

# Birmingham City Council

## Report to Cabinet

26 May 2020



**Subject:** BIRMINGHAM CHILDREN'S TRUST OUTTURN 2019/20  
AND BUDGET 2020/21

**Report of:** Dr Tim O'Neill  
Director for Education and Skills

**Relevant Cabinet Member:** Cllr Kate Booth - Children's Wellbeing  
Cllr Tristan Chatfield - Finance and Resources

**Relevant O & S Chair(s):** Cllr Kath Scott - Education and Children's Social Care  
Cllr Sir Albert Bore - Resources

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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: 007685/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

### 1 Executive Summary

- 1.1 The Birmingham Children's Trust (BCT) financial outturn for 2019/20 is a £7.0m overspend. BCT has provided a detailed explanation of why this has occurred (**Appendix A** to this report)
- 1.2 This report requests that Cabinet approves a contract variation of £7.0m for BCT for the financial year 2019/20.

- 1.3 As this contract variation was not included in the budget, this will have an adverse effect on the Council's overall financial position for 2019/20. The costs will be factored into the 2019/20 overall outturn position and from any 2019/20 carry forward requests. The approved budget for the Education and Skills Directorate for 2019/20 will be increased by £7.0m in recognition of the BCT contract variation.
- 1.4 Cabinet is therefore asked to approve that the £7.0m contract variation is factored into the 2019/20 net outturn position and any 2019/20 carry forward requests.
- 1.5 The 2019/20 outturn position will be reported at the June Cabinet meeting.

## **2 Recommendations**

- 2.1 Cabinet is recommended to; -
  - 2.1.1 Approve a contract variation of £7.0m in respect of additional contractual expenditure necessarily incurred and identified in BCT's financial outturn position for 2019/20.
  - 2.1.2 Authorise the City Solicitor to complete the necessary legal agreements to give effect to the above decision.
  - 2.1.3 Approve that the £7.0m contract variation amount is factored into the 2019/20 net outturn position and any 2019/20 carry forward requests.
  - 2.1.4 Approve the related £7.0m increase in the approved 2019/20 budget for the Education and Skills Directorate to reflect the proposed contract variation.

## **3 Background**

- 3.1 Birmingham City Council entered into a service delivery contract for the provision and operation of children's social care services in the city of Birmingham with BCT on 29 March 2018. The contract commenced on 1 April 2018 and is for an initial period of five years plus a further five years based upon performance.
- 3.2 The BCT annual contract value is agreed annually in advance for each financial year based on a process set out in the contract. This process uses the previous year's contract value plus adjustments for known changes in circumstances and inflation to calculate the contract value for the next year.
- 3.3 For 2019/20 the contract sum was agreed at £193.2m – see **Appendix A**.
- 3.4 For 2019/20, the average number of children in care has been 1,955 which is significantly more than envisaged at the time the contract was initiated. **Appendix A** contains the background to the contract value calculations for this period.

- 3.5 As a result, BCT has overspent by £13.2m in children's placements and also a small overspend of £0.6m on staff costs due to the need to maintain reasonable caseloads for social workers (key focus of Ofsted in their inspection). These overspends have been offset by mitigating actions undertaken by BCT during the year which saved £6.2m (see **Appendix A**)
- 3.6 This has left a net overspent position of £7.0m for 2019/20 based on the original agreed contract value representing approximately 3.5% of BCT's normal expenditure.
- 3.7 BCT has requested that the 2019/20 agreed contract sum be increased by £7.0m to recognise this overspend.
- 3.8 The contract variation of £7.0m is not included in the Council budget for 2019/20 and the costs will be factored into the overall 2019/20 outturn position and the consideration of any 2019/20 carry forward requests. The approved budget for 2019/20 for the Education and Skills directorate will increase by £7.0m to reflect this change.
- 3.9 The 2019/20 outturn position will be reported at the June Cabinet meeting.

#### **4 Options considered and Recommended Proposal**

- 4.1 The options that have been considered are:
- 4.1.1 Do nothing: This option would leave BCT with the in year overspend of £7.0m which could potentially cause BCT to no longer be a going concern. This option is not recommended.
- 4.1.2 Increase the contract value by £7.0m: This option recognises the increased number of children in care above the original forecast and the resultant overspend. This option is recommended.

#### **5 Consultation**

- 5.1 The forecast overspend was first reported to the Council in BCT's June 2019 monitoring report. BCT has consistently reported an overall overspent position during the rest of the financial year.
- 5.2 The BCT overspend was considered by the Operational Commissioning Group (OCG) on 29 April 2020.
- 5.3 The members of the OCG are:
- Andy Couldrick (BCT Chief Executive)
  - Lee Yale-Helms (BCT Director of Finance & Resources)
  - David Stringfellow (BCT Director of Commissioning & Corporate Parenting)
  - Jenny Turnross (BCT Director of Practice)
  - Seamus Gaynor (BCT Head of Executive)

- David Shreeves (Department for Education)
- Dr Tim O'Neill (BCC Director for Education and Skills)
- Nigel Harvey-Whitten (BCC Assistant Director Children's Services Commissioning)
- Paul Stevenson (BCC Finance Business Partner)

5.4 At the meeting on 29 April 2020, the OCG agreed to request a contract variation from Birmingham City Council for £7.0m, being the amount of the 2019/20 overspend.

## **6 Risk Management**

6.1 The Council is working much more closely with BCT to improve understanding of the financial position moving forwards into 2020/21. As a result, the level of Council oversight of BCT's finances has been significantly enhanced.

6.2 Further work is underway to reset BCT's Medium Term Financial Plan to ensure it has a robust and sustainable budget underpinned by a set of solid assumptions. This revised plan will be reflected in the Council's financial planning during 2020/21.

6.3 As a result of the enhanced oversight and the reset of BCT's budget, contract variations of this nature are not expected to recur in future years.

6.4 In addition, BCT has commissioned CIPFA to undertake a review of their financial management, which will provide assurance on the quality of financial reporting and forecasting. In conjunction with close monitoring of the situation, the review will help to ensure that any potential overspend are identified early and mitigations developed to minimise their impact.

6.5 These mitigations will include the Council's approved initial £4.2m investment in a new, comprehensive Early Help service. This work is being led by Birmingham Children's Partnership and is expected to reduce the growth in demand for placements for children in care in the medium term.

## **7 Compliance Issues:**

7.1 The activity for which this refers is statutory provision for the Council which is delegated to the Birmingham Children's Trust

### **7.2 Legal Implications**

7.2.1 The Children Act 1989 together with associated regulations and guidance provides various powers and statutory duties in relation to the provision of services by a local authority for children in need and others.

7.2.2 S.111 Local Government Act 1972 confers power on the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

### **7.3 Financial Implications**

- 7.3.1 The overspend of £7.0m is above previous forecasts and as such negatively effects the Council previously forecast financial position.
- 7.3.2 The contract variation of £7.0m is not included in the Council budget for 2019/20 and this cost will be factored into the overall 2019/20 outturn position and the consideration of any 2019/20 carry forward requests.
- 7.3.3 As a result of the proposed contract variation the approved budget for 2019/20 for the Education and Skills Directorate will increase by £7.0m.

### **7.4 Procurement Implications**

- 7.4.1 None

### **7.5 Human Resources Implications**

- 7.5.1 Not applicable

### **7.6 Public Sector Equality Duty**

- 7.6.1 Not applicable

## **8 Appendices**

- 8.1 Appendix A – Report of the Director of Finance & Resources for Birmingham Children's Trust

## **ADDITIONAL FUNDING REQUEST TO BIRMINGHAM CITY COUNCIL**

### **1. Introduction**

1.1. The draft outturn for the Trust in 2019/20 is an overspend of £7.0m (3.5%). The table below provides a summary of the variance analysis compared to 2018/19.

<b>Spend analysis</b>	<b>Budget 2019/20</b>	<b>Outturn variance 2019/20</b>	<b>Outturn variance 2018/19</b>
Pay	81.4	0.6	(1.2)
Placement costs (net)	84.5	13.2	4.4
Other costs	30.9	-	(0.9)
<b>Total spend</b>	<b>198.2</b>	<b>13.8</b>	<b>2.3</b>
Contract sum from the Council	193.2	(0.4)	-
Other income	0.1	(4.2)	(0.9)
Troubled Families reserves (applied)	3.5	(2.2)	(1.3)
<b>Total Income</b>	<b>198.2</b>	<b>(6.8)</b>	<b>(2.2)</b>
<b>Net outturn</b>	<b>-</b>	<b>7.0</b>	<b>0.1</b>

- 1.2. The key pressure in 2019/20 was placement costs which overspent by £13.2m as a direct result of the increase in children in care numbers to an average of 1,955 and a general lack of sufficiency for residential placements available to the Trust across the City and beyond.
- 1.3. The small overspend on pay of £0.6m is due to the need to maintain reasonable caseloads for social workers which is a key focus of Ofsted in their inspection of children's social care.
- 1.4. The Trust was able to manage some of the demand pressure throughout the year and children in care numbers did reduce from a peak of 2,017 in October 2019 to 1,929 by March 2020. Other mitigating actions together with planned savings delivered £4.6m in-year, and an additional £2.2m of the Troubled Families Programme funding was released to support Trust core activity.

### **2. Background**

- 2.1. The Trust was established on 1 April 2018 and in its first year delivered a strong performance against its contractual KPIs and following a full inspection by Ofsted in November 2018 was no longer deemed "Inadequate" and was rated "Requires Improvement".



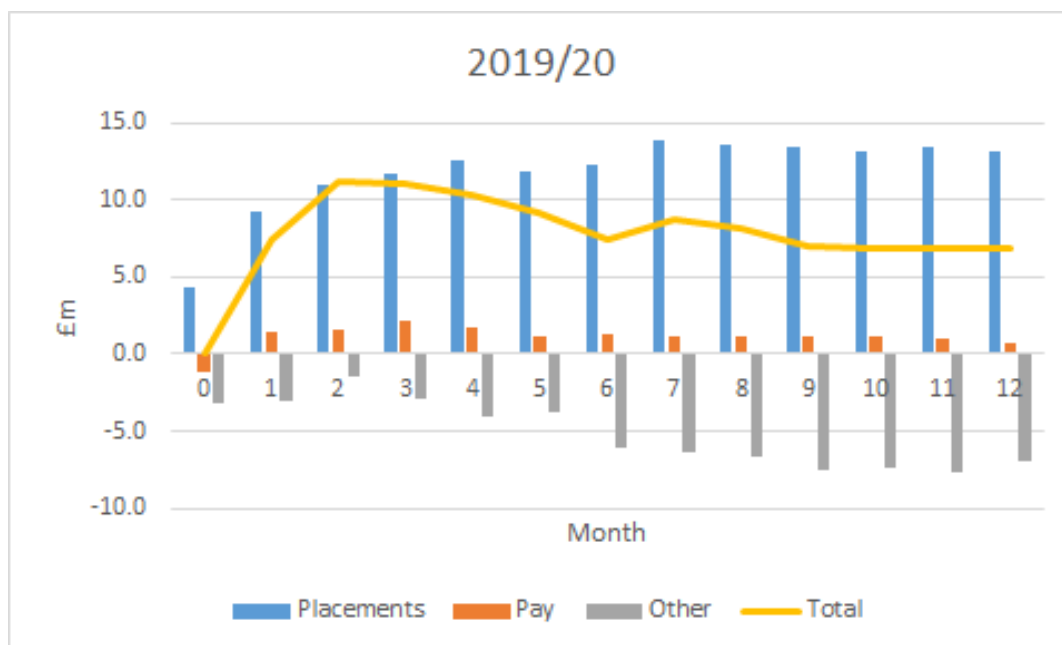
- 2.2. The Trust as a community interest company aims to “break even” and in 2018/19 the outturn was a small deficit of £59,000 which represented a real achievement in its first operational year alongside the improvements in the quality of social work practice and the emerging demand pressures in the children’s social care system.
- 2.3. The Trust’s 2019/20 budget and contract sum was agreed back in September 2018 and was based on the last year of the Council’s former “Long Term Financial Plan 2015/16 to 2019/20”. This assumed that by 2018/19 that children in care numbers would reduce to 1,630 by the end of the five-year period and a reduction of £3.4m in the contract sum. The Trust was asked to deliver a further £1m saving on the contract sum in 2019/20 and agreed to deliver this in relation to back-office savings. This was achieved during the first quarter of 2019/20.
- 2.4. In contrast to the previous budget assumptions the actual number of children in care increased over this five-year period to 1,830 at the start of the Trust in April 2018 to 1,915 by March 2019. Across the same period the budget assumptions included an expectation that the number of internal foster carers would grow by a net 284 and again in contrast actually reduced putting further pressure on sufficiency and a higher proportion of children being placed in more expensive<sup>1</sup> residential children’s homes.
- 2.5. The Trust’s Annual Report for 2018/19 which was presented to the Partnership Governance Group in August 2019 highlighted a number of challenges and cost pressures as follows:
- the net impact of a 6% rise in children in care numbers would represent £5.1m additional demand pressure in 2020/21; and
  - additional remand costs for young people in the criminal justice system of £1m per year.
- 2.6. The Operational Commissioning Group (OCG) which has oversight of the Council’s contract with the Trust received quarterly financial reports in line with the contract terms. At the end of Quarter One (Month 3) the Trust estimated that without any mitigation and demand management the outturn for 2019/20 was an overspend of £11.0m. Plans were put in place for a range of measures from step down of children in care to increased efforts to attract additional foster carers.
- 2.7. The Trust, at its own initiative, also introduced monthly financial reporting to the Council via OCG from Month 3 onwards in order to increase overall governance and accountability.

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<sup>1</sup> The average cost of care in children’s services in Birmingham in 2019/20 was £843 per week compared to the average cost of an external residential placement of [£3,4230] per week.



- 2.8. At the start of 2019/20 the Trust was facing an estimated £6.5m pressure just in respect of placement costs and as children in care numbers continued to increase this pressure increased further to a peak of £13.8m in October 2019 (Month 7). The graph below provides the month by month trend of the Trust's financial position across 2019/20.

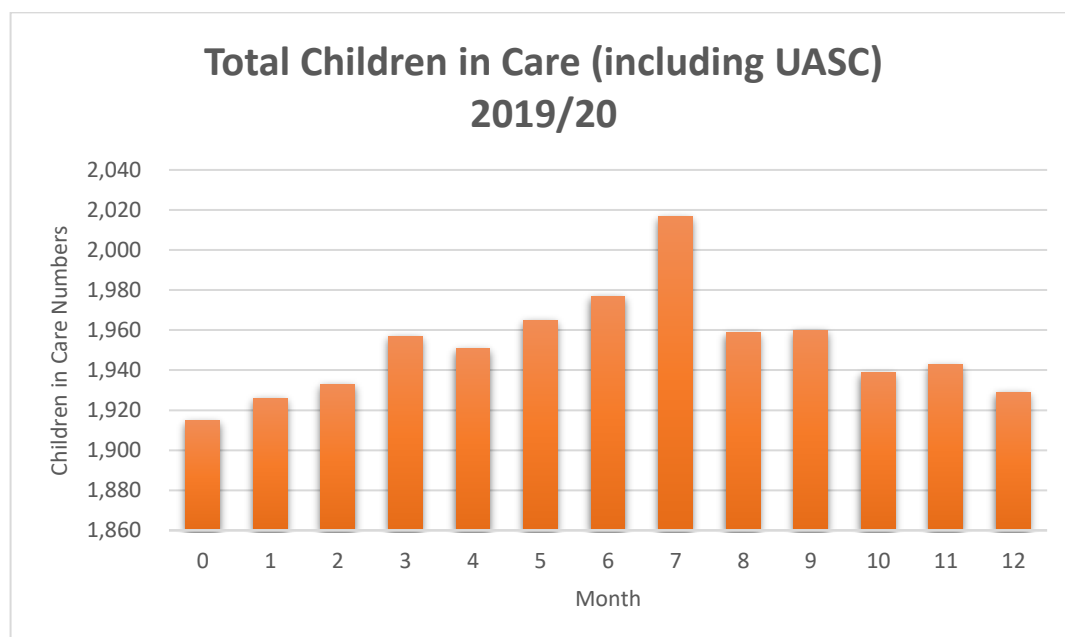


- 2.9. Across the period July to September 2019 (Months 4-6) the Trust continued to drive down the estimated overspend, however the peak in the number of children in care in October 2017 (Month 7) was a real concern. The Trust reported to OCG that its ability to deliver further mitigation savings was proving extremely challenging, and although efforts would continue to manage admissions and discharges in and out of care, that the estimated overspend would likely remain in the range of £6-9m.
- 2.10. This estimate of demand pressure has proven reliable and since the Quarter Three (Month 9) financial outturn the forecast has remained at an overspend of £6.9-7.0m in 2019/20 with external placement costs estimated to be in the range of £13.2-13.5m overspend.
- 2.11. The draft outturn of £7m overspend represents 3.5% compared to a rise in demand in children in care numbers between April 2018 and March 2020 of 6.5%. The national picture is that average spending on children's social care is increasing at 8-9% so again the Trust compares very favourably.



### 3. Demand

3.1. The profile of demand represented in the number of children in care across 2019/20 is provided in the graph below and highlights the peak in October 2019 and the subsequent management of admission versus discharges.



3.2. The trend in children in care numbers is that Birmingham still compares favourably with both its statistical neighbours and the West Midlands. The current rate of children in care per 10k is 67.1 compared to 80.2 for statistical neighbours as shown in the table below.

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Birmingham	63.0	70.0	64.0	64.0	66.9	67.1
Statistical neighbours	80.0	79.0	74.7	73.9	77.0	80.2
West Midlands	73.0	74.0	73.0	75.0	78.0	82.0
England	60.0	60.0	60.0	62.0	64.0	65.0

3.3. It is anticipated that the children in care per 10k rate in Birmingham will continue to increase but remain below both the West Midlands and statistical neighbours.

3.4. Birmingham's population is still growing and the latest forecasts are that the number of children under the age of two will continue to rise steadily. The socio-economic context of the City is such that a proportion of these children are expected to enter care. Work undertaken in 2019 also highlighted a number of older teenagers who had entered the care system, 50% of whom



who either classified as children in need or on a child protection plan and subsequently had entered into care when in fact they perhaps should have been brought into care at a younger age. This legacy of hidden demand is still impacting on the Trust.

- 3.5. Current estimates are that the child population aged 0-18 will continue to grow in Birmingham at an average of 0.7% per annum for the next five years. Based on the conversion rate of assessments into admissions the children in care numbers will also rise and could reach 2,200 in the next two to three years, and without an effective Early Help offer across the City could continue to grow even further.

#### **4. Contract measures**

- 4.1. The current contract with the Trust unlike other trusts does not provide for an increase in the contract sum if children in care numbers are to increase or for a risk sharing arrangement. A decision was taken by the Council not to provide the Trust with any financial reserves but instead to provide a loan facility of £10m. The Trust had to activate £4m of the loan facility at the start of the contract to support cashflow arrangements and the balance of £6m was earmarked for invest to save and innovation projects and clearly has to be repaid.
- 4.2. Given the situation the Trust is facing and the continued demand pressures from placement costs it has little alternative than to make an additional funding request to the Council in order to balance its finances in 2019/20, avoid any liquidity issues and not damage the Trust's ability to continue with its development plan for improvement and achieving a "Good" rating in the medium term from Ofsted.
- 4.3. Under the terms of Schedule 5 (Financial Mechanism) of the service delivery contract the Trust is able to bring forward requests for additional funding to the Council. It was agreed at the Trust's Finance & Resources Committee and the Operational Commissioning Group on 29 April 2020 that the Trust should make the request to the Council for an additional £7.0m for 2019/20. If approved by Cabinet this would then take the form of a one-off contract variation and payment to the Trust.

#### **5. Medium Term Financial Plan**

- 5.1. The aim of the Trust was to agree a three year Medium Term Financial Plan (MTFP) with the Council for the period 2020/21 to 2022/23 which would take the Trust up to Year 5, at which point a service review is expected under the terms of the contract. This was prevented by the one year Comprehensive Review settlement for 2020/21.
- 5.2. The context of the increase in children in care numbers and a lack of sufficiency throughout 2019 formed the background to the annual contract



negotiations between the Council and the Trust last summer. A copy of the MTFP and budget discussion paper is provided as an annex to this report.

5.3. The outcome of the budget setting and consultation processes resulted in the Trust securing an additional £6.1m for demand pressures in 2020/21.

5.4. The £6.1m uplift was based on demand pressure arising from the increased cost of external placements and remand costs of £13.6m and staffing of £0.7m, less £8.2m of mitigating actions as follows:

- demand management including diversions from care (£4.3m);
- supply side mechanisms to increase sufficiency of placements including fostering and adoption (£2.3m);
- efficiency savings of £0.6m; and
- increase in tripartite contributions to cost of care (£1.0m).

5.5. The annual Contract Sum for 2020/21 and estimates for the MTFP period were therefore set as follows:

	2020/21	2021/22	2022/23	2023/24	2024/25
	£m	£m	£m	£m	£m
Core Contract Sum*	192.3	192.8	193.3	193.8	194.3
Government grants paid via the Council	8.8	8.8	8.8	8.8	8.8
<b>Total Contract Sum</b>	<b>201.1</b>	<b>201.6</b>	<b>202.1</b>	<b>202.6</b>	<b>203.1</b>
Other grants and contributions	4.0	4.0	4.0	4.0	4.0
<b>Total Budget</b>	<b>205.1</b>	<b>205.6</b>	<b>206.1</b>	<b>206.6</b>	<b>207.1</b>
* The Council has assumed an increase of £0.5m per annum each year from 2021/22 onwards for demographic changes. The Trust view is that is insufficient and will need to reviewed as part of the reforecast of children in care numbers.					

5.6. In addition to the above the Trust had submitted two modernisation bids to the Council as follows:

- supported accommodation.
- adult specialists working with children's teams.



- 5.7. A summary of the financial impact of these over the MTFP period is provided below.

<b>Modernisation bids:</b>		<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>
		£m	£m	£m	£m	£m
<b>Adult specialisits working in children's teams</b>						
	Investment - staffing and accommodation	2.5	2.5	2.5	2.5	2.5
	Benefits - reduced demand	0.0	0.0	1.3	2.7	2.7
	Net Investment/Benefit(-)	2.5	2.5	1.2	-0.2	-0.2
<b>Supported accommodation</b>						
	Investment - staffing and property	3.2	3.2	3.2	3.2	3.2
	Benefits - placements costs			4.0	4.0	4.0
	Net Investment/Benefit(-)	3.2	3.2	-0.8	-0.8	-0.8
<b>Total Modernisation Funding</b>		<b>5.7</b>	<b>5.7</b>	<b>0.4</b>	<b>-1.0</b>	<b>-1.0</b>
<b>Total Funding (excluding Modernisation)</b>		<b>205.1</b>	<b>205.6</b>	<b>206.1</b>	<b>206.6</b>	<b>207.1</b>
<b>Total Funding (including Modernisation)</b>		<b>210.8</b>	<b>211.3</b>	<b>206.5</b>	<b>205.6</b>	<b>206.1</b>

- 5.8. The proposed investment in Early Help of £15m by the Council is expected to deliver benefits across the whole system across the 5 year period and beyond. It is important the Trust is involved in the implementation and delivery of this through the Birmingham Children's Partnership in order to achieve these benefits.

#### 5.9. Current position

- 5.10. Prior to the current demand pressures, the Trust took a decision in 2019 to invite CIPFA to undertake a financial management review of the Trust to provide assurance to the Board and a platform for improvement. This mirrors the recent exercise undertaken in the Council.
- 5.11. The Trust has also engaged CIPFA's consultancy arm to undertake an assurance review of the Trust's approach to demand forecasting, budget planning and an initial cost of care analysis which will lead into an analysis around how the market is managed and developed.
- 5.12. It is expected that the two reports will be finalised by September 2020 and will be shared with the Council as commissioner to provide independent assurance of the actions of the Trust, which could then lead to further work being agreed jointly between the Council and the Trust. The Trust wants to be in a position where a shared view exists, between Trust and the Council as commissioner, around demand, demand management, cost improvement and the required budget envelope from which to deliver effective and value-for-money services to the city's most vulnerable children and families.

- 5.13. The impact of Covid-19 has been significant on the Trust with estimated costs of £3-3.5m for the initial 12 week period of lockdown, the largest element of which relates to temporary accommodation as a contingency for placing vulnerable children at risk during the crisis. As the period of lockdown is extended the Trust could be faced an increase in costs of £1m per month.
- 5.14. Whilst the demand at the front door in terms of the numbers of referrals and assessments has slowed significantly as a result of Covid-19 it is anticipated that demand will bounce back (at the end of April the increase has started already) and that further latent demand is likely to be identified. Nationally, children's social care services anticipate at least a significant spike in contact and referral once schools and universal services return to fuller operation. A further impact of Covid-19 is that the Trust has been unable to progress its plans to deliver the expected in-year mitigation in 2020/21 and will need to review both the phasing and deliverability of these earlier proposals in a post Covid-19 environment.

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