

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE

MONDAY, 26 JULY 2021 AT 14:00 HOURS
IN BMI MAIN HALL, 9 MARGARET STREET, BIRMINGHAM, B3 3BS

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 APOLOGIES

To receive any apologies.

4 EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

a) To consider whether any matter on the agenda contains exempt information within the meaning of Section 100I of the Local Government Act 1972, and where it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.

b) If so, to formally pass the following resolution:-

RESOLVED – That, in accordance with Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation order) 2006, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on

the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

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5 **MINUTES - AUDIT COMMITTEE 29 JUNE 2021**

To confirm and sign the minutes of the last meeting of the Committee held 29 June 2021.

6 **APPOINTMENT OF THE INDEPENDENT ADVISOR TO AUDIT COMMITTEE**

(5 minutes allocated) (1405 – 1410)

Verbal update

7 **ASSURANCE SESSION – CABINET MEMBER EDUCATION, SKILLS & CULTURE PORTFOLIO**

(55 minutes allocated) (1410 – 1505)

Verbal discussion

The Cabinet Member Education, Skills and Culture with the Interim Director of Education & Skills.

17 - 44

8 **OMBUDSMAN REPORT CONCERNING A COMPLAINT ABOUT HOME TO SCHOOL TRANSPORT DEPARTMENT**

(20 minutes allocated) (1505 – 1525)

Report of the Interim Director of Education & Skills.

45 - 52

9 **RISK MANAGEMENT UPDATE**

(20 minutes allocated) (1525 – 1545)

Report of the Assistant Director, Audit & Risk Management

53 - 72

10 **EXTERNAL AUDITORS PROGRESS REPORT**

Report of the External Auditors for noting.

73 - 88

11 **CIPFA FINANCIAL MANAGEMENT CAPABILITY REPORT (FMCR) – FIVE STAR ASSESSMENT UPDATE – FINAL ASSESSMENT JUNE 2021**

(15 minutes allocated) (1545 – 1600)

Information update

12 **SCHEDULE OF OUTSTANDING MINUTES**

Information for noting

13 **DATE OF THE NEXT MEETING**

The next meeting is scheduled to take place on Thursday, 30 September 2021 at 1400 hours in the Birmingham & Midlands Institute, Main Hall.

(Note: this will be replacing the 28th September Committee date).

14 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

15 **AUTHORITY TO CHAIR AND OFFICERS**

Chair to move:-

'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE 29 JUNE 2021

MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD ON TUESDAY, 29 JUNE 2021 AT 1400 HOURS IN THE MAIN HALL, BIRMINGHAM & MIDLANDS INSTITUTE, 9 MARGARET STREET, BIRMINGHAM, B3 3BS

PRESENT:-

Councillor Grindrod in the Chair;

Councillors Bore, Bridle, Jenkins, Morrall, and Quinnen

NOTICE OF RECORDING/WEBCAST

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The Chair advised and the meeting noted that this meeting would be webcast for live or subsequent broadcast via the Council's You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

The business of the meeting and all discussions in relation to individual reports was available for public inspection via the web-stream.

APPOINTMENT OF AUDIT COMMITTEE, CHAIR, DEPUTY CHAIR AND MEMBERS

At this juncture, members introduced themselves for webcasting purposes. The Chair added Councillor Tilsley and Councillor Akhtar were also members of the Committee however, they were not present at this meeting.

Election of the Deputy Chair

Councillor Bridle nominated Councillor Paul Tilsley as Deputy Chair and seconded by the Chair.

This was agreed by the Committee Members.

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RESOLVED:-

- (i) That the resolution of the 25 May 2021, City Council appointed the Audit Committee, Chair and Members to serve on the Committee for the period ending with the Annual Meeting of the City Council in 2022 be noted:-

Labour Group

Councillors Akhtar, Bore, Bridle, Grindrod (Chair), and Quinnen

Conservative Group

Councillors Jenkins and Morrall

Liberal Democrat Group

Councillor Tilsley

- (ii) that Councillor Paul Tilsley be elected Deputy Chair, for the purpose of substitution for the Chair if absent, for the period ending with the Annual Meeting of the Council in 2022.

AUDIT COMMITTEE - FUNCTIONS

The following schedule was submitted:-

(See document No. 1)

329 **RESOLVED:-**

That the schedule of functions be noted.

APOLOGIES

- 330 Apologies were submitted on behalf of Councillor Paul Tilsley for his inability to attend the meeting.

DECLARATIONS OF INTEREST

- 331 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

Councillor Bridle declared a non-pecuniary interest. She was the advisor to the Cabinet Member Street Scene and Parks, Councillor John O'Shea.

EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

Members agreed there were no items on the agenda that contained exempt information.

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RESOLVED:-

That, in accordance with Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation order) 2006, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

MINUTES – AUDIT COMMITTEE – 27 APRIL 2021

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RESOLVED:-

That the public minutes of the last meeting having been circulated, were agreed by the Committee.

ASSURANCE SESSION – CABINET MEMBER STREET SCENE & PARKS PORTFOLIO

The Chair welcomed the Cabinet Member for Street Scene and Parks and the Director of City Operations (previously known as Director of Neighbourhoods) to the Assurance Session of the Committee.

Part 1: Portfolio overview

The Cabinet Member for Street Scene and Parks highlighted this was a large portfolio which contained a number of challenges and relied heavily on staff as well as the machinery. A summary of the scale of the service was provided to members. Figures around the collection and sustainable disposal of waste from residential and other properties within the city and street cleansing was outlined.

Members were informed, for the past two years that there was a focus on resetting the relationships with trade unions by holding regular meetings. Over the past year, the service functions had continued whereas other local authorities drew back on services throughout the pandemic.

Part 2: Depot Modernisation & Waste Management Fleet

The Cabinet Member for Street Scene and Parks informed members work was taking place to modernise Perry Barr depot and as well as developing a scheme to combine Montague Street and Redfern Road depots at a new single site in Tyseley. The first tranche of new waste vehicles had been deployed and the procurement process for the interim waste disposal contract 2024-2034 was ongoing. He highlighted over the past three years, the service had come a long way however, this was an ongoing journey.

The Director of City Operations echoed comments made by the Cabinet Member and added the commitment of the workforce during the pandemic had been

exceptional as the staff had responded tremendously. Regular refuse collection had taken place and the workforce had been complimented by members of the public for the work undertaken.

The re-procurement of the waste disposal arrangements and treatment arrangement was a major area of progress. This was a 10-year contract and ways to expand on the waste treatment function after 2034 would be explored. The Government Strategy on Waste would indicate what must be collected and separated in the future. It was anticipated by 2023, food waste would be collected separately.

A review of the waste would be taking place and monitored by a company. They would look at how to reorganise the service by responding to changes through the Waste Strategy and both the workforce and trade unions were supportive of this movement. However, more work still had to be taken at the depot sites. Improvement was required at the sites as the conditions the teams were currently working in were not good. In addition, work would be starting at the Perry Barr depot shortly.

Part 3: Parks

The Director of City Operations highlighted during the pandemic, there were issues within the parks as unlawful gatherings were taking place. Park rangers and Covid-19 wardens worked hard to ensure the correct messages related to the pandemic were channelled to members of the public.

He noted there were several service improvements still to take place however, he was pleased with the work undertaken with the trade unions and workforce to improve services. Previously, the relationships were not where they should have been however, since improved.

Members response

The Committee then asked questions of the Cabinet Member for Street Scene and Parks. These were around; the External Auditors report indicated waste services continuity and relationships was a key area of risk therefore what assurances could be given of not seeing waste service in this position again; assurances that the integration and relationship between Waste Service and Human Resources was in place and effective; Memorandum of understanding (MoU) – any changes to MoU created pre-Covid and if so, were the trade unions supportive of the agreed changes to the MoU; any projected liability on the equal pay claims as a result of the changes through the Covid – 19 period and complaints around mixing of waste (combined into one collection).

Further questions were raised by members around the Directorate Assurance Statement 2021 – issues around the parks budget, maintenance of children's play area; value for money and governance issues around the street cleaning as there seemed to be a fragmentation between housing and highways land issues; the need for more bins within the city; garden waste collection – costs associated with the bins means people cannot afford the bins and possibly this should be means tested for people in deprived communities; only one major recycling centre in South Birmingham – possibly liaise with Bromsgrove District Council and make arrangements for B45 and neighbouring residents.

Further questions were raised by Councillor Bore around what the waste management service was doing to future proof the service and risks associated with this i.e. apartment blocks and the nature of the service was different to previous years (as there was an increasing number of apartment blocks across the city). He questioned what the service was doing in advance of the changes and in accordance of the residential nature of Birmingham. He referred to the relationship between waste management and planning and this should planned effectively. Measures were put into place as part of the Emergency Travel Fund which had caused problems. Questions were raised as to what the relationship was with Waste Management and Inclusive Growth Directorate in bringing emergency travel schemes.

In response to members questions, the following points were made by the Cabinet Member Street Scene and Parks and the Director of City Operations;

Risks highlighted in External Auditors report and the relationship with HR Teams

- The Cabinet Member for Street Scene and Parks notified members there had been a complete reset of relationships with both the workforce and unions. Monthly meetings were taking place with all the main trade unions as there was a desire to make the service run effectively. A method was in place to address issues as they arose. A Human Resources team were involved as part of this process, which allowed issues to be resolved early on without escalating into disputes. The Cabinet Member was confident this system of early resolution avoided problems in the future.

The Director of City Operations noted there were two aspects to the value for money in the 2018/19 report. The budget outturn report (shared with cabinet in 29 June), indicated the non-Covid spend on street scene activity was on target and underbudget. In previous years, there had been an overspend related to waste collection service. There were a number of reasons as to why this had occurred e.g. i) budget adjustments to ensure there had sufficient budget to provide services ii) budget management exercise; monitoring budgets and ensuring a robust management of budgets.

This year, the Director of City Operations had been working with the External Auditors on budget management where they had signed off the value for money aspect. The External Auditors had identified there was ongoing work to undertake with industrial relations and to ensure the recommendations of the commissioned work from the independent review was implemented. Continuous engagement with the council's non-executive advisor was taking place. In addition, continuous improvements would be taking place with the workforce and trade unions through a Joint Service Improvement Board, chaired by Councillor O'Shea. This Board worked through various areas with trade unions and workforce to implement improvements to deliver the service. Any issues that were not resolved would be escalated from the board to the Director of City Operations and the Leader however, over the last two years, the Leader and Director of City Operations had been called to the board once.

This was noted as working progress however, it was working well as the relationship with the trade unions was different than before. Budgets and governance monitoring were taking place continuously.

Memorandum of understanding (MoU) – The Cabinet Member for Street Scene and Parks mentioned there were no changes to the MoU. During the pandemic, only the ways of working had changed i.e. drivers start times. The Director of City Operations added the trade unions had a relaxed view as they wanted the service to work and deliver the services efficiently.

Equal Pay – Director of City Operations informed members Equal Pay was being monitored across the council not just in the waste service. An Employment Governance Steering Group consisting of legal services, HR and the Director of City Operations was in place to ensure any changes in working practices came to this group and monitored.

Mixing of waste (Combined into one collection) - The Cabinet Member for Street Scene and Parks highlighted recycling would be combined when there was a need i.e. when collections had been missed therefore, as this was contaminated waste, it would automatically go to the incinerator. He emphasised recycling should be kept separate and if not, this should be reported. This was currently being monitored.

Children's Play Areas - value for money and governance – The Health and safety of children play areas were checked weekly by the teams however, there was a reliance on capital investment. As part of the mitigations work, the Director of City Operations was working with finance colleagues to ensure there was enough budget for the maintenance work. Currently, this budget was under review.

Housing, Highways & Parks - Maintenance of the grounds of the parks, verges and housing sites were taking place routinely. For the last 18 months, work was taking place on merging services into one. The Street scene restructure proposed to begin early 2020 however, this was delayed due to Covid-19. This was now on track to begin in the summer 2021.

£7.2 million investment was taking place in Street Scene services. Most of the work which would be undertaken was in response to the Overview and Scrutiny report. There would be four pilot projects set up across the city with a focus more on the needs of the ward's.

At this juncture, the Chair requested for a briefing note to update members on the restructure of the Street Scene service area.

Fly- tipping - This was a wider issue than just in Birmingham as various local authorities across the country were addressing similar issues. Many issues arose with poor landlords where items were dumped and disposed of. Birmingham Live had highlighted that Birmingham's enforcement had been good as they were issuing heavy fines to those disposing their rubbish.

Garden Waste/ waste bins – Garden waste is legally different to household waste and therefore, most councils charged for this. Birmingham charged £50 for garden waste collections across the year and there is no space within the budget to reduce the cost.

Waste bins - there was a cost associated with everything that goes onto the streets and it was noted there were hotspots within the city that experienced

these problems. People were encouraged to take their litter home especially if bins were not in their vicinity.

Birmingham was responsible to deal with the waste of its residents however, the Cabinet Member noted there was a lack of household recycling centre in the South West of the City. Further work would be taking place to review issues around fly tipping and litter bins.

At this juncture, the Chair requested for the Director of City Operations to share a formal answer to the use of tips via Bromsgrove City Council which was raised by Councillor Morrall.

Future proofing of the waste service – Discussions were taking place with Birmingham Municipal Housing Trust (BMHT) on their plans for property and development. More nano track (narrow body) vehicles were being purchased. These would have a similar capacity to the larger vehicles but with a smaller frame. The Cabinet Member was waiting for the outcome from Government legislation which would define what would need to be collected and disposed of in the future. This would be factored into the service.

At this juncture, the Chair reflected to the recent City Council meeting where Councillor Morrall challenged the Chair around the low traffic neighbourhoods and value for money. He highlighted the external auditors would most likely look at climate change as a risk and future proofing to deliver value for money.

The Cabinet Member for Street Scene and Parks Birmingham recognised Birmingham were not good at recycling and investment was needed to educate people within the city. Work was needed with different community groups to raise awareness of how they can do more. People within the city who came from various countries dealt with waste differently i.e. some countries people pay for contractors to collect refuse. He noted this was an ongoing journey and the service would need to adapt to what was required to be collected.

The Cabinet Member highlighted as a nation, we need to consume and throw away less and re-use more.

At this juncture, the Chair thanked the Cabinet Member for Street Scene and Parks and the Director for City Operations for their attendance.

Upon consideration, it was:

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RESOLVED:-

- (i) That the Committee noted the updates received on the Cabinet Member for Street Scene and Parks Portfolio.
- (ii) The Committee to receive a briefing note on the restructure of the Street Scene service area.
- (iii) The Committee to receive a formal response to the use of tips via Bromsgrove City Council as there was a lack of household recycling centres in the South of the City.

BIRMINGHAM AUDIT ANNUAL REPORT 2020/21

The following report of the Assistant Director Audit and Risk Management was submitted: -

(See document No.2)

The Assistant Director, Audit and Risk Management informed members that this report included her opinion (Internal Auditors opinion) and this opinion fed into the Annual Governance Statement. The report gave the culmination of the work that had been completed during the course of the year and provided an objective opinion on the adequacy and effectiveness of the systems of internal control for the financial year ending March 2021. It highlighted any significant issues that have arisen from internal audit activity during the year.

As a result of the Covid-19 pandemic it had not been possible to deliver the full programme of work set out at the beginning of the year. Internal Audit had to prioritise the resources on supporting the Council and concentrating on emerging systems and procedures. An overview of the plan set at the beginning of the year was shared.

The Assistant Director, Audit and Risk Management gave a summary areas of where Internal Audit had added value across the organisation during the pandemic i.e. proactive advice, to secondments of staff to track and trace; support audit data warehouse; joint working with Regulatory Services Financial investigations to recover creditor overpayments and business grants; support delivery in Birmingham Schools and support deliver training for school governors.

Members commented on the report and the Assistant Director, Audit and Risk Management responded thereto.

Key points noted from discussions;

- Contract extensions and non-contract extension compliance referred to on appendix A (page 32 and 38) of the report. There was a governance issue and adherence to standing orders and it was highlighted on several occasions' contracts were extended.
- Members wanted to be assured these matters were addressed however, appendix A was not displaying this assurance.
- Schools deficit on page 35 – This indicated schools with a deficit were not able to set a balanced budget or are forecasting deficits in future years. It was highlighted the Executive were looking at this however, in some instances the council would inherit the deficits.
- School Governors look to agree action plans which often were not formalised therefore, other measures may be required on school deficits as this would be a risk in the future to the council's budgetary position.
- The Assistant Director, Audit and Risk Management noted contract extensions was an issue across the council. The procurement service did not have the visibility to highlight which contracts were expiring however,

assurances had been given by the Directorate Business Units this was monitored. There had been improvement within this area however, this would be a gradual improvement over time.

- The Schools Financial Services were looking at the schools deficits. During this year, the number of schools visits had been limited however, going forward there would be a remote management assurance audit where mitigation plans, predicted deficit and assumptions would be reviewed.
- Councillor Bore referred to comments made about monitoring the contract extension issues and questioned if there was a timetable (on an annual basis) of when a contract was due to expire. This should be monitored alongside executive reports as a lot of contract renewals were coming at the very last moment. Early indications should be in place ahead of when contracts expire. He added a simple charge was required from Internal Audit in order to ensure contract are renewed at appropriate times.
- It was highlighted the Travel Assist Contract was renewed six times by officers without reference to the Executive.
- It was possible for subcontracts that were due to expire to be renewed automatically. Existing providers may charge more money therefore, an efficient procurement system had to be in place to avoid this.

Upon consideration, it was:

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RESOLVED:-

Audit Committee Members:

- i) Accepted the Birmingham Internal Audit Annual report 2020/21 and the annual assurance opinion for 2020/21.
- ii) That the Committee approved the 2021/22 Internal Audit Charter.
- iii) That the Committee agreed for an update on procurement contracts, process, controls and governance to be provided at a future committee.

ANNUAL GOVERNANCE STATEMENT 2020/21

The following report of the Interim Director of Council Management was submitted: -

(See document No.3)

The Assistant Director, Finance introduced the Annual Governance Statement (AGS) which formed part of the Statement of Accounts for 2020/21 and reports on the Council's internal control regime. Section 6 of the AGS includes 8 key issues for the Council which may impact on the organisation's governance arrangements.

The Assistant Director, Audit and Risk Management referred to the Directorate Business Unit Assurance Statement. A two-part proforma was sent to

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Directorate's to complete and issues were highlighted. The pandemic created financial uncertainty throughout 2020/21 and many income streams were impacted and this would extend into 2021/22.

There were some uncertainties in some areas where services continued to function i.e. around income, compensation, property valuations etc. An overview of governance issues around major projects and delivery plans were shared with members.

Members commented on the report and the Assistant Director, Audit and Risk Management responded thereto.

Key points noted from discussions;

- Issues with recruitment – This had been discussed at the previous two Audit Committees. It was difficult to recruit for professional services, legal services, finance services and planning services.
- Professional services within major projects was a very competitive and active market based on skills. Questions were raised if this was a pay issue hence the difficulty to recruit.
- Capital work and larger projects required the technical knowledge and skills which were harder to find.
- There was work taking place on the risk register via CLT – as at a previous committee the rating for the Commonwealth Games was highlighted with a view to have a tighter set of risks.
- Economy & Skills O&S had been looking at Birmingham's Assets and the lack of use. It had been suggested they should be available for third sector organisations to help during the pandemic and restored and utilised in the future.
- The Assistant Director, Audit and Risk Management noted comment on the assets however, even before the pandemic the conditions of the buildings were not good and not maintained.
- Procurement was referred to by Councillor Morrall and how assets should be brought back into use to expand on social value in the city.

At this juncture, the Chair added he would have challenged the external auditor to for their view on this.

The Assistant Director, Audit and Risk Management noted comments and highlighted the external auditors would audit this area however, an opinion would not be ready as the audit had not taken place.

The External Auditors would possibly challenge on the risk register, previous issues raised and the management of these.

Upon consideration, it was:

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RESOLVED:-

That Audit Committee

- (i) Approved the Annual Governance Statement that will be included in the 2020/21 Statement of Accounts.

- (ii) Agreed that the arrangements for the management of the items included in Section 6 will be reported to the Audit Committee during the year.
-

CIPFA FINANCIAL MANAGEMENT CODE SELF- ASSESSMENT

The following report of the Interim Director of Council Management was submitted: -

(See document No.4)

The Assistant Director, Finance made introductory comments. She highlighted the code was introduced by CIPFA which was mandatory this year (2021/22) which supports good practise financial management and helps local authorities to demonstrate financial sustainability. The code was introduced in response to the issue raised with Northampton Council.

Birmingham City Council had gone through the standards and undertaken a self-assessment as at now. A set of actions had been drawn to improve certain areas.

The Interim Head of Financial Strategy added that CIPFA had developed a set of principles and standards to undertake a self-assessment against and these could act as a benchmark for Audit Committee to refer to. This was to ensure good financial management was embedded across the organisation. Overall, the self-assessment was given a 'green' rag rating.

With regards reporting of the financial position a quarterly update is provided to Cabinet as well as a monthly update to Overview & Scrutiny.

The identified actions included further work and training to take place throughout the year, in particular alongside ERP implementation, with budget holders to ensure they were aware of these requirements. In terms of the budget, there is an identified structural deficit going forward which would be addressed over the next few years.

Members commented on the report and the Interim Head of Financial Strategy responded thereto.

Key points noted from discussions;

- RAG ratings – 'ambers' listed in the document. Members questioned if the council were struggling on these areas. The Interim Head of Financial Strategy noted comments and highlighted the Green book had been followed. The 'amber' rating indicated the project management (PMO) would be strengthened over the next 12 months as there was further work to be done. Members may wish to refer to the evidence behind these ratings.
- Officers were responsible to highlight issues to members so that matters can be addressed.
- Members thought this was a good checklist to test the council against, however, felt too much weight should not be given on this as this was a self-assessment. Councils could give themselves a 'green' rating on

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areas. This self-assessment was substantively 'green' with some 'ambers' however, the onus was on the officers to highlight focus on important issues.

Upon consideration, it was:

337

RESOLVED:-

That Audit Committee

- (i) Noted the requirements of the CIPFA Financial Management Code.
- (ii) Noted the results of the self-assessment and action being taken.
- (iii) Noted that the self-assessment will be refreshed annually and reported to Members.

DRAFT STATEMENT OF ACCOUNTS 2020/21 PROCESS & TIMINGS BRIEFING

The following report and presentation of the Interim Director of Council Management was submitted: -

(See document No.5)

The Assistant Director, Finance made introductory comments and explained the format and the contents of the account were statutory and set by legislation.

The Interim Head of Financial Strategy referred to the presentation shared. He highlighted the process in which the Audit Committee would be engaged upon. These were noted as:

- Draft Unaudited Statement of Accounts issued to Audit Committee
- Short accompanying Briefing (this document) to highlight key messages and help Members navigate the accounts
- Briefings offered during July to explain the Statement of Accounts and offer the chance for questions to be raised and addressed.
- Discussion at July Audit Committee
- Unaudited Accounts to be issued by the Responsible Financial Officer by 1 July 2021
- Public Inspection and audit to start immediately after that
- Audit expected to be complete in Sept/Oct when Statement of Accounts will be finalised

Furthermore, he gave an overview on the key areas of focus. He highlighted there was a range of estimates included within the accounts. A note had been made to explain where the estimation had taken place and assurance of the adequacy of the estimation. A paper shared at the March Committee explained how the estimation, governance and assurance would take place.

The 2020/21 draft Statement of Accounts indicated:

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- A large pension liability - the liability had increased by £617m (This is net of 2-year prepayment so would be £850m).

Assets : +£1007mn (£1.07bn)

Asset Values +£727m

Employer Contribution: £382m)

Liabilities: - £1695m (£1.69bn)

Actuarial changes: £1659m

Benefits earned: - £296m

Benefits paid: +£200m

- A summary of the balance sheet was shared with members.

A detailed briefing would be arranged to allow members to raise questions on the accounts.

Upon consideration, it was:

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RESOLVED:-

That Audit Committee

- (i) Noted the legislative requirements and proposed review, publication and approvals timetable for both the draft and audited Statement of Accounts.
- (ii) Noted the proposed briefing timescales offered to the Committee.
- (iii) A further briefing session to be arranged for members on the Draft Statement of Accounts 2020/21.

AUDIT FINDINGS REPORT UPDATE

The following report of the Interim Director of Council Management was submitted: -

(See document No.6)

The Interim Head of Financial Strategy highlighted this report is shared with the committee on a quarterly basis.

Upon consideration, it was:

339

RESOLVED:-

That the Audit Committee noted the updates on progress in implementing action to meet the recommendations of the External Auditor's Audit Findings Report.

SCHEDULE OF OUTSTANDING MINUTES

340 Members were provided with updates to the outstanding actions.

**Minute 260 25/11/2020 – Independent Advisor to Audit Committee
Additional Recommendation:**

iii) Agreed to receive further updates on the progress of the work on the Independent Advisor role. This would be provided at a future Committee.

The Chair notified the committee, Councillor Jenkins and Councillor Tilsley had conducted a series of interviews. Following a formal process, an advisor was selected. All BCC Gateways for procurement had been successfully completed and the final paperwork was being completed with the agency.

Andrew Hardingham will start his contract on 17th July.

All political groups would have access to Andrew through the Chair.

**Minute 279 26/01/2021 - Assurance Session – Cabinet Member for
Children’s Wellbeing Portfolio
Additional Recommendation:**

iv) The Council’s Transformation Programme to be shared at a future Committee.

To be shared at a future committee.

**Minute 305 30/03/2021 – Informing the Audit Risk Assessment – Group
Company Governance
Additional Recommendation:**

ii) Noted for an information briefing to be arranged on the Group Company Governance. Information on the scale of the BCC subsidiaries and any guarantees given to be provided to Members.

27th and 29th July have been shared with members. All responses to be sent to the Committee Manager to finalise a date.

**Minute 307 30/03/21 – External Auditors – Audit Plan 2020 - 21
Additional Recommendation:**

ii) The External Auditors to provide the Audit Committee details of the fees charged to BCC for 2020-21.

Minutes of 27th April 2021 approved therefore this action was noted as completed and discharged.

**Minute 318 27/04/2021 – Risk Management Update
Additional Recommendations:**

iii) A formal statement to be provided to the Audit Committee around the reason to the rating of the risks related to the Commonwealth Games.

iv) The Chair of the Commonwealth Games (CWG) Audit Committee to be invited at a future meeting to discuss Birmingham City Council elements of the CWG.

Further information would be provided at a future Committee.

Minute 325 27/04/21 - Other urgent business - Independent Advisor process

Members of opposition groups to nominate a member of their political group to participate in the independent advisor interviews.

Members from Conservative and Liberal Democrat Group were nominated. Interviews took place week beginning 7th June. Completed & discharged.

341 **DATES OF MEETINGS 2021/2022**

The following schedule of Meetings was noted:-

Meetings will be taking place at 1400 hours in the Birmingham & Midlands Institute.

2021	2022
Tuesday 29 June	Tuesday 25 January
Monday 26 July	Tuesday 15 February
Tuesday 28 September	Tuesday 29 March
Tuesday 19 October	Tuesday 26 April
Monday 29 November	

342 **OTHER URGENT BUSINESS**

RESOLVED: -

No other urgent business was raised.

AUTHORITY TO CHAIRMAN AND OFFICERS

343 **RESOLVED:-**

That in an urgent situation between meetings the Chair, jointly with the relevant Chief Officer, has authority to act on behalf of the Committee

The meeting ended at 1605 hours.

.....
CHAIR

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: AUDIT COMMITTEE

Report of: Assistant Director of Inclusion and Special Educational Needs and Disability

Date of Meeting: 26 July 2021

Subject: Ombudsman Report concerning a complaint about the Home to School Transport department

Wards Affected: All

1. Purpose of Report

- a) In December 2006, the Audit Committee endorsed a framework for informing and involving Members of the Council when the Local Government and Social Care Ombudsman issues a report.
- b) The aim of this report is to inform members about the Ombudsman's report, issued on 7 May 2021, the Council's handling and consideration of applications and subsequent appeals for home to school transport.
- c) As the Ombudsman has found fault causing injustice and have made recommendations to remedy the injustice caused, it should be considered by this Committee on behalf of the City Council.

2. Recommendations

That the Audit Committee notes the Assistant Director of Inclusion and Special Educational Needs and Disability response to the Local Government and Social Care Ombudsman's recommendations.

3. Background Information

- 3.1 A copy of the Local Government and Social Care Ombudsman's report dated 7 May 2021 is appended to this report. All Ombudsman reports are anonymous, so, whilst the events described are real, the names of those involved are not included.
- 3.2 The essence of the complaint:
- As the circumstances of Mrs C and Mrs G complaints are similar in nature the investigator has produced a report covering both complaints.
 - Mrs C and Mrs G complained about the Council's handling and consideration of their applications and subsequent appeals for home to school transport for their children.
 - There was fault by the Council which caused an injustice to Mrs C, Mrs G and their children.
 - The LGSCO are concerned that the very similar faults which occurred in both these cases mean it is possible other families have been similarly affected. Other parents and carers may have also incurred costs to access the home to school transport their children are entitled to.
 - In this case the reason(s) for issuing a report are concerns about significant injustice due to the number of people potentially affected by the faults we have identified, the issue of home to school transport which remains a topical issue in our investigations, and concerns about wider problems with home to school transport decisions made by the Council.

4. The Key Events

4.1 Mrs C's case

At the time of the events complained about Mrs C's daughter, D, was seven. She has a diagnosis of autistic spectrum disorder. She has an education, health and care plan which names a special school three miles from her home.

D began attending the school in September 2018. The family were living in temporary accommodation near to the school and a relative supported Mrs C to transport D to school. In February 2019, the family moved back to their own home, further from the school and without the support of the relative with transport.

Mrs C applied for home to school transport for D in March 2019. She said she did not have a car and her home was three miles away from the school. Mrs C said D could be challenging and refuse to walk. She said there was no direct bus route to the school and she could not afford the travel costs to bring D herself. Mrs C said D found public transport difficult, had no awareness of danger and had run into roads.

The Council assessed Mrs C's application in April. It decided to offer D a bus pass or cash equivalent but did not record on the assessment form the reason for its decision. It checked if the family were on a low income. The Council noted it issued the family with bus passes in November and December 2018 while they were living in temporary accommodation.

Mrs C appealed the Council's decision in May. She said D's learning disability was severe and her behaviour extremely challenging. The quickest route proposed by the Council required changing buses at the busiest time of day. Mrs C said D used a special needs pushchair and space on the bus would be limited which would make D more distressed. She said D could hurt herself and hit and bite others when she becomes upset. She asked the Council to provide D with a taxi or minibus to school.

An officer reviewed the stage one appeal. The officer acknowledged Mrs C's description of D's challenging behaviour but noted, "Travel Assist rarely receive reports regarding students attending [School] that suggest their students are unable to travel on vehicles with other passengers." The officer also noted the Council had given D a bus pass when she lived in temporary accommodation and as the pass was not returned, the officer assumed it had been used. The officer decided D could travel on public transport and dismissed the appeal.

In its letter to Mrs C about the outcome of the appeal, the Council said the extra information provided by Mrs C did not warrant a change in the original decision. It told her how to raise her appeal to the next stage.

In June, Mrs C asked for her appeal to be considered at stage two. She reiterated her previous concerns about D using public transport and said D's school was supporting the appeal. She said the Council had not provided a detailed explanation for why D could not access specialised transport to and from school.

The sub-committee considered Mrs C's second stage appeal in August. It did not tell Mrs C the date of the appeal. The sub-committee noted Mrs C had not provided supporting evidence for D's challenging behaviour.

The Council wrote to Mrs C and said it did not uphold her appeal. It said the family had not returned the bus passes issued to them in November 2018, therefore the sub-committee assumed they had been travelling on public transport. It also said it thought the journey to school was reasonable. The Council said there was no evidence D could not use public transport. It did not direct Mrs C to the LGSCO.

In September 2019, a clinical psychologist provided a supporting letter for D to access home to school transport. The letter said D needed full supervision and support with her every day needs and was mostly non-verbal. It stated D could be aggressive towards others and did not use public buses due to health and safety concerns.

In January 2020, D's school wrote a letter which was given to the Council providing evidence in support of Mrs C's request for home to school transport. The letter said D:

- had no awareness of personal danger;
- would not be able to travel to school by public transport or walk between home and bus stops;
- was non-verbal, placed inappropriate items from the environment in her mouth, and injured herself;
- became distressed and could behave unpredictably;
- would not be able to access crowded spaces such as a public bus; and
- had similar needs to "numerous other children" who attended the school and received specialist transport.

In March 2020, a different clinical psychologist discussed D's case with the Council and wrote in support of the request for home to school transport. She said D's presentation meant travel to school by public transport would be too high a risk. D's parents were struggling to use strategies to manage her behaviour because they were exhausted from her frequent challenging behaviour "throughout the day and the night whilst out of school due to a lack of transport provision".

In April 2020, the Council overturned its decision and granted D a space on a minibus with a passenger assistant to take her to school. The Council says this was in response to the information from the psychologist.

Mrs C said before this she had been transporting D to school herself by taxi. She says there were times she could not afford the taxi and D had to miss school. D's attendance for 2018-19 was 69% and her attendance before schools closed because of the COVID-19 pandemic in 2019-2020, was 52%.

4.2 **Mrs G's case**

Mrs G has a teenage son, H, and several other children with additional needs. H has learning difficulties and physical health problems. He has an education, health and care plan which names a special school. The school is over three miles from his home.

Mrs G applied to the Council for home to school transport in March 2019. In her application she listed her reasons for asking for assistance and explained the difficulties H would have on public transport. Mrs G told the Council H was at high risk when using public transport. She said he had no social skills, needed constant supervision, could be impolite or rude to others and could become physical by throwing items or pinching people.

Mrs G went on to list the reasons neither she nor her husband would be able to go with H on his journey to school. Mrs G said she had competing priorities because she had to take her other children to various schools in the area and

several had additional or complex needs. Mrs G also said she had her own physical and mental health difficulties.

The Council replied to Mrs G in mid-March and confirmed H was an eligible child and had been granted home to school transport. The letter explained, “we have agreed your child can be provided with a free travel pass to use on public transport...Travel Assist expects either a parent or guardian to accompany their child on the journey to and from school.”

Mrs G disagreed with H being offered a bus pass and said neither she nor her husband could go with him on his home to school journey. Mrs G appealed the Council’s decision and asked it to consider her appeal at stage one. She included further details of H’s medical issues, her own mental and physical health difficulties, and her husband’s recent surgery which prevented him accompanying H.

The Council refused Mrs G’s stage one appeal. The decision letter said, “the additional information you provided did not warrant a change in the original decision following the initial assessment of the Transport Application Form.”

Mrs G was unhappy with the decision and asked the Council to consider her appeal at stage two.

In support of her appeal, Mrs G sent a letter from H’s paediatrician who supported her application for home to school transport. The letter said, “[H] can easily wander off as he has very little understanding in view of his difficulties.” Mrs G also explained that H suffered from anxiety, had no awareness of danger and could become anxious in crowds. She said H was taking sleeping medication and would have to catch three buses to arrive at school which she said would leave him confused.

In mid-May 2019, the sub-committee considered Mrs G’s appeal. Under the Council’s policy at the time, Mrs G was not invited to give verbal evidence before the sub-committee.

The Council wrote to Mrs G explaining its decision. It said the sub-committee decided Mrs G’s particular circumstances “did not justify a departure from the general policy as there was no exceptional circumstances.” The Council listed the reasons for refusal as:

- H had been awarded a bus pass or equivalent and there were no exceptional circumstances to explain why he could not use public transport accompanied by one of his parents. The sub-committee noted Mrs G’s medical issues; and
- two of Mrs G’s younger children should be able to travel alone despite having moderate special educational needs and the three other children attended a school very close to where they lived.

The letter said the sub-committee's decision was final with no right of appeal. The letter did not explain that Mrs G could approach the LGSCO.

In September 2019, Mrs G contacted the Council to explain she was struggling with her health and asked if she could put in another application for home to school transport. The Council told Mrs G not to complete a new application form. It said she could send supporting evidence and it might consider it at a sub-committee hearing. Mrs G says she sent supporting evidence of her family's difficulties and provided medical documentation for her husband and H's sibling. She also sent information about a college course she attended which she believed changed her circumstances.

The Council wrote to Mrs G in November 2019. It said there was "no decision on the stage two appeal" and it would tell her when it had an outcome.

Mrs G says she emailed the Council many times for an update but only received an automated response. Mrs G says she had not received a response from the Council up to the point she complained to us in February 2020.

5. The Ombudsman's Findings - Fault found causing injustice

5.1 The Council's decision to provide home to school transport

Both children were eligible for home to school transport because they lived more than the statutory walking distance from their nearest suitable school. The issue of accompaniment only applies in cases where a child lives within statutory walking distance and has a special educational need, disability or mobility problem, or the walking route is unsafe. There is no expectation in the guidance for a parent to accompany a child who is entitled to home to school transport because they live further than the statutory walking distance. The Council expected Mrs C and Mrs G to accompany their children to school, and this was fault.

In both cases, the Council did not adequately record its reasons for offering a bus pass when Mrs C and Mrs G applied for home to school transport. There is no evidence of how it considered travelling by public transport was "safe and reasonably stress free" for D and H or that it considered whether either child could travel on public transport unaccompanied. This was fault. If the Council believed the children needed accompaniment, it should have considered another type of transport as set out in its home to school transport policy, such as escorted public transport or a transport vehicle to assist them on their journey to and from school. Not doing so was fault.

For Mrs C and Mrs G to use the home to school transport offered to their children they would have had to incur additional costs buying their own ticket to accompany the children on public transport. The Council says it did not consider issuing a bus pass or equivalent to either parent. In both cases, the families incurred costs transporting their children to school either by taxi or using their own car. This was fault.

5.2 Appeals

In both cases, the Council's response to the stage one appeal does not explain what it considered when making its decisions, nor the reasons for its decisions. In Mrs C's case, the Council's records show it based its decision in part on the behaviour of other children and did not show how it considered D's individual needs. In Mrs G's case, it did not explain how it considered H's needs or the medical evidence she provided. There is no evidence the Council asked for further information from Mrs C or Mrs G about D or H's difficulties using public transport, or consulted with caseworkers or other professionals involved with the children. This was fault.

The Council did not invite Mrs C or Mrs G to the stage two appeals. The policy in place then did not allow parents to attend stage two panels to make oral or written representations. This did not follow the statutory guidance and was fault.

In both cases, the minutes we have seen do not explain what evidence the sub-committee considered or give a rationale for how it reached its decision. This, together with the failure to invite parents to make verbal representations, casts doubt over the decision-making process. This was fault.

The decision letter to both parents following the sub-committee concluded "there were no exceptional circumstances" to explain why the children could not use public transport accompanied by one of their parents. The sub-committee failed to recognise that both children were eligible due to living over the statutory walking distance from their school and so there was no legal basis to expect a parent to accompany them to school. This was fault.

The stage two decision letters did not explain Mrs C and Mrs G's right to approach us if they remained dissatisfied with the outcome of the appeal process. This was fault.

In Mrs C's case, the Council was not at fault for not considering the letters from D's school and first clinical psychologist, as these were not available at the time of the appeal. However, there is no evidence to suggest D's needs changed from the time her mother applied for home to school transport to the time the Council changed its mind and decided to offer specialist transport. The Council should have carried out the necessary checks with other professionals working with D at the time of Mrs C's application. Had it done so, on balance of probabilities, we are satisfied it would have decided to offer specialist transport sooner.

We have found fault with other councils for putting the onus on parents to produce a high standard of evidence to support their application for home to school transport. The statutory guidance is clear the Council must assess eligibility on an individual basis to identify the transport requirements of a child. If the Council finds a parent's evidence is lacking, it should collect any further evidence it needs to assess a child's eligibility for transport. Both children were attending school and in regular contact with professionals who could have provided the Council with advice. The Council did not seek this advice, and this was fault.

In Mrs G's case, the Council failed to respond adequately to her when she provided evidence to support her change of circumstances in September 2019. This was fault. The Council caused unnecessary confusion by telling Mrs G no decision had been made on her appeal when her stage two appeal had been dismissed in May 2019. This was fault.

In response, the Council acknowledged Mrs G contacted the service in September and again in November 2019. The Council said Mrs G did not follow up her request. However, Mrs G sent us the Council's automated email response from February 2020 showing she had contacted the Council. On the balance of probabilities, Mrs G contacted the Council for an update between November 2019 and February 2020 but did not receive a reply. The Council said the additional information Mrs G submitted after September 2019 was not reviewed. Mrs G says she still has not received a reply to her request. The Council should have replied to Mrs G within the 20 days as specified in its automated email reply, and not doing so was fault.

5.3 **Injustice**

Both Mrs C and Mrs G incurred costs as well as the stress and inconvenience of accompanying their children to school because of the Council's faults. The faults prevented D and H having the school transport they were entitled to.

In Mrs C's case, D's attendance in the past two school years was low. Given other difficulties the family experienced in this period, it is not possible to say with certainty that lack of suitable transport was the only reason for D's low attendance. However, we are satisfied the cost and difficulty of arranging alternative transport for D was one factor which prevented her attending school regularly. Consequently, D missed some education because of the Council's fault.

Mrs G says the lack of suitable transport contributed to her own emotional, mental and physical health issues. She says she spent a considerable amount of her time making sure her children were taken to various schools as she did not want their attendance to suffer. She says she felt mentally and physically drained and it caused her to miss or alter health care appointments for herself and children. Mrs G also says the amount of time it took to take various children to different schools affected her family and caused some of her children's behaviour to deteriorate. The Council's failure to provide suitable home to school transport for H contributed to Mrs G's stress. The Council has not resolved Mrs G's concerns about H's transport to school so the injustice is ongoing.

The Council's failure to invite parents to the stage two appeal deprived them of an opportunity to present their case for alternative transport provision. The Council has since updated its policy to allow verbal evidence to be given. It also ensures parents and carers are signposted to us at the end of the appeals process.

The Council missed opportunities through the appeals process to correct the faults in its decision making. This resulted in Mrs C and Mrs G taking time and trouble to bring their complaint to us to seek resolution.

6. The Ombudsman's Recommendations

6.1 Mrs C's case

To remedy the injustice identified in this report, the Council has agreed to:

- apologise to Mrs C and D for the faults identified in this investigation, and repay any costs incurred by Mrs C to transport D to school since 12 April 2019;
- pay Mrs C £150 for the time and trouble taken to resolve her complaint;
- pay Mrs C a further £250 to recognise the stress and inconvenience caused by the failure to provide suitable home to school transport; and
- pay Mrs C a further £500 to recognise the impact the failure to provide suitable home to school transport had on D accessing education from April 2019 to March 2020.

6.2 Mrs G's case

To remedy the injustice identified in this report, the Council has agreed to:

- apologise to Mrs G, H and their family for the faults identified in this investigation;
- pay Mrs G £150 for the time and trouble taken to resolve her complaint.
- pay Mrs G a further £300 to recognise the stress and inconvenience caused by the failure to provide suitable home to school transport and the impact this had on Mrs G and H;
- review Mrs G's application and offer H an alternative means of home to school transport which does not require his parents to accompany him; and
- pay Mrs G her reasonable travel expenses from 13 March 2019 when it decided H was an eligible child.

6.3 Service improvement

To improve the service offered to other families, the Council has agreed to remind officers making decisions about home to school transport, and those involved in appeals, of the following:

- The Council cannot insist parents and carers accompany children who live beyond statutory walking distance on the journey to school. For all other children, decisions about accompaniment should be made on a case-by-case basis.
- Where the child is eligible for free transport, parents and carers should not incur costs to use home to school transport offered to their child.
- Decisions made about home to school transport must take account of the individual needs of the child and consider whether

the journey is “safe and reasonably stress free, to enable the child to arrive at school ready for a day of study”.

- If the Council requires further evidence to decide if a child is eligible for home to school transport, it should consult relevant professionals already involved with the child.
- When making decisions about transport for children with special educational needs, the Council should show how it has considered the content of the child's education, health and care plan.
- Reasons for decisions must be recorded.
- Decision letters following appeals must set out how the Council carried out the review, who they consulted, what they considered and how the parent can escalate their case.

The Council has also agreed to:

- revise its home to school transport policy to ensure its approach to accompaniment reflects the statutory guidance;
- review all decisions to issue a travel pass made since September 2018 to ensure;
- it considered the individual needs of each child;
- it has not required parents and carers of children living beyond statutory walking distance to accompany their child on the journey to and from school; and
- no parent has been expected to incur costs to use the home to school transport offered by the Council where the child is eligible for free transport. Where costs have been incurred, the Council should repay these.

7. The Council's View

7.1 The Council accepted the Ombudsman's recommendations at the draft report stage.

7.2 The Council has subsequently carried out the following actions:

- Appointment of an Interim Eligibility Review Manager. This Manager is reviewing existing processes and procedures to reassure that they are compliant with statutory requirements.
- Recruitment of interim additional capacity in relation to Eligibility Officers, as well as establishment of a specialised eligibility team, to both provide capacity for timely review of cases as well as to support the Ombudsman review of cases.
- Legal services to review all revised processes and procedures for compliance as well as to arrange further training.
- Payments have been made to both families in line with the Ombudsman's recommendations.

- Written and verbal apologies have been made to both families.
- All potentially impacted cases going back to 2018 have been identified to be reviewed by end of October 2021, as agreed with the LGSCO.

8. Legal and Resource Implications

The agreed payments will be made from an appropriate budget.

9. Risk Management & Equality Impact Assessment Issues

- 9.1 The actions taken to date allow the service to implement the learnings from this case. Should these actions not be embedded, there is a risk that other parents would receive an unsuitable travel offer. This has the potential to impact both the pupil and family concerned, both in terms of school attendance and stress on the family so it is essential that there are future spot checks to confirm revised processes remain embedded.

10. Compliance Issues

- 10.1 The Council has welcomed and complied with all of the Ombudsman's recommendations with the outstanding action being the review of all other cases where there could have been a risk of a repeat of this issue where the expected end date is late October 2021, as agreed with the Ombudsman.
- 10.2 The Council has also revised its operational structure to create a specialist eligibility team which will support service improvement in this area.
- 10.3 Temporary additional resource has been put in place to provide extra capacity to review outstanding cases by late October 2021.
- 10.4 Revised processes will be implemented by the new Eligibility Team with spot checks on decisions taken.

11. Recommendations

That the Audit Committee notes the actions being taken in response to the Local Government and Social Care Ombudsman's report.

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Mary Jefferson, Head of Service, Home to School Transport

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Report by the Local Government and Social Care Ombudsman

**Investigation into a complaint against
Birmingham City Council
(reference number: 19 016 798 and 19 019 859)**

7 May 2021

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs C	The first complainant
D	Her daughter

Mrs G	The second complainant
H	Her son

Report summary

School transport

Mrs C and Mrs G complained about the Council's handling and consideration of their applications and subsequent appeals for home to school transport for their children.

Finding

Fault found causing injustice and recommendations made.

Recommendations

Mrs C's case

To remedy the injustice identified in this report, we recommend the Council:

- apologise to Mrs C and D for the faults identified in this investigation, and repay any costs incurred by Mrs C to transport D to school since 12 April 2019;
- pays Mrs C £150 for the time and trouble taken to resolve her complaint;
- pays Mrs C a further £250 to recognise the stress and inconvenience caused by the failure to provide suitable home to school transport; and
- pays Mrs C a further £500 to recognise the impact the failure to provide suitable home to school transport had on D accessing education from April 2019 to March 2020.

Mrs G's case

To remedy the injustice identified in this report, we recommend the Council:

- apologise to Mrs G, H and their family for the faults identified in this investigation;
- pay Mrs G £150 for the time and trouble taken to resolve her complaint;
- pays Mrs G a further £300 to recognise the stress and inconvenience caused by the failure to provide suitable home to school transport and the impact this had on Mrs G and H;
- review Mrs G's application and offer H an alternative means of home to school transport which does not require his parents to accompany him; and
- pay Mrs G her reasonable travel expenses from 13 March 2019 when it decided H was an eligible child.

Service improvement

To improve the service offered to other families, we recommend the Council also remind officers making decisions about home to school transport, and those involved in appeals, of the following:

- The Council cannot insist parents and carers accompany children who live beyond statutory walking distance on the journey to school. For all other children, decisions about accompaniment should be made on a case-by-case basis.
- Where the child is eligible for free transport, parents and carers should not incur costs to use home to school transport offered to their child.
- Decisions made about home to school transport must take account of the individual needs of the child and consider whether the journey is "safe and

reasonably stress free, to enable the child to arrive at school ready for a day of study”.

- If the Council requires further evidence to decide if a child is eligible for home to school transport, it should consult relevant professionals already involved with the child.
- When making decisions about transport for children with special educational needs, the Council should show how it has considered the content of the child’s education, health and care plan.
- Reasons for decisions must be recorded.
- Decision letters following appeals must set out how the Council carried out the review, who they consulted, what they considered and how the parent can escalate their case.

We recommend the Council also:

- revise its home to school transport policy to ensure its approach to accompaniment reflects the statutory guidance;
- review all decisions to issue a travel pass made since September 2018 to ensure
 - it considered the individual needs of each child;
 - it has not required parents and carers of children living beyond statutory walking distance to accompany their child on the journey to and from school; and
 - no parent has been expected to incur costs to use the home to school transport offered by the Council where the child is eligible for free transport. Where costs have been incurred, the Council should repay these.

The Council has accepted our recommendations.

The complaint

Mrs C's complaint

1. Mrs C complained the Council was at fault in refusing her application and appeal for suitable home to school transport for her daughter, D. As a result, she says her daughter missed school and when she did attend Mrs C had to pay privately for transport. She would like the Council to reimburse the costs of transport.

Mrs G's complaint

2. Mrs G complained about the Council's handling and consideration of her application and subsequent appeals for home to school transport. In particular, she complains that the Council:
 - did not apply the correct test or legislation when assessing her son, H. It offered a bus pass with the expectation that he would be accompanied to school by a parent or carer;
 - did not sign post her to us after dismissing her stage two appeal which led to delay; and
 - caused unacceptable delay and confusion when replying to her further request for assistance after it dismissed her stage two appeal.
3. Mrs G says this caused injustice to her family. She says it caused her, H, and her family distress and caused her physical health to suffer. She says she also took time and trouble to make her complaint. She would like the Council to apologise, reconsider her application for home to school transport, pay her a small monetary contribution and capture learning from this.

Relevant law and guidance

The Ombudsman's role and powers

4. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
5. We may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (*Local Government Act 1974, section 26D and 34E, as amended*)
6. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)

Our Focus Report on school transport

7. As part of our role, we periodically issue [Focus Reports](#) to highlight common or systemic issues we see. These reports share learning from complaints to help councils and care providers make improvements, contribute to public policy debates, and give elected members tools to scrutinise local services.
8. In March 2017, in response to growing numbers of complaints about school transport, we issued a Focus Report called ["All on board? Navigating school transport issues"](#).

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9. In the report, we highlighted a range of issues, including the following:
- For children with special educational needs and disabilities, councils should ensure not just their mobility but any health and safety difficulties associated with their special educational needs or disability are considered.
 - Decision letters councils issue following applications for transport or subsequent appeals are sufficiently reasoned and detailed to enable parents to properly understand all factors considered in reaching the decision made.
10. Under our information sharing agreement, we will share this report with the Office for Standards in Education, Children's Services and Skills (Ofsted).

The law and statutory guidance about school transport

Suitable transport for eligible children

11. The Education Act 1996 says councils must make arrangements to provide suitable free school transport to those “eligible” children of statutory school age who attend their nearest suitable school and:
- live further than the statutory walking distance. This is two miles for children aged less than eight years old and three miles for children eight and above; or
 - live within statutory walking distance but cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety issues related to their special educational needs or disability. Eligibility for such children should be assessed on an individual basis to identify their transport requirements. Usual transport requirements (e.g. the statutory walking distances) should not be considered when assessing the transport needs of children eligible due to special educational needs and/or disability.
(Education Act 1996 section 508B and Schedule 35B)
12. Children from low-income families may also be eligible for free school transport depending on their age and distance from their school.
13. Section 508B of Education Act says that travel arrangements for eligible children:
- can include arrangements made by a parent only if those arrangements are voluntary; and
 - do not include arrangements which give rise to additional costs for parents.
14. The Government also issued statutory guidance on home to school transport in 2014. This says the following:
- When determining whether a child with special educational needs, disability or mobility problems cannot reasonably be expected to walk to school, councils must consider if the child could reasonably be expected to walk to school if accompanied. If so, councils must also decide whether the child's parents can reasonably be expected to accompany the child on the journey to school, taking account of a range of factors including the child's age and whether one would normally expect a child of that age to be accompanied. *(Home to school travel and transport guidance - Statutory guidance for local authorities 2014, paragraph 17)*
 - For a council's school transport arrangements to be suitable they must also be safe and reasonably stress free, to enable the child to arrive at school ready for a day of study. *(Home to school travel and transport guidance - Statutory guidance for local authorities 2014, paragraph 35)*

Appeals process

15. The statutory guidance sets out a recommended appeals procedure for councils to follow. It says, “The intention is to ensure a consistent approach across all local authorities, and to provide an impartial second stage, for those cases that are not resolved at the first stage.” Parents may challenge decisions about the transport arrangements offered, their child’s eligibility, the distance measurement from home to school and the safety of the route.
16. The guidance recommends a two-stage procedure for school transport appeals.
 - Stage 1: review by a senior officer. A parent can ask for a review within 20 working days of receiving the council’s decision. A senior officer should respond within 20 working days and tell the parent the council’s decision.
 - Stage 2: review by an independent appeal panel. A parent can ask to escalate their appeal within 20 days of receiving the council’s response at stage one and an appeal panel should take place within 40 working days of the request. The guidance recommends that the parent should be able to make both written and oral representations to the panel.
17. At both stages of the appeals process, the decision should set out:
 - the nature of the decision reached;
 - how the review was conducted;
 - information about other departments and/or agencies consulted;
 - what factors were considered;
 - the rationale for the decision; and
 - how to escalate the appeal to the next stage, including when a parent can approach us.

The Council’s home to school transport policy

18. The Council’s home to school transport policy, which was in use until June 2019, says any home to school transport provided will be “whatever the Council considers is necessary and suitable for the purpose of facilitating the child’s attendance at school”.
19. The Council says it will consider all the information given in applications for home to school transport and any evidence provided in support. It says it will take account of the child’s specific needs in deciding what assistance to offer. Its options for home to school transport include travel training, travel passes, personal budgets and taxis.
20. Before June 2019, the Council’s appeals process had two stages. At stage one a manager considered the appeal. The policy said, “further evidence may be requested to support the appeal and consultation with caseworkers and professional bodies may be required.” At stage two, a sub-committee of elected members reviewed the appeal.

How we considered this complaint

21. We produced this report after considering the complaints made by Mrs C and Mrs G and the documents they provided; and the Council’s comments about the complaints and the documents it provided in response to our enquiries.

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22. We gave the complainants and the Council a confidential draft of this report and invited their comments. The comments received were considered before the report was finalised.

What we found

What happened in Mrs C's case

23. At the time of the events complained about Mrs C's daughter, D, was seven. She has a diagnosis of autistic spectrum disorder. She has an education, health and care plan which names a special school three miles from her home.
24. D began attending the school in September 2018. The family were living in temporary accommodation near to the school and a relative supported Mrs C to transport D to school. In February 2019, the family moved back to their own home, further from the school and without the support of the relative with transport.
25. Mrs C applied for home to school transport for D in March 2019. She said she did not have a car and her home was three miles away from the school. Mrs C said D could be challenging and refuse to walk. She said there was no direct bus route to the school and she could not afford the travel costs to bring D herself. Mrs C said D found public transport difficult, had no awareness of danger and had run into roads.
26. The Council assessed Mrs C's application in April. It decided to offer D a bus pass or cash equivalent but did not record on the assessment form the reason for its decision. It checked if the family were on a low income. The Council noted it issued the family with bus passes in November and December 2018 while they were living in temporary accommodation.
27. Mrs C appealed the Council's decision in May. She said D's learning disability was severe and her behaviour extremely challenging. The quickest route proposed by the Council required changing buses at the busiest time of day. Mrs C said D used a special needs pushchair and space on the bus would be limited which would make D more distressed. She said D could hurt herself and hit and bite others when she becomes upset. She asked the Council to provide D with a taxi or minibus to school.
28. An officer reviewed the stage one appeal. The officer acknowledged Mrs C's description of D's challenging behaviour but noted, "Travel Assist rarely receive reports regarding students attending [School] that suggest their students are unable to travel on vehicles with other passengers." The officer also noted the Council had given D a bus pass when she lived in temporary accommodation and as the pass was not returned, the officer assumed it had been used. The officer decided D could travel on public transport and dismissed the appeal.
29. In its letter to Mrs C about the outcome of the appeal, the Council said the extra information provided by Mrs C did not warrant a change in the original decision. It told her how to raise her appeal to the next stage.
30. In June, Mrs C asked for her appeal to be considered at stage two. She reiterated her previous concerns about D using public transport and said D's school was supporting the appeal. She said the Council had not provided a detailed explanation for why D could not access specialised transport to and from school.

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31. The sub-committee considered Mrs C's second stage appeal in August. It did not tell Mrs C the date of the appeal. The sub-committee noted Mrs C had not provided supporting evidence for D's challenging behaviour.
32. The Council wrote to Mrs C and said it did not uphold her appeal. It said the family had not returned the bus passes issued to them in November 2018, therefore the sub-committee assumed they had been travelling on public transport. It also said it thought the journey to school was reasonable. The Council said there was no evidence D could not use public transport. It did not direct Mrs C to us.
33. In September 2019, a clinical psychologist provided a supporting letter for D to access home to school transport. The letter said D needed full supervision and support with her every day needs and was mostly non-verbal. It stated D could be aggressive towards others and did not use public buses due to health and safety concerns.
34. In January 2020, D's school wrote a letter which was given to the Council providing evidence in support of Mrs C's request for home to school transport. The letter said D:
- had no awareness of personal danger;
 - would not be able to travel to school by public transport or walk between home and bus stops;
 - was non-verbal, placed inappropriate items from the environment in her mouth, and injured herself;
 - became distressed and could behave unpredictably;
 - would not be able to access crowded spaces such as a public bus; and
 - had similar needs to "numerous other children" who attended the school and received specialist transport.
35. In March 2020, a different clinical psychologist discussed D's case with the Council and wrote in support of the request for home to school transport. She said D's presentation meant travel to school by public transport would be too high a risk. D's parents were struggling to use strategies to manage her behaviour because they were exhausted from her frequent challenging behaviour "throughout the day and the night whilst out of school due to a lack of transport provision".
36. In April 2020, the Council overturned its decision and granted D a space on a minibus with a passenger assistant to take her to school. The Council says this was in response to the information from the psychologist.
37. Mrs C said before this she had been transporting D to school herself by taxi. She says there were times she could not afford the taxi and D had to miss school. D's attendance for 2018-19 was 69% and her attendance before schools closed because of the COVID-19 pandemic in 2019-2020, was 52%.

What happened in Mrs G's case

38. Mrs G has a teenage son, H, and several other children with additional needs. H has learning difficulties and physical health problems. He has an education, health and care plan which names a special school. The school is over three miles from his home.

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39. Mrs G applied to the Council for home to school transport in March 2019. In her application she listed her reasons for asking for assistance and explained the difficulties H would have on public transport. Mrs G told the Council H was at high risk when using public transport. She said he had no social skills, needed constant supervision, could be impolite or rude to others and could become physical by throwing items or pinching people.
40. Mrs G went on to list the reasons neither she nor her husband would be able to go with H on his journey to school. Mrs G said she had competing priorities because she had to take her other children to various schools in the area and several had additional or complex needs. Mrs G also said she had her own physical and mental health difficulties.
41. The Council replied to Mrs G in mid-March and confirmed H was an eligible child and had been granted home to school transport. The letter explained, “we have agreed your child can be provided with a free travel pass to use on public transport...Travel Assist expects either a parent or guardian to accompany their child on the journey to and from school.”
42. Mrs G disagreed with H being offered a bus pass and said neither she nor her husband could go with him on his home to school journey. Mrs G appealed the Council’s decision and asked it to consider her appeal at stage one. She included further details of H’s medical issues, her own mental and physical health difficulties, and her husband’s recent surgery which prevented him accompanying H.
43. The Council refused Mrs G’s stage one appeal. The decision letter said, “the additional information you provided did not warrant a change in the original decision following the initial assessment of the Transport Application Form.”
44. Mrs G was unhappy with the decision and asked the Council to consider her appeal at stage two.
45. In support of her appeal, Mrs G sent a letter from H’s paediatrician who supported her application for home to school transport. The letter said, “[H] can easily wander off as he has very little understanding in view of his difficulties.” Mrs G also explained that H suffered from anxiety, had no awareness of danger and could become anxious in crowds. She said H was taking sleeping medication and would have to catch three buses to arrive at school which she said would leave him confused.
46. In mid-May 2019, the sub-committee considered Mrs G’s appeal. Under the Council’s policy at the time, Mrs G was not invited to give verbal evidence before the sub-committee.
47. The Council wrote to Mrs G explaining its decision. It said the sub-committee decided Mrs G’s particular circumstances “did not justify a departure from the general policy as there was no exceptional circumstances.” The Council listed the reasons for refusal as:
- H had been awarded a bus pass or equivalent and there were no exceptional circumstances to explain why he could not use public transport accompanied by one of his parents. The sub-committee noted Mrs G’s medical issues; and
 - two of Mrs G’s younger children should be able to travel alone despite having moderate special educational needs and the three other children attended a school very close to where they lived.

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48. The letter said the sub-committee's decision was final with no right of appeal. The letter did not explain that Mrs G could approach us.
49. In September 2019, Mrs G contacted the Council to explain she was struggling with her health and asked if she could put in another application for home to school transport. The Council told Mrs G not to complete a new application form. It said she could send supporting evidence and it might consider it at a sub-committee hearing. Mrs G says she sent supporting evidence of her family's difficulties and provided medical documentation for her husband and H's sibling. She also sent information about a college course she attended which she believed changed her circumstances.
50. The Council wrote to Mrs G in November 2019. It said there was "no decision on the stage two appeal" and it would tell her when it had an outcome.
51. Mrs G says she emailed the Council many times for an update but only received an automated response. Mrs G says she had not received a response from the Council up to the point she complained to us in February 2020.

Conclusions

The Council's decision to provide home to school transport

52. Both children were eligible for home to school transport because they lived more than the statutory walking distance from their nearest suitable school. The issue of accompaniment only applies in cases where a child lives within statutory walking distance and has a special educational need, disability or mobility problem, or the walking route is unsafe. There is no expectation in the guidance for a parent to accompany a child who is entitled to home to school transport because they live further than the statutory walking distance. The Council expected Mrs C and Mrs G to accompany their children to school, and this was fault.
53. In both cases, the Council did not adequately record its reasons for offering a bus pass when Mrs C and Mrs G applied for home to school transport. There is no evidence of how it considered travelling by public transport was "safe and reasonably stress free" for D and H or that it considered whether either child could travel on public transport unaccompanied. This was fault. If the Council believed the children needed accompaniment, it should have considered another type of transport as set out in its home to school transport policy, such as escorted public transport or a transport vehicle to assist them on their journey to and from school. Not doing so was fault.
54. For Mrs C and Mrs G to use the home to school transport offered to their children they would have had to incur additional costs buying their own ticket to accompany the children on public transport. The Council says it did not consider issuing a bus pass or equivalent to either parent. In both cases, the families incurred costs transporting their children to school either by taxi or using their own car. This was fault.

Appeals

55. In both cases, the Council's response to the stage one appeal does not explain what it considered when making its decisions, nor the reasons for its decisions. In Mrs C's case, the Council's records show it based its decision in part on the behaviour of other children and did not show how it considered D's individual needs. In Mrs G's case, it did not explain how it considered H's needs or the

medical evidence she provided. There is no evidence the Council asked for further information from Mrs C or Mrs G about D or H's difficulties using public transport, or consulted with caseworkers or other professionals involved with the children. This was fault.

56. The Council did not invite Mrs C or Mrs G to the stage two appeals. The policy in place then did not allow parents to attend stage two panels to make oral or written representations. This did not follow the statutory guidance and was fault.
57. In both cases, the minutes we have seen do not explain what evidence the sub-committee considered or give a rationale for how it reached its decision. This, together with the failure to invite parents to make verbal representations, casts doubt over the decision-making process. This was fault.
58. The decision letter to both parents following the sub-committee concluded "there were no exceptional circumstances" to explain why the children could not use public transport accompanied by one of their parents. The sub-committee failed to recognise that both children were eligible due to living over the statutory walking distance from their school and so there was no legal basis to expect a parent to accompany them to school. This was fault.
59. The stage two decision letters did not explain Mrs C and Mrs G's right to approach us if they remained dissatisfied with the outcome of the appeal process. This was fault.
60. In Mrs C's case, the Council was not at fault for not considering the letters from D's school and first clinical psychologist, as these were not available at the time of the appeal. However, there is no evidence to suggest D's needs changed from the time her mother applied for home to school transport to the time the Council changed its mind and decided to offer specialist transport. The Council should have carried out the necessary checks with other professionals working with D at the time of Mrs C's application. Had it done so, on balance of probabilities, we are satisfied it would have decided to offer specialist transport sooner.
61. We have found fault with other councils for putting the onus on parents to produce a high standard of evidence to support their application for home to school transport. The statutory guidance is clear the Council must assess eligibility on an individual basis to identify the transport requirements of a child. If the Council finds a parent's evidence is lacking, it should collect any further evidence it needs to assess a child's eligibility for transport. Both children were attending school and in regular contact with professionals who could have provided the Council with advice. The Council did not seek this advice, and this was fault.
62. In Mrs G's case, the Council failed to respond adequately to her when she provided evidence to support her change of circumstances in September 2019. This was fault. The Council caused unnecessary confusion by telling Mrs G no decision had been made on her appeal when her stage two appeal had been dismissed in May 2019. This was fault.
63. In response, the Council acknowledged Mrs G contacted the service in September and again in November 2019. The Council said Mrs G did not follow up her request. However, Mrs G sent us the Council's automated email response from February 2020 showing she had contacted the Council. On the balance of probabilities, Mrs G contacted the Council for an update between November 2019 and February 2020 but did not receive a reply. The Council said the additional information Mrs G submitted after September 2019 was not reviewed. Mrs G says she still has not received a reply to her request. The Council should have replied

to Mrs G within the 20 days as specified in its automated email reply, and not doing so was fault.

Injustice

64. Both Mrs C and Mrs G incurred costs as well as the stress and inconvenience of accompanying their children to school because of the Council's faults. The faults prevented D and H having the school transport they were entitled to.
65. In Mrs C's case, D's attendance in the past two school years was low. Given other difficulties the family experienced in this period, it is not possible to say with certainty that lack of suitable transport was the only reason for D's low attendance. However, we are satisfied the cost and difficulty of arranging alternative transport for D was one factor which prevented her attending school regularly. Consequently, D missed some education because of the Council's fault.
66. Mrs G says the lack of suitable transport contributed to her own emotional, mental and physical health issues. She says she spent a considerable amount of her time making sure her children were taken to various schools as she did not want their attendance to suffer. She says she felt mentally and physically drained and it caused her to miss or alter health care appointments for herself and children. Mrs G also says the amount of time it took to take various children to different schools affected her family and caused some of her children's behaviour to deteriorate. The Council's failure to provide suitable home to school transport for H contributed to Mrs G's stress. The Council has not resolved Mrs G's concerns about H's transport to school so the injustice is ongoing.
67. The Council's failure to invite parents to the stage two appeal deprived them of an opportunity to present their case for alternative transport provision. The Council has since updated its policy to allow verbal evidence to be given. It also ensures parents and carers are signposted to us at the end of the appeals process.
68. The Council missed opportunities through the appeals process to correct the faults in its decision making. This resulted in Mrs C and Mrs G taking time and trouble to bring their complaint to us to seek resolution.
69. We are concerned that the very similar faults which occurred in both these cases mean it is possible other families have been similarly affected. Other parents and carers may have also incurred costs to access the home to school transport their children are entitled to.

Recommendations

70. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Mrs C's case

71. To remedy the injustice identified in this report, the Council has agreed to:
 - apologise to Mrs C and D for the faults identified in this investigation, and repay any costs incurred by Mrs C to transport D to school since 12 April 2019;
 - pay Mrs C £150 for the time and trouble taken to resolve her complaint;
 - pay Mrs C a further £250 to recognise the stress and inconvenience caused by the failure to provide suitable home to school transport; and

- pay Mrs C a further £500 to recognise the impact the failure to provide suitable home to school transport had on D accessing education from April 2019 to March 2020.

Mrs G's case

72. To remedy the injustice identified in this report, the Council has agreed to:

- apologise to Mrs G, H and their family for the faults identified in this investigation;
- pay Mrs G £150 for the time and trouble taken to resolve her complaint.
- pay Mrs G a further £300 to recognise the stress and inconvenience caused by the failure to provide suitable home to school transport and the impact this had on Mrs G and H;
- review Mrs G's application and offer H an alternative means of home to school transport which does not require his parents to accompany him; and
- pay Mrs G her reasonable travel expenses from 13 March 2019 when it decided H was an eligible child.

Service improvement

73. To improve the service offered to other families, the Council has agreed to remind officers making decisions about home to school transport, and those involved in appeals, of the following:

- The Council cannot insist parents and carers accompany children who live beyond statutory walking distance on the journey to school. For all other children, decisions about accompaniment should be made on a case-by-case basis.
- Where the child is eligible for free transport, parents and carers should not incur costs to use home to school transport offered to their child.
- Decisions made about home to school transport must take account of the individual needs of the child and consider whether the journey is "safe and reasonably stress free, to enable the child to arrive at school ready for a day of study".
- If the Council requires further evidence to decide if a child is eligible for home to school transport, it should consult relevant professionals already involved with the child.
- When making decisions about transport for children with special educational needs, the Council should show how it has considered the content of the child's education, health and care plan.
- Reasons for decisions must be recorded.
- Decision letters following appeals must set out how the Council carried out the review, who they consulted, what they considered and how the parent can escalate their case.

74. The Council has also agreed to:

- revise its home to school transport policy to ensure its approach to accompaniment reflects the statutory guidance;
- review all decisions to issue a travel pass made since September 2018 to ensure

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- it considered the individual needs of each child;
 - it has not required parents and carers of children living beyond statutory walking distance to accompany their child on the journey to and from school; and
 - no parent has been expected to incur costs to use the home to school transport offered by the Council where the child is eligible for free transport. Where costs have been incurred, the Council should repay these.

Decision

75. We have completed our investigation into this complaint. There was fault by the Council which caused an injustice to Mrs C, Mrs G and their children. The Council has agreed to take the action identified in paragraph 70 to 74 to remedy that injustice.

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Audit Committee
Report of:	Assistant Director, Audit & Risk Management
Date of Meeting:	26th July 2021
Subject:	Risk Management Update
Wards Affected:	All

1. Purpose of Report

- 1.1 To update Members on the management of strategic risks and implementation of the Risk Management Framework.

2. Recommendation

Audit Committee Members:

- 2.1 Note the progress in implementing the Risk Management Framework and the assurance and oversight provided by the Council Leadership Team (CLT).
- 2.2 Review the strategic risks and assess whether further explanation / information is required from risk owners in order to satisfy itself that the Risk Management Framework has been consistently applied.

3. Risk Management Framework

- 3.1 The Risk Management Framework sets out the processes for identifying, categorising, monitoring, reporting and mitigating risk at all organisational levels.
- 3.2 The framework is implemented through a network of Directorate Risk Representatives. Risk representatives assist directorate management teams in producing and maintaining up-to-date risk registers and supporting action plans.
- 3.3 Strategic risks are reviewed and challenged through the Corporate Leadership Team.

4. Strategic Risk Register

- 4.1 Strategic risks have been reviewed and updated on a monthly basis by Directorate Risk Representatives. Risk SR7.1 Service Improvement has been restated and a revised action plan established.
- 4.2 The strategic risks have been piloted on a heat map within Appendix A and are summarised within Appendix B. The profile of the strategic risks, against each 'PESTLE' category is given below:

Residual Risk Exposure	High	Medium	Low	Total
SR1 - Political	1	1		2
SR2 - Economical	3	3		6
SR3 - Social	5	3		8
SR4 - Technological	1	2		3
SR5 - Legal	4	1	1	6
SR6 - Environmental	2	0		2
SR7 - Cross Cutting	1	4		5
Total	17	14	1	32

- 4.2 Three risks have been identified with a high residual impact and likelihood score:

- SR3.4 Risk of significant disruption to Council services and failure to effectively manage and respond to emergency incidents, including acts of terrorism
- SR4.3 Risk of Cyber Attacks
- SR5.1 Inadequate Property Portfolio (including Health & Safety and Working conditions)

Assurance on the management of these risks has been provided, or is scheduled on the Committee's work programme, via the Cabinet Member Assurance Sessions.

- 4.3 Risks are assigned weightings according to the definitions set out in the Strategic Risk Management Framework. Framework as follows:

Measures of likelihood:

Description	Example Detail Description
High	Almost certain, is expected to occur in most circumstances. Greater than 80% chance.
Significant	Likely, will probably occur in most circumstances. 50% - 80% chance.
Medium	Possible, might occur at some time. 20% - 50% chance.
Low	Unlikely, but could occur at some time. Less than 20% chance.

Measures of impact:

Description	Example Detail Description
High	Critical impact on the achievement of objectives and overall performance. Critical opportunity to innovate/improve performance missed/wasted. Huge impact on costs and/or reputation. Very difficult to recover from and possibly requiring a long-term recovery period.

Significant	Major impact on costs and objectives. Substantial opportunity to innovate/improve performance missed/wasted. Serious impact on output and/or quality and reputation. Medium to long term effect and expensive to recover from.
Medium	Waste of time and resources. Good opportunity to innovate/improve performance missed/wasted. Moderate impact on operational efficiency, output and quality. Medium term effect which may be expensive to recover from.
Low	Minor loss, delay, inconvenience or interruption. Opportunity to innovate/make minor improvements to performance missed/wasted. Short to medium term effect.

CLT assessed the Committee's challenge around the Delivery of the Commonwealth Games against the criteria and supported the continuation of the assignment being Medium / Medium, resulting in an overall Material status (close monitoring to be carried out and cost-effective control improvements sought). However, it was felt that the rating of other risks relative to this did need to be revisited.

4.4. A risk workshop with CLT in June led to a broader discussion and a further workshop is planned to challenge a further 19 risks in terms of deletion, adjusting risk levels, merger or reframing.

4.5 The strategic risk register is updated and reviewed on a monthly basis by CLT to ensure robust oversight and that appropriate action is being taken.

5. Directorate Risks

5.1 Each Directorate maintains their own risk registers. These Directorate risk registers contain the operational risks facing the Council and are managed at a local level.

5.2 The top operational risks are being captured as part of the ongoing corporate business planning process and will be subject to a similar level of scrutiny as Strategic Risks. This will include reporting all significant operational risks to the Audit Committee.

6. Role of the Audit Committee

6.1 Members have a key role within the risk management and internal control processes.

6.2 The Audit Committee terms of reference, sets out its responsibilities and in relation to risk management these are:

- providing independent assurance to the Council on the effectiveness of the risk management framework and the associated control environment;

	<ul style="list-style-type: none"> • whether there is an appropriate culture of risk management and related control throughout the Council; • to review and advise the Executive on the embedding and maintenance of an effective system of corporate governance including internal control and risk management; and • to give an assurance to the Council that there is a sufficient and systematic review of the corporate governance, internal control and risk management arrangements within the Council.
7.	Legal and Resource Implications
7.1	The work carried out is within approved budgets.
8.	Equality Impact Assessment Issues
8.1	Risk management forms an important part of the internal control framework within the Council.
8.2	The Council's risk management framework has been Equality Impact Assessed and was found to have no adverse impacts.
9.	Compliance Issues
9.1	Decisions are consistent with relevant Council Policies, Plans and Strategies.

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Risk Heat Map

Strategic Risk Map – July 2021				
Likelihood	High			<div>SR1.1 Relevance to citizens</div> <div>SR4.3 Cyber attacks</div> <div>SR5.1 Health & Safety / Inadequate property portfolio</div> <div>SR3.4 Counter Terrorism / emergency incidents</div>
	Significant	<div>SR2.6 Future Financial Resilience</div> <div>SR4.1 Loss of personal/sensitive data</div> <div>SR3.3 Equality representation</div> <div>S3.8 Effective Public Hubs</div>	<div>SR6.2 Health & wellbeing</div> <div>SR3.7 Public Health interventions</div> <div>SR6.1 Climate change / air pollution</div> <div>SR7.2 Rising pressure of demand</div>	<div>SR2.2 Homelessness & housing</div> <div>SR2.3 Financial insecurity for citizens</div> <div>SR3.2 Localisation / personalisation</div> <div>SR3.5 Lack of engagement</div> <div>SR3.1 Community Leadership quality</div> <div>SR5.6 Safeguarding Children</div>
	Medium	<div>SR5.3 Brexit impact on legislation</div> <div>SR7.3 Achieving desired culture change</div> <div>SR7.4 CWG Delivery</div>	<div>SR4.2 Harnessing technology opportunities</div> <div>SR2.4 Leading the regional agenda</div> <div>SR2.5 Development of local urban centres</div> <div>SR7.4 CWG Legacy Realisation</div> <div>SR1.2 Opportunities of devolution</div>	<div>SR5.4 Meeting social care requirements</div> <div>SR5.5 View of BCC by regulators</div> <div>SR7.1 Service Improvement</div> <div>SR2.1 National politics</div>
	Low	<div>SR5.2 Approach to equalities</div>	<div>SR3.6 Preventing crime agenda</div>	
Key	Impact			
	Low	Medium	Significant	High
	Severe	Immediate control improvement to be made to enable business goals to be met and service delivery maintained/improved.		
	Material	Close monitoring to be carried out and cost effective control improvements sought to ensure service delivery is maintained		
	Tolerable	Regular review, low cost control improvements sought if possible.		

Strategic Risk Register Summary

Risk No.	Risk	Risk Owner	Inherent Risk	Residual Risk	Target Risk	Action Plan	Direction of Travel
SR1 Political							
SR1.1	The Quality of Services impacting on the relevance of the Council to the Citizens of Birmingham	Director of Digital & Customer Services	Severe	Severe	Tolerable	Yes	↔
SR1.2	Failure to realise the opportunities of devolution and the Combined Authority	Assistant Chief Executive	Severe	Material	Tolerable	Yes	↔
SR2 Economic							
SR2.1	Impact of National politics on jobs	Acting Director – Inclusive Growth	Severe	Severe	Tolerable	Yes	↔
SR2.2	Homelessness and less affordable housing with rising housing requirements	Acting Director – Inclusive Growth & Acting Director -Housing	Severe	Severe	Material	Yes	↔
SR2.3	Increased financial insecurity and inequality for citizens	Assistant Chief Executive	Severe	Severe	Tolerable	Yes	↔
SR2.4	Leading on the Regional Agenda	Acting Director – Inclusive Growth	Severe	Material	Tolerable	Yes	↔
SR2.5	Development of Local Urban Centres	Acting Director – Inclusive Growth	Material	Material	Tolerable	Yes	↔
SR2.6	Future Financial Resilience	Interim Director of Council Management	Severe	Material	Tolerable	Yes	↔
SR3 Social							
SR3.1	Quality of Community Leadership, at Member and Officer level	Director of City Operations	Severe	Severe	Tolerable	Yes	↔
SR3.2	Localisation and personalisation being delivered effectively	Director of City Operations	Severe	Severe	Tolerable	Yes	↔
SR3.3	Equality representation within the Council does not represent the city	Director of Human Resources	Severe	Material	Tolerable	Yes	↔

Appendix B

Risk No.	Risk	Risk Owner	Inherent Risk	Residual Risk	Target Risk	Action Plan	Direction of Travel
SR3.4	Risk of significant disruption to Council services and failure to effectively manage and respond to emergency incidents, including acts of terrorism	Assistant Chief Executive	Severe	Severe	Tolerable	Yes	↔
SR3.5	Lack of Engagement	Directors of Adult Social Care and Education and Skills	Severe	Severe	Tolerable	Yes	↔
SR3.6	Inability to effectively influence the preventing crime agenda	Assistant Chief Executive	Severe	Material	Tolerable	Yes	↔
SR3.7	Public Health approach to early interventions ineffective	Director of Public Health	Severe	Severe	Tolerable	Yes	↔
SR3.8	Creation of effective public hubs in line with local needs	Director of Inclusive Growth	Severe	Material	Material	Yes	↔
SR4 Technological							
SR4.1	Loss of personal and sensitive data	Assistant Director for IT&D & CIO	Severe	Material	Tolerable	Yes	↔
SR4.2	Failure to take advantage of new ways of working enabled by technology	Assistant Director for IT&D & CIO	Severe	Material	Tolerable	Yes	↔
SR4.3	Risk of Cyber Attacks	Assistant Director for IT&D & CIO	Severe	Severe	Material	Yes	↔
SR5 Legal							
SR5.1	Inadequate Property Portfolio (including Health & Safety and Working conditions)	Assistant Director Property Services	Severe	Severe	Tolerable	Yes	↔
SR5.2	Ineffective approach to Equalities	Assistant Chief Executive	Severe	Tolerable	Tolerable	Yes	↔
SR5.3	Future Brexit agenda and impact on legislation	Director of Legal Services	Severe	Material	Material	Yes	↔
SR5.4	Inability to fully meet social care requirements	Director of Adult Social Care	Severe	Severe	Tolerable	Yes	↔
SR5.5	View of BCC by Regulators	Directors of Adult Social Care and Education and Skills	Severe	Severe	Tolerable	Yes	↔
SR5.6	Safeguarding Children	Director of Education and Skills	Severe	Severe	Tolerable	Yes	↔

Appendix B

Risk No.	Risk	Risk Owner	Inherent Risk	Residual Risk	Target Risk	Action Plan	Direction of Travel
SR6 Environmental							
SR6.1	Ability to address air pollution and full delivery of the climate change agenda	Acting Director, Inclusive Growth	Severe	Severe	Material	Yes	↔
SR6.2	Health & Wellbeing	Director HR	Severe	Severe	Tolerable	Yes	↔
SR7 Cross Cutting							
SR7.1	Service Improvement	Assistant Chief Executive	Severe	Material	Tolerable	Yes	↔
SR7.2	Rising pressure of demand	Directors of Adults Social Care / Education and Skills	Severe	Severe	Tolerable	Yes	↔
SR7.3	The organisational culture change needed to become a modern council is not achieved	Chief Executive re organisational culture	Severe	Material	Tolerable	Yes	↔
SR7.4	Birmingham 2022 Commonwealth Games Delivery of Core Services and Infrastructure	Chief Executive	Material	Material	Tolerable	Yes	↔
SR7.5	Birmingham 2022 Commonwealth Games Legacy Realisation	Chief Executive	Material	Material	Tolerable	Yes	↔

Birmingham City Council Audit Progress Report and Sector Update

Year ending 31 March 2021

July 2021



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Introduction

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This paper provides the Audit Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Audit Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications www.grantthornton.co.uk.

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

Progress at July 2021

Financial Statements Audit

We undertook our initial planning for the 2020/21 audit in February and March 2021. We began our work on your draft financial statements in late June.

In March we issued a detailed audit plan, setting out our proposed approach to the audit of the Authority's 2020/21 financial statements.

We will report our work in the Audit Findings Report and aim to give our opinion on the financial statements by 31 October 2021.

Value for Money

The new Code of Audit Practice (the “Code”) came into force on 1 April 2020 for audit years 2020/21 and onwards. The most significant change under the new Code is the introduction of an Auditor’s Annual Report, containing a commentary on arrangements to secure value for money and any associated recommendations, if required.

The new approach is more complex, more involved and is planned to make more impact.

Under the 2020 Code of Audit Practice, for relevant authorities other than local NHS bodies auditors are required to issue our Auditor’s Annual Report no later than 30 September or, where this is not possible, issue an audit letter setting out the reasons for delay.

As a result of the ongoing pandemic, and the impact it has had on both preparers and auditors of accounts to complete their work as quickly as would normally be expected, the National Audit Office has updated its guidance to auditors to allow us to postpone completion of our work on arrangements to secure value for money and focus our resources firstly on the delivery of our opinions on the financial statements. This is intended to help ensure as many as possible could be issued in line with national timetables and legislation. The extended deadline is now no more than three months after the date of the opinion on the financial statements.

Progress at July 2021 (cont.)

Other areas

Certification of claims and returns

We certify the Authority's annual Housing Benefit Subsidy claim in accordance with procedures agreed with the Department for Work and Pensions (DWP). The certification work for the 2019/20 claim was completed on 19 January 2021. The certification work for the 2020/21 claim has commenced, and is due to be completed by the end of the year. We will report our findings to the Audit Committee once complete.

We certify the Authority's annual Teachers' Pensions return in accordance with procedures agreed with Teachers' Pensions. The certification work for the 2019/20 return was completed 18 December 2020. The certification work for the 2020/21 is due to begin in October.

We also certify the Authority's annual Pooling of Housing Capital Receipts return in accordance with procedures agreed with the Ministry of Housing, Communities & Local Government. (MHCLG). The certification work for the 2019/20 return was completed on 13 May 2021. The certification work for the 2020/21 return is due to begin in October.

Meetings

We meet regularly with Finance Officers and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective. We will also meet with your new Chief Executive in July to discuss the Authority's strategic priorities and plans.

Events

We provide a range of workshops, along with network events for members and publications to support the Authority. Your officers attended our Financial Reporting Workshop in February, which helped to ensure that members of your Finance Team were up to date with the latest financial reporting requirements for local authority accounts.

Further details of the publications that may be of interest to the Authority are set out in our Sector Update section of this report.

Audit Fees

During 2017, PSAA awarded contracts for audit for a five year period beginning on 1 April 2018. 2020/21 is the third year of that contract. Since that time, there have been a number of developments within the accounting and audit profession. Across all sectors and firms, the Financial Reporting Council (FRC) has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing.

Our work in the Local Government sector in 2018/19 and 2019/20 has highlighted areas where financial reporting, in particular, property, plant and equipment and pensions, needs to improve. There is also an increase in the complexity of Local Government financial transactions and financial reporting. This combined with the FRC requirement that all Local Government audits are at or above the "few improvements needed" (2A) rating means that additional audit work is required.

We have reviewed the impact of these changes on both the cost and timing of audits. We have discussed this with your s151 Officer including any proposed variations to the Scale Fee set by PSAA Limited, and have communicated fully with the Audit Committee.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and local government financial reporting.

Audit Deliverables

2020/21 Deliverables	Planned Date	Status
Audit Plan We are required to issue a detailed audit plan to the Audit Committee setting out our proposed approach in order to give an opinion on the Authority's 2020/21 financial statements and the Auditor's Annual Report on the Authority's Value for Money arrangements.	March 2021	Complete
Interim Audit Findings We will report to you any findings arising from our audit and our value for money work within our Progress Reports.	July 2021 September 2021	In this report
Audit Findings Report The Audit Findings Report will be reported to the October Audit Committee.	October 2021	Not yet due
Auditors Report This is the opinion on your financial statements.	October 2021	Not yet due
Auditor's Annual Report This Report communicates the key issues arising from our Value for Money work.	November 2021	Not yet due

Results of Audit work to date

The findings of our audit work to date, and the impact of our findings on the accounts audit approach, are summarised in the table below:

	Work performed	Conclusions and recommendations
Internal audit	We have reviewed internal audit's work on the Authority's key financial systems where reports were issued by the end of the financial year. We will continue to update this review to the point that we issue our opinion.	Our review of internal audit work has not identified any weaknesses which impact on our audit approach.
Entity level controls	<p>We have obtained an understanding of the overall control environment relevant to the preparation of the financial statements including:</p> <ul style="list-style-type: none"> • Communication and enforcement of integrity and ethical values • Commitment to competence • Participation by those charged with governance • Management's philosophy and operating style • Organisational structure • Assignment of authority and responsibility • Human resource policies and practices 	Our work has identified no material weaknesses which are likely to adversely impact on the Authority's financial statements.
Review of information technology controls	Our information systems specialists are in the process of performing a high level review of the general IT control environment, as part of the overall review of the internal controls system.	We will consider the possible impact on the Authority's financial statements upon the completion of this work, and report significant findings to the Audit Committee.
Walkthrough testing	We have completed walkthrough tests of the Authority's controls operating in areas where we consider that there is a significant risk of material misstatement to the financial statements.	<p>Our work has not identified any issues which we wish to bring to your attention. Internal controls have been implemented by the Authority in accordance with our documented understanding.</p> <p>Our work has not identified any weaknesses which impact on our audit approach.</p>
Journal entry controls	We have reviewed the Authority's journal entry policies and procedures as part of determining our journal entry testing strategy.	<p>We have not identified any material weaknesses which are likely to adversely impact on the Authority's control environment or financial statements.</p> <p>We have yet to complete detailed testing on journal transactions in the year which we deem to be 'unusual'.</p>

Sector Update

Authorities continue to try to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider local government sector and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- [Grant Thornton Publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

Public Sector

Local
government

Insight into accounting for grants in local government financial statements – Grant Thornton

The government has provided a range of financial support packages throughout the COVID-19 pandemic.

We have issued a brief bulletin aimed at helping local government bodies identify the key things they should consider when determining the accounting treatment for these grants in their financial statements for 2020/21.

There are no changes to the accounting treatment for grants as required by the CIPFA Code of Practice on Local Authority Accounting. What has changed, is the extent of additional funding to support the cost of services, to offset other income losses along with grant packages to be paid out to support local business. Local authorities need to consider the nature and terms of the various COVID-19 measures in order to determine whether there is income and expenditure to be recognised in the Comprehensive Income and Expenditure Statement in 2020/21.

The report highlights the factors to consider, including:

- Where the funding is to be transferred to other parties, is the authority acting as principal or as agent?
- Are there grant conditions outstanding?
- Is the grant a specific or non-specific grant?

Our bulletin provides you with links to further information on the various support packages and summarises features that may be relevant to your judgements as you determine the appropriate accounting treatment.

Local authorities need to demonstrate their judgements on the accounting treatment to be reasonable and soundly based and, where these have a significant effect on the accounts, to ensure they include sufficient disclosures to meet the requirements of IAS 1:122.

Please ask your audit manager for the full report:



What can be learned from Public Interest Reports?– Grant Thornton

2020 will be remembered as a tumultuous year in local government, with the pandemic creating unprecedented pressure on the sector. It also saw the appearance of two Public Interest Reports (PIRs), followed by another in January this year – the first to be issued in the sector since 2016. PIR's can be issued by local auditors if there are significant concerns around council activity, such as major failings in finance and governance.

The recent PIRs have made headlines because, up to this point, very few have ever been issued. But, as our latest report “Lessons from recent Public Interest Reports” explores, all three illustrate some of the fundamental issues facing the wider sector and provide a lesson for all local authorities around: weaknesses in financial management; governance and scrutiny practices; and council culture and leadership; which, when combined, can provide fertile ground for the kind of significant issues we might see in a PIR.

The COVID-19 pandemic highlighted four essential factors we probably always knew about local government, have often said, but which are now much better evidenced:

- 1) Local government has provided fantastic support to its communities in working with the NHS and other partners to deal with the multifaceted challenges of the pandemic.
- 2) Britain's long centralised approach to government has been exposed to some degree in terms of its agility to tailor pandemic responses to regional and local bodies. This is recognised by the current government who continue to pursue the options for devolution of powers to local bodies. Track and Trace delivered centrally has not been as successful as anticipated and, according to government figures, local interventions have had more impact.

- 3) Years of reduced funding from central government have exposed the underlying flaws in the local authority business model, with too much reliance on generating additional income.
- 4) Not all authorities exercise appropriate care with public money; not all authorities exercise appropriate governance; and not all authorities have the capability of managing risk, both short and long term. Optimism bias has been baked into too many councils' medium-term plans.

The PIRs at Nottingham City Council (August 2020), the London Borough of Croydon (October 2020), and Northampton Borough Council (January 2021) are clear illustrations of some of the local government issues identified above. The audit reports are comprehensive and wide-ranging and a lesson for all local authorities. Local authorities have a variety of different governance models. These range from elected mayor to the cabinet and a scrutiny system approach, while others have moved back to committee systems. Arguments can be made both for and against all of these models. However, in the recent PIR cases, and for many other local authorities, it's less about the system of governance and more about how it operates, who operates it and how willing they are to accept scrutiny and challenge.

There are a number of lessons to be learned from the recent PIR reports and these can be broken down into three key areas which are explored further in our report:

- 1) The context of local government in a COVID-19 world
- 2) Governance, scrutiny, and culture
- 3) Local authority leadership.

The full report is available here:

[Lessons from recent Public Interest Reports | Grant Thornton](#)

Annual Transparency Report – Grant Thornton

As auditors of several listed entities as well as nearly one hundred major local audits, we are required as a firm to publish an annual transparency report.

The report contains a variety of information which we believe is helpful to audit committees as well as wider stakeholders. The Financial Reporting Council (FRC) in their thematic review of transparency reporting noted that they are keen to see more Audit Committee Chairs actively engaging and challenging their auditors on audit quality based on the information produced in Transparency reports on a regular basis. We agree with the FRC and are keen to share our transparency report and discuss audit quality with you more widely.

The transparency report provides details of our:

- Leadership and governance structures
- Principle risks and Key Performance Indicators
- Quality, risk management and internal control structure
- Independence and ethics processes
- People and culture
- Compliance with the Audit Firm Governance code and EU Audit directive requirements

We have made significant developments in the year as part of our Local Audit Investment Plan to improve our audit quality. We welcome an opportunity to discuss these developments and our transparency report should you wish.



The full report is available here:

[Transparency report 2020 \[grantthornton.co.uk\]](https://www.grantthornton.co.uk/transparency-report-2020)

Local government finance in the pandemic – National Audit Office

The National Audit Office (NAO) report, published in March, notes “The COVID-19 pandemic has been an unprecedented public health and economic emergency. Local authorities in England have made a major contribution to the national response to the pandemic, working to protect local communities and businesses, while continuing to deliver existing services. The pandemic has in turn placed significant pressure on local authorities’ finances, which in many cases were already under strain going into the pandemic.”

The NAO report examines if the Department’s approach to local government finance in the COVID-19 pandemic enabled it to assess and fund the costs of new services which local authorities have been asked to deliver. It also examines whether the Department fulfilled its responsibilities in securing financial sustainability across the sector.

The NAO report concludes “Steps taken by the government, led by the Department, have supported local authorities in the COVID-19 pandemic response. The Department’s successful monthly collection of data and continued intensive engagement with the sector provided a good evidence base to underpin the financial and other support provided by government. Action by the Department and wider government to support the sector has averted system-wide financial failure at a very challenging time and means that the Department has managed the most severe risks to value for money in the short term.

However, the financial position of local government remains a cause for concern. Many authorities will be relying on reserves to balance their 2020-21 year-end budgets. Despite continuing support into 2021-22 the outlook for next year is uncertain. Many authorities are setting budgets for 2021-22 in which they have limited confidence, and which are balanced through cuts to service budgets and the use of reserves.”

The NAO report found that “the combined impact on spending and non-tax income in 2020-21 is £9.7bn – equivalent to 17.6% of revenue expenditure. So far the government has announced £9.1bn of financial support, leaving a deficit of £605m.”



The full report can be obtained from the NAO website:

[Local government finance in the pandemic - National Audit Office \(NAO\) Report](#)

Local authority Covid-19 pressures – MHCLG

Outturn figures from the Ministry for Housing, Communities and Local Government (MHCLG) show that local authorities in England reported additional cost pressures of £12.8bn relating to Covid-19 in 2020-21. Overall, local authorities spent £7.2bn responding to the pandemic last year, with the largest share of additional expenditure going on adult social care services at £3.2bn.

Additional expenditure due to COVID-19 by class and service area (£ millions) (2020-21)						
	Shire District	Shire County	Unitary Authority	Metropolitan District	London Borough	Total
Adult Social Care – total	0.473	1,254.880	848.656	663.404	413.842	3,181.254
Children's social care - total (excluding SEND)	0.000	94.933	131.127	89.799	62.987	378.846
Housing - total (including homelessness services) excluding HRA	63.129	5.254	74.949	42.281	112.971	298.584
Environmental and regulatory services - total	33.564	68.097	67.512	66.704	63.556	299.433
Finance & corporate services - total	48.222	53.445	83.984	76.923	78.284	340.858
All other service areas not listed in rows above	184.550	634.578	584.924	564.737	395.137	2,363.926
Total	329.937	2,111.187	1,791.153	1,503.848	1,126.777	6,862.902



The figures are available in full here:
<https://www.gov.uk/government/publications/local-authority-covid-19-financial-impact-monitoring-information>

Income losses due to COVID-19 by class and source of income (£ millions) (2020-21)						
	Shire District	Shire County	Unitary Authority	Metropolitan District	London Borough	Total
Business rates	276.498	0.000	194.192	207.351	537.667	1,215.708
Council tax	399.037	0.000	217.633	191.219	232.727	1,040.616
Sales fees and charges	516.426	194.923	553.907	396.745	475.728	2,137.728
Commercial income	82.448	24.159	120.629	204.211	52.154	483.600
Other	33.494	39.947	27.163	53.664	45.166	199.435
Total	1,307.903	259.029	1,113.524	1,053.190	1,343.441	5,077.087

CIPFA Financial Resilience Index

The Chartered Institute of Public Finance & Accountancy's (CIPFA) Financial Resilience Index is a comparative tool designed to provide analysis on resilience and risk and support good financial management.

CIPFA note "CIPFA's Financial Resilience Index is a comparative analytical tool that may be used by Chief Financial Officers to support good financial management, providing a common understanding within a council of their financial position.

The Index shows a council's position on a range of measures associated with financial risk. The selection of indicators has been informed by extensive financial resilience work undertaken by CIPFA over the past five seven years, public consultation and technical stakeholder engagement.

Section 151 officers may also use the index in their annual report to the council setting out the proposed budget for the year and medium-term financial strategy.

While the impact of COVID-19 resulted in a delay to the publication of the index, it is still able to provide a comprehensive pre-COVID baseline, illustrating the financial resilience of authorities as they entered the pandemic."

CIPFA found that "there was a real-terms reduction of £800m in the level of reserves in 2020 compared with the previous year. At the end of March 2020 council reserves levels stood at £24.6bn, around 3% lower than £25.4bn recorded at the same period in 2019."

CIPFA note "The index is made up of a set of indicators. These indicators take publicly available data and compare similar authorities across a range of factors. There is no single overall indicator of financial risk, so the index instead highlights areas where additional scrutiny should take place in order to provide additional assurance. This additional scrutiny should be accompanied by a narrative to place the indicator into context."



The Financial Resilience tool is available on the CIPFA website below:

<https://www.cipfa.org/services/financial-resilience-index-2021?crdm=0>

Good practice in annual reporting – National Audit Office

The National Audit Office (NAO) state that the guide, launched in February, “Sets out our good practice principles for good annual reporting and provides illustrative examples taken from public sector organisations who are leading the way in this area.”

The guide draws on examples of good practice from within each of the six sections of an Annual Report:

- Strategy
- Risk
- Operations
- Governance
- Measures of success
- Financial performance

The NAO also state that the guide “provides further examples where bodies have made their context more understandable to the reader through use of graphics and clear language and signposting.”

However, The NAO observe “Done well, reporting in the public sector enables the public and Parliament to understand – with ease and confidence – an organisation’s strategy and the risks it faces, how much taxpayers’ money has been spent and on what, and what has been achieved as a result.”

Further, the NAO note “The significant impacts of the pandemic emerged in the UK in mid-March 2020. This means that, for many organisations, the reporting impact will be greater in 2020-21 than in the prior year. Transparent annual reporting will help stakeholders understand the impact of COVID-19 on an organisation’s strategy, plans and operational and financial performance.”



The full report can be obtained from the NAO website:

<https://www.nao.org.uk/report/good-practice-in-annual-reports-february-2021/>

Government response to Redmond review – MHCLG

Government has published an update on the Ministry of Housing, Communities & Local Government response to Sir Tony Redmond's independent review into the effectiveness of external audit and transparency of financial reporting in local authorities.

The MHCLG press release states "The Audit, Reporting and Governance Authority (ARGA) – the new regulator being established to replace the Financial Reporting Council (FRC) – will be strengthened with new powers over local government audit, protecting public funds and ensuring councils are best serving taxpayers.

The new regulator, which will contain a standalone local audit unit, will bring all regulatory functions into one place, to better coordinate a new, simplified local audit framework.

ARGA will continue to act as regulator and carry out audit quality reviews as the FRC does now. It will now also provide annual reports on the state of local audit and take over responsibility for the updated Code of Local Audit Practice – the guidelines councils are required to follow.

The government has confirmed that the Public Sector Audit Appointments (PSAA) will continue as the appointing body for local audit, in charge of procurement and contract management for local government auditors.

In the immediate term, MHCLG will set up and chair a Liaison Committee, which will comprise senior stakeholders across the sector that will oversee the governance of the new audit arrangements and ensure they are operating effectively."

The press release goes on to state the "measures finalise the government's response to Sir Tony Redmond's independent review into local audit, carried out last year.

The government has already announced £15 million to support councils with additional costs in audit fees, and recently consulted on the distribution of this funding. Government is also consulting on improving flexibility on audit fee setting and has extended the deadline for when councils must publish their audited accounts.



The press release can be found here:

<https://www.gov.uk/government/news/government-publishes-update-to-audit-review-response>

2019/20 audited accounts – Public Sector Audit Appointments

In December 2020 Public Sector Audit Appointments (PSAA) published figures relating to the audit of 2019/20 local authority financial statements.

PSAA report “Audit arrangements in local councils, police, fire and other local government bodies are continuing to exhibit signs of stress and difficulty. In the latest audit round, focusing on 2019/20 financial statements and value for money arrangements, fewer than 50% of bodies’ audits were completed by the revised target of 30 November.

Figures compiled by PSAA, the organisation responsible for appointing auditors to 478 local bodies, reveal that 55% (265) of audit opinions were not issued by 30 November. This is a further deterioration on 2018/19 audits when 43% of opinions (210 out of 486) were delayed beyond the then target timetable of 31 July.”

By 30 November, Grant Thornton had signed 113/208 audits (a 55% completion rate), meaning that only 45% of audit opinions were not signed by 30 November, compared to the 55% all firms average.

PSAA go on to note “This year’s timetable has been deliberately eased by Ministers in recognition of the underlying pressures on the audit process and the significant added complications arising from the Covid-19 pandemic. The pandemic has posed practical challenges for bodies in producing accounts and working papers, and for auditors to carry out their testing. Both sets of staff have had to work remotely throughout the period, and the second national lockdown came at a critical point in the cycle.

Questions and concerns about the potential implications of the pandemic for some bodies have meant that both finance staff and auditors have needed to pay particular attention to the financial position of each entity. Additionally, following a series of increasingly challenging regulatory reviews, auditors have arguably been more focused than ever on their professional duty to give their opinion only when they are satisfied that they have sufficient assurance.”



The news article can be found here:

[News release: 2019/20 audited accounts – PSAA](#)

Consultation on 2023-24 audit appointments – Public Sector Audit Appointments

Public Sector Audit Appointments (PSAA) is consulting on the Draft prospectus for 2023 and beyond.

PSAA state “Our primary aim is to secure the delivery of an audit service of the required quality for every opted-in body at a realistic market price and to support the drive towards a long term competitive and more sustainable market for local public audit services.

The objectives of the procurement are to maximise value for local public bodies by:

- securing the delivery of independent audit services of the required quality;
- awarding long term contracts to a sufficient number of firms to enable the deployment of an appropriately qualified auditing team to every participating body;
- encouraging existing suppliers to remain active participants in local audit and creating opportunities for new suppliers to enter the market;
- encouraging audit suppliers to submit prices which are realistic in the context of the current market;
- enabling auditor appointments which facilitate the efficient use of audit resources;
- supporting and contributing to the efforts of audited bodies and auditors to improve the timeliness of audit opinion delivery; and
- establishing arrangements that are able to evolve in response to changes to the local audit framework.”

The plans include proposals to adjust the procurement ratio between quality and costs from an equal 50:50 to 80:20, as well as trying to bring new suppliers in to the market.

The consultation on the PSAA’s proposals closes on 8 July.



The news article can be found here:

<https://www.psaa.co.uk/about-us/appointing-person-information/appointing-period-2023-24-2027-28/prospectus-2023-and-beyond/draft-prospectus-for-2023-and-beyond/page/7/>

Councils given power to build more homes for first time buyers and for social rent – MHCLG

The Ministry of Housing, Communities & Local Government (MHCLG) has announced that councils in England will have more freedom on how they spend the money from homes sold through Right to Buy to help them build the homes needed in their communities.

The MHCLG press release states the “package will make it easier for councils to fund homes using Right to Buy receipts, including homes for social rent, and give them greater flexibility over the types of homes they provide to reflect the needs of their communities.

It will also give councils more time to use receipts and to develop ambitious building programmes. The government wants homes supplied using Right to Buy receipts to be the best value for money, and to add to overall housing supply, to help towards delivering 300,000 new homes a year across England by the mid-2020s.”

The press release goes on to note “New measures include:

- extending the time councils have to spend Right to Buy receipts from 3 years to 5 years
- increased cap on the percentage cost of new homes councils can fund from Right to Buy receipts raised from 30% to 40% per home, making it easier to build replacement homes
- allowing receipts to be used for shared ownership, First Homes, as well as affordable and social housing, to help councils build the homes their communities need
- introducing a cap on the use of Right to Buy receipts for acquisitions to help drive new supply.”



The press release can be found here:

<https://www.gov.uk/government/news/councils-given-power-to-build-more-homes-for-first-time-buyers-and-for-social-rent>

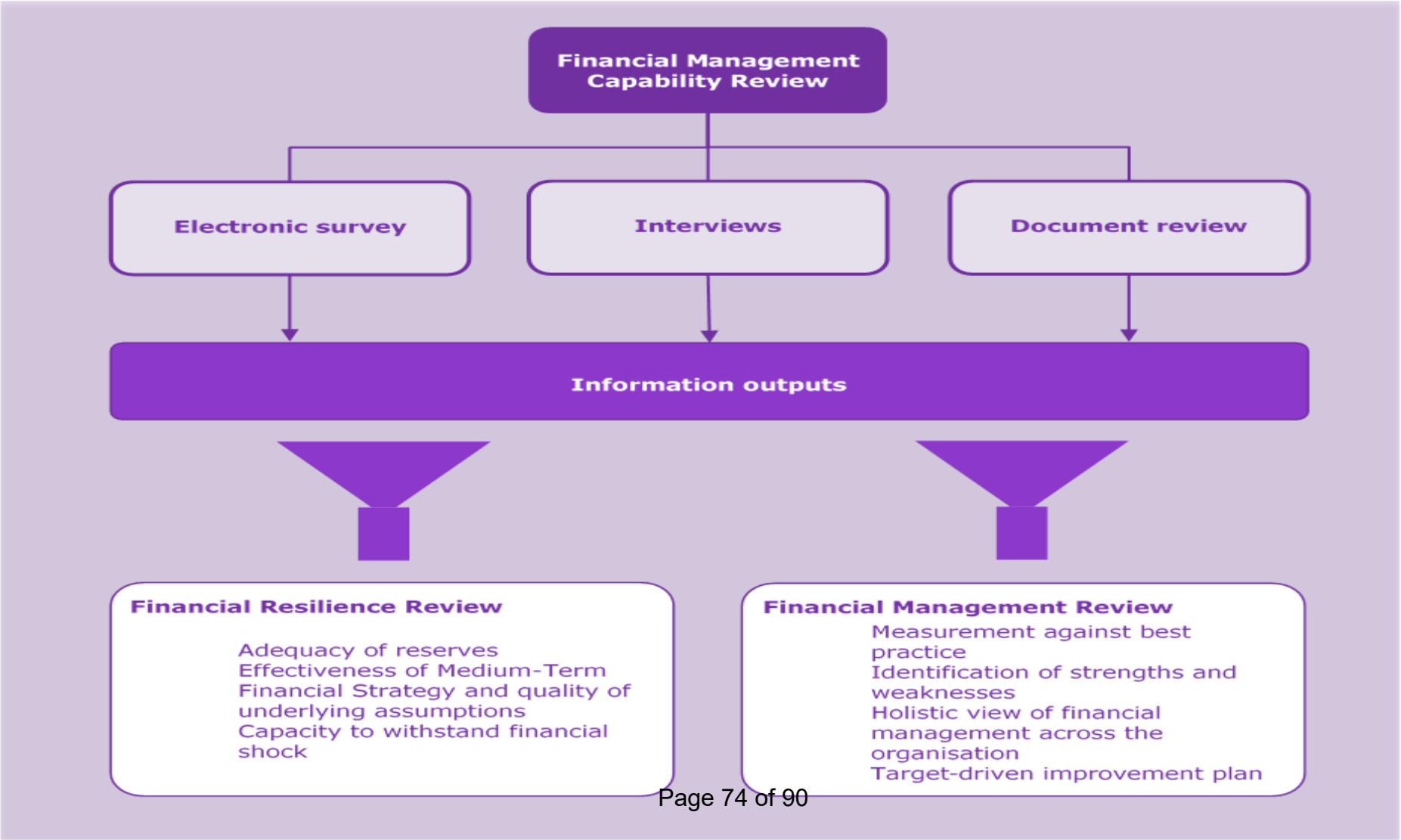
Birmingham City Council

CIPFA FMCR - Five Star assessment update – Final Assessment June 2021

Stuart W Fair LLB, AWS, FCPFA, FCCA, CPA, FRSA, JP. Principal Consultant

The Chartered Institute of
Public Finance & Accountancy

Financial Management Capability Review (FMCR)



Financial Resilience

Significant financial resilience challenges ahead including the need to bridge an emerging structural deficit in the face of growing operational pressures as well as legacy debt levels

BUT

- ✓ **Adequacy of reserves**
- ✓ **Robustness of the Medium-Term Financial Strategy (MTFP)**
- ✓ **Planned efficiency savings and transformational change**

**Overall Financial Resilience assessment
MODERATE**

Financial Management

- **Birmingham have made great strides in addressing the issues that constrained overall financial management capability - turning some weaknesses into strengths**
- **Progression highlights a highly commendable response to issues arising within our April 2019 assessment**
- **Considered to be an exemplar in the transformation of financial management capability given the extent of improvement achieved over the last two years**
- **Average statement scoring places Birmingham in top quartile of fully assessed organisations**
- **Overall THREE STAR from ONE STAR (April 2019)**

A recap - High Level Matrix – April 2019

	Management Dimensions			
Financial Management Styles	Leadership	People	Processes	Stakeholders
Delivering Accountability	2.5 (L1-L3)	1.5 (P1-P2)	2.5 (PR1-PR9)	2.0 (S1)
Supporting Performance	2.0 (L4-L5)	1.0 (P3-P5)	1.75 (PR10-PR13)	1.5 (S2)
Enabling Transformation	1.5 (L6)	1.0 (P6)	1.5 (PR14-PR15)	2.5 (S3)

Updated - High Level Matrix – May 2021

	Management Dimensions			
Financial Management Styles	Leadership	People	Processes	Stakeholders
Delivering Accountability	3.0 (L1-L3)	2.5 (P1-P2)	2.75 (PR1-PR9)	3.0 (S1)
Supporting Performance	2.5 (L4-L5)	2.0 (P3-P5)	2.25 (PR10-PR13)	2.0 (S2)
Enabling Transformation	2.25 (L6)	2.0 (P6)	1.75 (PR14-PR15)	2.5 (S3)

Statement Scoring - Leadership

	Leadership		Scoring April 2019	Scoring May 2021
Delivering Accountability	L1	Financial capability is regarded as integral to supporting the delivery of the organisation's objectives. The CFO is an active member of the board, is at the heart of corporate strategy/business decision making and leads a highly visible, influential and supportive finance team.	3.00	3.25
	L2	The organisation has an effective framework of financial accountability that is clearly understood and applied throughout, from the board through executive and non-executive directors to front line service managers.	2.50	2.75
	L3	Within an annual budget setting process the organisation's leadership sets income requirements including tax and allocates resources to different activities in order to achieve its objectives. The organisation monitors the organisation's financial and activity performance in delivering planned outcomes.	2.00	2.75
Performance	L4	The organisation has a developed financial strategy to underpin medium and longer term financial health. The organisation integrates its business and financial planning so that it aligns resources to meet current and future outcome focussed business objectives and priorities.	2.00	2.50
	L5	The organisation develops and uses financial/leadership expertise in its strategic decision-making and its performance management based on an appraisal of the financial environment and cost drivers.	1.75	2.50
Transformation	L6	The organisation's leadership integrates financial management into its strategies to meet future business needs. Its financial management approach supports the change agenda and a culture of customer focus, innovation, improvement and development.	1.50	2.25

Statement Scoring - People

	People		Scoring April 2019	Scoring May 2021
Delivering Accountability	P1	The organisation identifies its financial competency needs and puts arrangements in place to meet them.	0.50	2.00
	P2	The organisation has access to sufficient financial skills to meet its business needs.	2.00	3.00
Performance	P3	The organisation manages its finance function to ensure efficiency and effectiveness.	0.50	2.00
	P4	Finance staff provide business partner support by interpreting and explaining performance as well as advising and supporting on key business decisions.	1.50	2.25
	P5	Managers understand they are responsible for delivering services cost effectively and are held accountable for doing so. Financial literacy is diffused throughout the organisation so that decision takers understand and manage the financial implications of their decisions.	1.25	2.25
Transformation	P6	The organisation develops and sustains its financial management capacity to help shape and support its transformational programme.	1.00	2.00

Statement Scoring - Processes

	Processes		Scoring April 2019	Scoring May 2021
Delivering Accountability	PR1	Budgets are accrual-based and robustly calculated	2.00	2.50
	PR2	The organisation operates financial information systems that enable the consistent production of comprehensive, accrual based, accurate and up to date data that fully meets users' needs.	2.00	2.25
	PR3	The organisation operates and maintains accurate, timely and efficient transactional financial services (eg creditor payments, income collection, payroll, and pensions' administration).	2.50	2.50
	PR4	The organisation's treasury management is risk based. It manages its investments and cash flows, its banking, money market and capital market transactions, balancing risk and financial performance.	3.00	3.25
	PR5	The organisation actively manages budgets, with effective budget monitoring arrangements that ensure 'no surprises' and trigger responsive action.	2.25	3.00
	PR6	The organisation maintains processes to ensure that information about key assets and liabilities in its balance sheet is a sound and current platform for management action.	2.00	2.25
	PR7	Management understands and addresses its risk management and internal control governance responsibilities.	2.50	2.75
	PR8	Management is supported by effective assurance arrangements, including internal audit, and audit and risk committee(s).	3.00	3.25
	PR9	The organisation's financial accounting and reporting are accrual based and comply with international standards and meet relevant professional and regulatory standards.	3.00	3.25

Statement Scoring - Processes continued

	Processes (Continued)		Scoring April 2019	Scoring May 2021
Performance	PR10	The organisation's medium-term financial planning process underpins fiscal discipline, is focussed upon the achievement of strategic priorities and delivers a dynamic and effective business plan.	2.00	2.75
	PR11	Forecasting processes and reporting are well developed and supported by accountable operational management. Forecasting is insightful and leads to optimal decision making.	1.75	2.50
	PR12	The organisation systematically pursues opportunities to reduce costs and improve value for money in its operations.	1.25	2.00
	PR13	The organisation systematically pursues opportunities for improved value for money and cost savings through its procurement, commissioning and contract management.	1.75	1.75
Transformation	PR14	The organisation continually re-engineers its financial processes to ensure delivery of agreed outcomes is optimised.	1.75	2.00
	PR15	The organisation's financial management processes support organisational change.	1.25	1.50

Statement Scoring - Stakeholders

	Stakeholders		Scoring April 2019	Scoring May 2021
Delivering Accountability	S1	The organisation provides external stakeholders with evidence of the integrity of its financial conduct and performance, and demonstrates fiscal discipline including compliance with statutory/legal/regulatory obligations.	2.00	3.00
Performance	S2	The organisation demonstrates that it achieves value for money in the use of its resources.	1.25	2.00
Transformation	S3	The organisation is responsive to its operating environment, seeking and responding to customer and stakeholder service and spending priorities that impact on its financial management.	2.50	2.50

Strengths

- **Financial Leadership**
- **Financial Strategy – the Financial Plan 2021 – 2025**
- **In-year Monitoring, Forecasting and recalibration agility**
- **Treasury Management**
- **Governance and Risk**
- **Advanced Business Partnering**



Areas for Development

In priority order:

- **Accountability for financial performance and FM Competency and Performance Framework**
- **Transactional Finance**
- **Asset Management**
- **Finance Team Structuring**
- **Procurement**

We would be confident that these further development areas will be fully addressed within current change initiatives

High Level Commentary

- **Strong overall progress made since 2018/2019 assessment – we have a high level of confidence that the TOM Project Board will deliver an optimal Finance structure and overarching model that will make Birmingham a Finance ‘centre of excellence’**
- **Financial management has been significantly transformed at Birmingham CC**
- **Financial resilience now MODERATE**
- **Birmingham CC has now achieved a THREE STAR rating from CIPFA’s FIVE STAR global model**
- **Substantial improvements have been made to address the critical priority areas highlighted in 2018/2019 including accountability for financial performance, the setting of a robust financial strategy, in-year reliability and forecasting and strengthening of financial discipline throughout the organisation**
- **Significant potential to improve further – towards FOUR STAR within 18 months – September/October 2022 given current level of progression**

Financial Management capability

“Birmingham has moved beyond sound financial management towards highly effective financial management capability”

Next steps

- **Real potential to reach FOUR STAR by September 2022 and reach 'exemplar' status**
- **CIPFA can track improvement across this period and provide support to enable FOUR STAR achievement**
- **FOUR STAR requires:**
 - ✓ **Maintaining current direction of travel – re pace and grip**
 - ✓ **Delivering substantially on areas for further development**

BIRMINGHAM CITY COUNCIL**AUDIT COMMITTEE****26 JULY 2021****SCHEDULE OF OUTSTANDING MINUTES**

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
279 26/01/2021	<p><u>ASSURANCE SESSION – CABINET MEMEBR FOR CHILDREN'S WELLBEING PORTFOLIO</u></p> <p><u>Additional Recommendation:</u></p> <p>iv) The Council's Transformation Programme to be shared at a future Committee.</p>	Scheduled for 30 September 2021 meeting.
305 30/03/2021	<p><u>INFORMING THE AUDIT RISK ASSESSMENT - GROUP COMPANY GOVERNANCE</u></p> <p><u>Additional Recommendation:</u></p> <p>ii) Noted for an information briefing to be arranged on the Group Company Governance. Information on the scale of the BCC subsidiaries and any guarantees given to be provided to Members.</p>	Online briefing scheduled for 27 th July at 1730 – 1900 hours in conjunction with the draft statement of accounts 2020/21 briefing.
318 27/04/2021	<p><u>RISK MANAGEMENT UPDATE</u></p> <p><u>Additional Recommendations:</u></p> <p>iii) A formal statement to be provided to the Audit Committee around the reason to the rating of the risks related to the Commonwealth Games.</p> <p>iv) The Chair of the Commonwealth Games (CWG) Audit Committee to be invited at a future meeting to discuss Birmingham City Council elements of the CWG.</p>	<p>Sarah Dunlavey to provide further information to a future Committee.</p> <p>The Chair of CWG Audit Committee will be in attendance at the 26 July meeting.</p>
334 29/06/2021	<p><u>ASSURANCE SESSION – CABINET MEMBER STREET SCENE & PARKS PORTFOLIO</u></p> <p><u>Additional Recommendations:</u></p> <p>(ii) The Committee to receive a briefing note on the restructure of the Street Scene service area.</p>	Rob James – Director for City Operations to lead on responses.

	(iii) The Committee to receive a formal response to the use of tips via Bromsgrove City Council as there was a lack of household recycling centres in the South of the City.	
335 29/06/2021	<p><u>BIRMINGHAM AUDIT ANNUAL REPORT 2020/21</u></p> <p><u>Additional Recommendation:</u></p> <p>iii) That the Committee agreed for an update on procurement contracts, process, controls and governance to be provided at a future committee.</p>	Scheduled for 29 Nov Committee
338 29/06/2021	<p><u>DRAFT STATEMENT OF ACCOUNTS 2020/21</u> <u>PROCESS & TIMINGS BRIEFING</u></p> <p><u>Additional Recommendation:</u></p> <p>(iii) A further briefing session to be arranged for members on the Draft Statement of Accounts 2020/21.</p>	Online briefing scheduled for 27 th July at 1730 – 1900 hours in conjunction with the informing the audit risk – Group Company Governance briefing.