements were necessary in the early stages of the pandemic to enable the Council to respond quickly and effectively to a fast-moving situation.

- 3.2 In January 2021 the Council made changes to the emergency response, including transferring the majority of the COVID response into individual Directorates and in doing so moved the response to a more business as usual model.
- 3.3 The Council's response to COVID no longer falls within the 2 primary tests for resilience, as the Council is now able to perform its functions and is now able to take timely action in support of the COVID response.
- 3.4 With the planned end of the majority, if not all restrictions on 19 July 2021, as per the Government's current roadmap, the Chief Executive Officer plans to declare an end to the current emergency on 2 August 2021, subject to the following conditions being met:
  - 3.4.1 That Birmingham is not subject to any specific local restrictions, enhanced support or tier arrangements.
  - 3.4.2 That no major issues have been raised during the 2-week period after 19 July, during which time the plan is for the Council to operate post-emergency arrangements.
- 3.5 A decision to end the emergency is one that can be made by the Chief Executive Officer alone.
- 3.6 A decision to end the emergency will mean a number of key changes to the way the Council operates. The key points are below, with more information provided in Response to Recovery CLT paper referenced in Section 9 (Background Documents):
  - 3.6.1 An end to decision-making under emergency powers.
  - 3.6.2 Changes to the governance structures, including the disbanding of the Strategic cell, the Coordination & Response Group and the transfer of the on-going COVID response back into Directorates.
  - 3.6.3 The stepping down of certain workforce practices, put in place during the emergency. Any such changes would be subject to consultation with Trade Unions.
- 3.7 The proposed recovery governance structure discussed at EMT on 8 June 2021 is shown on the right-hand side of the diagram below.

## Governance framework (DRAFT)



- 3.8 While the emergency would be declared over the pandemic will persist, and the view is that we will be living with the virus at least into 2022.
- 3.9 During the course of the current emergency the Council has had to take quick and decisive action to protect the residents of the city in addressing emerging threats. When the emergency ends the Council will no longer have access to the emergency decision making process, with future decisions being made through the statutory decision-making process.
- 3.10 A key area of risk is the ability for the Council's Public Health team to respond to emerging threats at pace, for example to implement surge testing in response to a new Variant of Concern. Rather than retain the current state of emergency the proposal is that Cabinet delegate authority to key officers so the Council can respond quickly and effectively to protect the residents of Birmingham.
- 3.11 Another risk identified with the ending of the emergency is the Council's ability to use grant funding allocated via the National Leisure Recovery Fund to support key partners in the leisure sector (Places Leisure and Birmingham Community Leisure Trust) that have been significantly impacted by the pandemic. Given the time it currently takes for the council to gather and process the relief claims from Leisure providers, if the approvals follow the Council's statutory decision-making process the timescales will have a negative impact on the supplier's cash flow. Cabinet is asked to delegate authority to the Managing Director of City Operations to enable supplier payments can be authorised in a timely manner. A log of the COVID decisions exercised under this delegation will continue to be published on the Council's internet.

## 4 Options considered and Recommended Proposal

- 4.1 The following options were considered:

- 4.1.1 To continue with the current state of emergency. In this case the Council would continue to operate under emergency decision making powers and the emergency response structures and provisions would also remain in place. This is not the preferred option as retaining the emergency decision making process reduces the involvement of Cabinet in decision making. It also maintains a greater focus on response, when the view is that the Council should be increasing its focus on recovery.
- 4.1.2 To end the current emergency, but to seek delegated authority for key officers to enable the Council to respond to future, COVID-related threats and address the impacts of the pandemic on key partners. This is the preferred option as it helps to support a shift in focus to recovery, whilst mitigating the key risks associated with the on-going pandemic.

4.2 The recommendations are:

- 4.2.1 That Cabinet notes the Council's plan to end the current state of emergency on 2 August 2021, subject to the final date in the governments roadmap (19 July 2021) going ahead and specific additional conditions being met (see Section 3.4).
- 4.2.2 That Cabinet delegate authority to the Director of Public Health in consultation with the Director of Council Management, the City Solicitor, the Leader and the relevant Cabinet Member (depending on the proposed spend) to use the funding streams and budgets listed below (see 4.2.5) to respond efficiently and effectively to the COVID-19 pandemic and to ensure the Council best protects the residents of the city.
- 4.2.3 In accepting this delegated authority, the Director of Public Health agrees to keep Cabinet and the Council's leadership team updated at least every two months on progress, decision taken and the use of the budgets and funding streams outlined below.
- 4.2.4 This delegated authority will take effect from 1 July 2021 and will remain in place until 31 March 2022 or until it is rescinded by Cabinet.
- 4.2.5 Funding streams and budgets:
- Test & Trace budget, £27m of Government funding of which £19.2m is expected to be used in 2021/22.
  - DHSC Community Testing funding. This is currently agreed to 30 September 2021 and expected to be extended to 31 March 2022.
  - Government funding to support the sourcing and supply of PPE. Funding for which has been proposed until March 2022.
  - Any additional COVID specific Government funding provided to enable the Council to respond to the pandemic, for example funding for surge testing (Operation Eagle) activities.

- 4.2.6 That Cabinet delegate authority to the Managing Director of City Operations in consultation with the Director of Council Management, the Leader and relevant Cabinet Member to approve Leisure Supplier Relief payments during FY2021/22, up to a maximum of £2.9m, the amount the Council has been award via the National Leisure Recovery Fund.
- 4.2.7 In accepting this delegated authority, the Managing Director of City Operations agrees to keep Cabinet and the Council's leadership team updated quarterly on progress and the use of the £2.9m grant funding allocation for the current financial year.
- 4.2.8 It is anticipated that the £2.9m allocation will not be sufficient to cover claims for the full financial year (FY2021/22) and should this look likely then a paper will be brought to Cabinet with options and recommendations on how a shortfall is managed.

## **5 Consultation**

- 5.1 The Council Leadership Team (CLT) and Cabinet Members were consulted.

## **6 Risk Management**

- 6.1 A key risk is that when the current emergency ends the Council will be unable to use the emergency decision making process to respond quickly to emerging threats from the COVID-19 virus, leading to an increase in infection rates, hospitalisation and potentially an increase in deaths. The recommendation that Cabinet delegate authority to the Director of Public Health to use the specified government funding streams to respond to emerging threats is a key mitigation. In addition, the Council retains the ability to re-institute the emergency response in future should circumstances change significantly.
- 6.2 If approvals for quarterly Leisure Supplier Relief payments go through the Council's statutory (non-emergency) decision-making process, there is a risk that the timescales involved will lead to cash flow issues for suppliers. The recommendation that Cabinet delegate authority to the Managing Director of City Operations to use the £2.9m allocated to Birmingham from the National Leisure Recovery Fund will help to mitigate this risk.
- 6.3 There is a risk that Council's £2.9m allocation from the National Leisure Recovery Fund for this financial year (FY2021/22) will not cover the total claim from the Leisure Suppliers for the year. A separate Cabinet paper is planned to agree a way forward on this.

## **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 decision to end the current emergency will enable greater focus on recovering from the impacts of the pandemic, and ultimately delivering the Council's priorities as set out in the Birmingham City Council Plan 2018-2022.
- 7.1.2 The recommendation to delegate authority to the Director of Public Health to use the specific Government funding streams to respond quickly to emerging threats from the virus supports the Council's responsibility to ensure the safety and wellbeing of residents.
- 7.1.3 The recommendation to delegate authority to the Managing Director of City Operations to approve use of the Council's £2.9m allocation under the National Leisure Recovery Fund will enable the Council to fulfil its obligations in relation to the funding grant, and support key leisure services partners that have been significantly impacted by the pandemic.

## 7.2 Legal Implications

- 7.2.1 A decision to end the current state of emergency is one taken by the Chief Executive Officer, then ratified by the Council Leader.
- 7.2.2 When the emergency ends Council officers will no longer be able to use the Emergency Powers as set in Part E, para 3.3. of the Council's constitution. The delegations in this report enable specific Council's officers to continue making appropriate decision in relation to the Council's COVID response.

## 7.3 Financial Implications

- 7.3.1 This report recommends that authority is delegated to the Director of Public Health to make best use of the following funding sources in responding to the COVID-19 threat:
  - Test & Trace budget, £27m of Government funding of which £19.2m is expected to be used in 2021/22.
  - DHSC Community Testing funding (currently agreed to 30 September 2021 and is expected to be extended to 31 March 2022). This is claimed retrospectively based on cost incurred.
  - Government funding to support the sourcing and supply of PPE. Funding for which has been proposed until March 2022. This is claimed retrospectively based on cost incurred.
  - Any additional COVID specific Government funding provided to enable the Council to respond to the pandemic, for example funding for surge testing (Operation Eagle) activities.

7.3.2 The report recommends that authority be delegated to the Managing Director of City Operations to approve payments to leisure suppliers using the Council's £2.9m allocation from the National Leisure Recovery Fund, which is existing grant funding provided for this specific purpose. This is to be utilised in 2021/22 in accordance with grant conditions.

7.3.3 Any additional funding requirements would need to be agreed via the statutory decision-making process once the emergency has ended.

#### 7.4 Procurement Implications

7.4.1 There are no Procurement Implications

#### 7.5 Human Resources Implications

7.5.1 There are Human Resources implications associated with the Council's decision to end the emergency, where the expectation is that the Council would step down certain workforce practices put in place due to the pandemic. Details are provided in the CLT paper referenced in Section 9, and all such decision would be subject to consultation with the Trade Unions.

#### 7.6 Public Sector Equality Duty

7.6.1 There are not considered to be any adverse impacts associated with the recommendations in this report, as the ending of the emergency is not expected to have a material impact on the council's response.

7.6.2 Services will continue to deliver the council's response to the pandemic in accordance with existing equality impact assessments.

7.6.3 When the council submitted its application for the National Leisure Recovery Fund an Equality Impact Assessment was not required.

7.6.4 The Council's Public Health response to COVID-19 will continue to focus on ensuring equality, and the latest Department for Health and Social Care (DHSC) Community Testing programme (and the associated funding) is specifically targeted at under-represented and disproportionately impacted groups.

## 8 Appendices

8.1 None



## **9 Background Documents**

- 9.1 Response to Recovery paper, approved by the Council Leadership Team (CLT) on Monday 28 June 2021.