Birmingham City Council

Audit Committee

15 May 2025

Title:	**RESPONSE TO STATUTORY RECOMMENDATIONS EXTERNAL AUDITORS GRANT THORNTON**
Lead Member:	Councillor Rob Pocock, Cabinet Member for Transformation, Governance
Relevant Overview and Scrutiny Committee:	Economy, Skills and Culture Overview and Scrutiny Committee
Has this report been shared with the relevant Overview and Scrutiny Committee Chair?	No
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Authorised by:	Marie Rosenthal, Interim City Solicitor and Monitoring Officer Corporate Resources Directorate Phone Number: 077992 97692 Marie.rosenthal@birmingham.gov.uk
Is this a Key Decision?	No
Reason(s) why not included on the Forward Plan and confirm who has authorised it to be considered:	Not Applicable
Is this a Late Report?	Not Applicable
Reason(s) why Late and confirm who has authorised it to be considered:	Not Applicable
Is this decision eligible for 'call in?'	Not Applicable

If 'call-in' has been dis-applied, please provide reason(s) and confirm who has authorised:	Not Applicable
Wards:	All

Does this report contain exempt or confidential information?	Yes

Exempt Information

(Name part of report) is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act, 1972 as amended:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Has this decision been included on the Notification of Intention to consider Matters in Private?	Not Applicable
Reasons why not included on the Notification and confirm who has authorised it to be considered:	Not Applicable

1 EXECUTIVE SUMMARY

1.1 On Friday 29 September 2023, the Council's External Auditors Grant Thornton issued Statutory Recommendations to the Council under Schedule 7 of the Local Audit and Accountability Act 2014. These recommendations are contained with the report titled 'Birmingham City Council External Audit 2020-21 to 2023-24' and can be found within Appendix 1.

1.2 This report addresses Statutory Recommendation 4. Appendix 2 sets out progress in relation to the other statutory recommendations.

1.3 Delivery against these recommendations is crucial for financial sustainability and effective governance for Birmingham City Council. The issues raised within the External Auditor's report are significant enough to have caused them to use their statutory powers. Addressing these recommendations will reaffirm a basis for sound financial management and effective governance within the Council and provide a platform from which we can address the broader challenges facing the Council and the City as a whole.

2 COMMISSIONERS' REVIEW

2.1 Commissioners support the recommendations.

3 RECOMMENDATIONS

3.1 Members are recommended to:

3.1.1 Note this report.

3.1.2 Consider adopting the Guidance produced by CIPFA/SOLACE/LLG Guidance, Code of Practice on Good Governance for Local Authority Statutory Officers to ensure that the Council fully understands the role and functions of the statutory officers.

3.1.3 Note that the Council has implemented a new officer member code of conduct which was approved by the Council on the 17 September 2024

3.1.4 Consider introducing a Monitoring Officer Protocol and a s151. Chief Finance Officer protocol to ensure that the roles and functions of these posts are better understood.

4 KEY INFORMATION

4.1 The background to this matter arises out of the BCC's Equal Pay issues; the problematic implementation of Oracle; and the consistent turnover of senior officers, in particular statutory officers, at the Council. BCC has appointed 8 Monitoring Officers and 9 Chief Executives in the last ten years in both permanent and interim roles, which is reflective of the senior officer churn.

4.2 Statutory Recommendation 4 is set out below:

Statutory Recommendation 4:

"The Council should commission an independent review of the process for receiving and considering legal advice, including consideration of whether the Monitoring Officer's advice was appropriately taken into account and followed, and whether access to legally privileged information was appropriately safeguarded. If the local inquiry outlined by the Secretary of State does proceed this should be part of the wider inquiry."

4.3 Anthony Cox, Director of Law and Governance at Walsall Council was commissioned on the 27 February 2024 to carry out an independent review as per Recommendation 4 of the Grant Thornton (BCC External Auditors) report of the 29 September 2023. Mr Cox is a well-respected and independent Monitoring Officer and was commissioned before the permanent post of Director of Law and Governance/Monitoring officer in Birmingham was advertised and was substantially completed before his appointment. Members can still be satisfied that the appendix fulfils the task of an independent review.

4.4 Mr Cox's report is attached at Appendix 1 to this report. It contains exempt information obtained in confidence including legally privileged material.

Conclusion

4.5 Mr Cox concludes that in general the Council did follow the legal advice that it received in relation to the equal pay issues it faced. This was a historic, very complex and contentious problem that the Council has been attempting to resolve for a substantial amount of time. This had led to the accrual of a significant ongoing liability. Elected Members rightly did question legal advice that they received in an appropriate manner. However, at times, a breakdown in trust and confidence, and poor communication, did have an impact on the ability to reach a final decision on pay and grading. The ongoing delay during 2023/24, in determining a pay and grading process has had a significant impact on the Council's financial stability.

4.6 Mr Cox found that legal advice was, on occasions, questioned both by other senior officers and elected members but this was reasonable when one considers the complexity and scale of the problems the Council was facing in reaching a decision about resolving the pay and grading issues. This is supported by the external lawyers who said that they felt in the meetings they attended with elected members that the questions raised were appropriate

4.7 Mr Cox also concludes that access to legally privileged information was safeguarded, and the Monitoring Officer and external legal advisors were clear in advising on the issue of legal privilege, and litigation privilege. The investigation also found that Elected Members had a good understanding of the concept of legal privilege.

Other Options Considered

4.8 Not Applicable

5 RISK MANAGEMENT

5.1 Not Applicable

6 CONSULTATION

6.1 Not Applicable

7 MEMBER ENGAGEMENT

Ward Councillor(s)

7.1 Not Applicable

Overview and Scrutiny

7.2 Not Applicable

IMPACT AND IMPLICATIONS

Finance and Best Value

7.3 The Council has allocated the necessary resources and budgets to execute the recommended actions effectively.

Legal

7.4 The Council has complied with all relevant legal requirements and obligations in responding to this statutory recommendation.

Equalities

7.5 The Council will ensure that all actions taken in response to these recommendations are in line with the Public Sector Equality Duty, promoting fairness and equality for all residents and employees.

8 APPENDICES

8.1 Appendix 1: Exempt Independent Report

8.2 Appendix 2: Statutory Recommendations Update

9 BACKGROUND PAPERS

9.1 None

ENDS