

# Birmingham City Council

## City Council

11 October 2022



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**Subject:** Decisions Not on the Forward Plan and those Authorised for Immediate Implementation

**Report of:** Satinder Sahota, Interim City Solicitor

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Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential : N/A

### 1 Executive Summary

- 1.1 This report, which is required under Part B6.2 of the Constitution, sets out key decisions that were not included on the Forward Plan and all decisions that were authorised for immediate implementation for the municipal year 2021/22.

### 2 Recommendation

- 2.1 That Council notes the report.

### 3 Background

- 3.1 Key decisions must be included on the Forward Plan not less than 28 clear calendar days in advance of the proposed decision. If a matter, which is likely to be a key decision has not been included on the Forward Plan, but it is impracticable to defer the decision, then the decision may still be taken provided it meets the requirements set out in the Constitution (Part B6.2).
- 3.2 Where there is an intention for Cabinet to consider matters in private, i.e. information that is confidential or exempt, 28 days' notice must also be given. This is done through inclusion on the "Notification of intention for Cabinet to consider matters in private". Any report containing confidential or exempt information that is not included requires agreement from the Chair of the relevant Overview and Scrutiny Committee that the report is urgent and cannot reasonably be deferred.

- 3.3 In an emergency, as set out under Part B6.6 of the Constitution, an executive decision may be agreed by the Chief Executive, following consultation with the Group Leaders, as long as the requirements set out in Part E4.2 are met. As an emergency decision is defined as one which has to be taken immediately, all such key decisions have been included in Appendix 1.
- 3.4 There is also a requirement for the Leader of the Council to provide details on any reports authorised for immediate implementation: i.e. where the interests of the Council are jeopardised unless an executive decision is implemented immediately and when its implementation cannot wait until the expiry of the call-in period.
- 3.5 Appendix 1 provides details on all decisions not included on the Forward Plan and those that were authorised for immediate implementation during the municipal year 2021/22.
- 3.6 In summary, last year (2021/22) there were 11 key decisions not included on the Forward Plan, including five urgent decisions taken by the Chief Executive. Overall, this compares with nine in 2020/21, one in 2019/20 and 11 in 2018/19. So far this year<sup>1</sup> (2022/23) there has been one.
- 3.7 In terms of reports authorised for immediate implementation last year (2021/22) there were 8 decisions that were not subject to call in. This compares with none in 2020/21, six in 2019/20 and five in 2018/19. So far this year<sup>2</sup> (2022/23) there has been three.
- 3.8 For completeness Appendix 1 also provides details on three decision reports (from 2021/22) containing confidential or exempt information that were not notified 28 days in advance of the proposed decision.

#### **4 Legal Implications**

- 4.1 This report is required under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 4.2 The information set out at Appendix 1 provides details in relation to all key decision reports not on the Forward Plan and those reports authorised for immediate implementation for the 2021/23 municipal year (in full). However, as set out in Part B6.2 of the Constitution, as amended by City Council in July 2022, the Leader of the Council will, moving forwards, submit reports to Council on a quarterly basis.
- 4.3 In addition to reporting to City Council, the information set out in this report will be presented to the Corporate Leadership Team as part of the City Solicitor's Assurance and Performance Report.

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<sup>1</sup> As of 15 August 2022

<sup>2</sup> As of 15 August 2022

## **5 Financial Implications**

5.1 There are no direct financial implications arising from this report.

## **6 Appendices**

6.1 Appendix 1 – Decisions Not on the Forward Plan and those Authorised for Immediate Implementation

## APPENDIX 1

### LATE REPORTS NOT ON THE FORWARD PLAN AND THOSE AUTHORISED FOR IMMEDIATE IMPLEMENTATION 2021/22

**Table 1 of 2 – Late Reports Not on the Forward Plan<sup>1</sup>**

| <u>Decision Date</u> | <u>Report Title</u>  | <u>Decision Taken By</u> | <u>Key/Non-Key Decision</u> | <u>Reason for Late/Urgent Report</u>   |
|----------------------|--|--------------------------|-----------------------------|--|
| 12 October 2021      | Bordesley Park (Wheels Site) Development: Strategic Business Case Update | Cabinet                  | Key Decision                | <p><b>Intention to hold part of the meeting in private not notified.</b></p> <p>In accordance with the City Council's Constitution (specifically Part B6.2 xi "Intention to hold part of the meeting in private not notified"), agreement was sought for Cabinet to consider a key decision report which was not included in the Notification of Intention to Consider Matters in private. This matter was not included due to clarifications required on the procurement route for the Japanese Knotweed because of this we couldn't include on the PPAR. This resulted in the delay of the report and the value of the contract couldn't be included in the public report.</p> |
| 9 November 2021      | Equal Pay  | Cabinet                  | Key Decision                | Report in relation to Equal Pay to seek authorisation from Cabinet to the settlement proposal agreed, it had not been included in the Forward Plan as negotiations had been continuing up until the week prior to the Cabinet meeting.   |
| 14 December 2021     | Highway Maintenance and Management PFI Contract                          | Cabinet                  | Key Decision                | <p><b>Intention to hold part of the meeting in private not notified.</b></p> <p>The report was missed off the notification of Exempt Information. It has been noted on the Forward Plan that this report contained Exempt Information.</p>   |
| 14 December 2021     | Use of Household Support Fund  | Cabinet                  | Key Decision                | Report in relation to the acceptance of time critical government funding. To ensure that Cabinet approval was given to the plans to distribute Birmingham's Household Support Fund allocation. Final agreement on distribution of the Fund was confirmed on Friday 3rd December. Proceeding to December's Cabinet would ensure that distribution to vulnerable households can begin as soon as possible.   |
| 18 January 2022      | Utilities Procurement Strategy and Award April                           | Cabinet                  | Key Decision                | <p><b>Intention to hold part of the meeting in private not notified.</b></p> <p>In accordance with the City Council's Constitution (specifically Part B6.2 xi "Intention to hold part of the meeting in private not notified"), agreement was sought for Cabinet to considering the key decision report which was not included in the Notification of Intention to Consider Matters in private. The matter was not</p>   |

<sup>1</sup> Including intention to hold part of the Cabinet meeting in private but not notified

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|   | 2022 – March 2026  |         |              | included as originally there was no exempt report, and this was amended at the last minute for more clarity of the decision proposed   |
| 18 January 2022                                       | Distribution of COVID related grants and reliefs   | Cabinet | Key Decision | The late announcement by Central Government of the business rates COVID Additional Relief . Fund (CARF) and the Omicron related business grants scheme, both of which require urgent distribution to businesses within Birmingham in light on the latest COVID surge.  |
| 1 <sup>st</sup> March 2022<br>Special Cabinet Meeting | Contract Award for the Provision of R&M, Gas Servicing and Capital Improvement Work Programmes for 2022-2024 | Cabinet | Key Decision | Procurement legal challenge resulting in alternative contractual arrangements being required to be in place by 1st April 2022.   |
| 22 March 2022   | CCG Support Funding 2021/22 via Section 256  | Cabinet | Key Decision | Proposal from Birmingham and Solihull CCG for transfer of funding made in March 2022. Availability of one-off NHS funding relates to the financial year 2021/22 and so needs to be transferred by 31st March 2022.   |
| 26 April 2022   | Contract Award – The Renewal of Various Insurance Policies   | Cabinet | Key Decision | In December 2020 Cabinet approved a strategy report for the procurement of various insurance policies (table below lists these) for 5 years – with a break after 3 years. In line with the Strategy report a further competition exercise using the Crown Commercial Services Insurances Services 3 Dynamic Purchasing System (DPS) was undertaken. It was anticipated that following the tender evaluation the Award report, as with most procurement processes, would be signed by delegated officers. However as the difference between the strategy report estimate and the tender responses is the lesser of more than £500,000 or 20%, the Award report needs to be approved by Cabinet. The December 2020 Cabinet report was for an estimated total of £16,539,420. Following evaluation of the tenders the estimated total is £18,160,742 (a 9.8% increase). There is a need for Insurance cover to start from 1 May 2022 as we are unlikely to be able to extend our existing policies for a short period of time. Therefore, it is necessary for Cabinet to approve the Award report on 26 April 2022. |
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| 30 June 2022     | Supported Housing Improvement Programme – Grant Application   | <b>Cabinet</b>         | Key Decision | The minister has announced there will be a further round of funding (£20m over 3 years) nationally. However based on the scale of issues in Birmingham and the work we have done to date with Govt they have asked if we could submit a bid in advance of the prospectus being released so the minister can announce prior to summer recess – this would mean us submitting a bid this week. This will potentially provide us with early reassurance of funding for our Exempt work up to 2025. |
| 17 August 2021   | Emergency Decision Notice – Proposed Termination of Home to School Provider                           | <b>Chief Executive</b> | Key Decision | There is a requirement to terminate an agreement with a supplier who delivers statutory services on behalf of Council due to a breach of contract. This decision cannot wait until the next scheduled Cabinet on 7th September 2021.  |
| 22 November 2021 | Emergency Decision Notice – Use of Household Support Fund for Children Eligible for Free School Meals | <b>Chief Executive</b> | Key Decision | There is a requirement for the funds to be allocated during the Christmas Holidays). This decision cannot wait until the next scheduled Cabinet on 14th December 2021.  |
| 26 November 2021 | Emergency Decision Notice – Infection Control and Testing Fund – Round 3 (October 2021 – March 2022)  | <b>Chief Executive</b> | Key Decision | This decision cannot wait until the next scheduled Cabinet on 14th December 2021.   |

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|-----------------------|--|----------------------------|-----------------|--|
| 6<br>December<br>2021 | Emergency<br>Decision<br>Notice –<br>Workforce<br>Recruitment<br>and Retention<br>Fund (21<br>October 2021<br>– 31 March<br>2022)          | <b>Chief<br/>Executive</b> | Key<br>Decision | The Workforce Recruitment and Retention Fund is a new Section 31 ring-fenced grant designed to support adult social care providers with recruitment and retention of their workforce over the winter period. This decision cannot wait until the next scheduled Cabinet on 14th December 2021. |
| 13<br>January<br>2022 | Emergency<br>Decision<br>Notice –<br>Workforce<br>Recruitment<br>and Retention<br>Fund Round 2<br>(10 December<br>2021 – 31<br>March 2022) | <b>Chief<br/>Executive</b> | Key<br>Decision | The Workforce Recruitment and Retention Fund is a new Section 31 ring-fenced grant designed to support adult social care providers with recruitment and retention of their workforce over the winter period. This decision cannot wait until the next scheduled Cabinet on 18th January 2022.  |

\*Further information on each of these decisions can be found on CMIS via: [CMIS > Meetings](#)

**Table 2 of 2 – Reports Authorised for Immediate Implementation**

| <u>Decision Date</u> | <u>Report Title</u>  | <u>Decision Taken By</u> | <u>Key/Non-Key Decision</u> | <u>Authorised for Immediate Implementation</u>   |
|----------------------|--|--------------------------|-----------------------------|--|
| 29 June 2021         | Outcome of CIPFA'S Assessment of the Council's Financial Management Capability           | Cabinet                  | Non-Key Decision            | Yes  |
| 29 June 2021         | Birmingham City Council Performance and Progress against Delivery Plan During Q4 2020-21 | Cabinet                  | Non-Key Decision            | Yes  |
| 7 September 2021     | Birmingham City Council Performance and Progress against Delivery Plan During Q1 2021-22 | Cabinet                  | Non-Key Decision            | Yes  |
| 9 November 2021      | Equal Pay  | Cabinet                  | Key Decision                | Yes  |
| 14 December 2021     | Birmingham City Council Performance and Progress against Delivery Plan During Q2 2021-22 | Cabinet                  | Non-Key Decision            | Yes  |
| 18 January 2022      | Focused OFSTED Visit to Children's Social Care   | Cabinet                  | Non-Key Decision            | Yes  |
| 22 March 2022        | Birmingham City Council Performance and Progress against Delivery Plan During Q3 2021-22 | Cabinet                  | Non-Key Decision            | Yes  |
| 26 April 2022        | Ukrainian Resettlement Support Scheme  | Cabinet                  | Key Decision                | Yes  |
|                      |  |                          |                             |  |
| 26 July 2022         | Hackney Carriage Maximum Fare Tariff Review  | Cabinet                  | Key Decision                | Yes - Inflationary pressures are so significant that we are having to review the maximum hackney |



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|              |   |         |              | carriage fares immediately otherwise the trade in the city may become unviable   |
| 26 July 2022 | Kings Heath and Ladywood Community Centres – Boiler Replacement | Cabinet | Key Decision | Yes - Boilers providing all the heating and hot water have failed at two community centres and need to be replaced as soon as possible to avoid monthly temporary boiler hire charges; to avoid inflation impacting on the cost of the work in the intervening period; and to allow the replacement boilers to be installed before winter. |
| 30 June 2022 | Supported Housing Improvement Programme – Grant Application     | Cabinet | Key Decision | Yes  |

\*Further information on each of these decisions can be found on CMIS via: [CMIS > Meetings](#)