

BEST VALUE COMMISSIONERS

9 January 2024

Dear Secretary of State,

First Quarter Update

Directions were issued and Commissioners were appointed with effect from 5th October 2023. Although our first formal report is not due until April 2024, the scale and reach of the issues that are now coming to light and the pace at which these are emerging led us to conclude that a report now, in advance of the budget setting meetings, was essential.

It is worth recording at the outset that not every part of the Council's services are failing. Adult Services were reported as good by the CQC in their pilot Inspection in October 2023. Children's Services (via the Birmingham Children's Trust) were rated good by OFSTED in April 2023, and, following a long period of intervention, there are gradual improvements in SEND services. This demonstrates that, with consistent and quality leadership from both Members and Officers, it is possible to deliver sustainable improvements at Birmingham City Council.

However, this has not been the case Council-wide. The lessons that the Council needed to learn and internalise following the Kerslake review in 2014 have not been embedded in the Council's policy and practice. Hard decisions have not been taken, issues have not been followed through to resolution and the overriding impression we gained on arrival was that officers felt it was never possible to tell bad news to senior management or Members, and Members felt they were never told the truth, resulting in a climate of mutual distrust and suspicion and occasional poor behaviour. In part, this was due to a rotating cast of senior officers and members, particularly the Statutory Officers. Until the appointment of the current Chief Executive, no-one was established enough to ensure truth was told to power.

It is within this context that the arrival of Commissioners appears to have been broadly welcomed. The challenge and backstop that Commissioners represent is recognised as being essential to the reset that the Council needs. Nevertheless, changing expectations and delivering the cultural and governance improvements required are difficult and will take an extended timescale. The situation is exacerbated by the scale of the financial crisis.

The Council is in a precarious financial position. Recent reports to Scrutiny and Cabinet demonstrate that the Council has not valued delivery of their budget proposals. Underachievement does not result in effective challenge, improved performance, or the identification of equivalent compensating savings. The budget gap over the next two years was not fully known on arrival of Commissioners and none of the normal budget setting processes, involving identification and validation of potential savings and reconfiguration of service offers, had been commenced whilst most councils would have started in June/July.

The Council now appears to have a revenue budget gap of c £300m over the next two- year period. This is entirely separate from the potential liability to settle Equal Pay claims of around £750m, and the additional costs, currently estimated at around £50m to re-implement the Oracle and Income Management system whose introduction was thoroughly

botched. Even if there were credible savings plans to fully deliver the £300m target, it is unrealistic for any Council, let alone one with no track record in delivering challenging targets for cost reduction, to guarantee that they can all be delivered fully in time.

It is not possible for the Council to set a lawful budget for 2024/25 without Government support. The Council was instructed to demonstrate to Commissioners that it has credible plans to bridge this gap over the two-year period by January 7th. This has allowed us to support an application by the Council to increase Council Tax to 10% without a referendum in the first year and to seek a Capitalisation Direction to enable redundancy costs, rebuild useable balances and the residual revenue gap to be capitalised. This is likely to be of the order of £1.5bn and will need to be covered by asset sales generating capital receipts and the elimination of the majority of the capital programme. In the first 12 months, Commissioners have set a target of £500m receipts received, with a further target to follow thereafter.

A consequence of the required budget changes is the Council can no longer afford to undertake or fund schemes and programmes that it had previously thought to commit to. These include not being able to match fund Heritage Lottery allocations and events such as the European Athletics Championships. Being able to support the various Levelling Up initiatives have been enabled by a reworking of the allocation of Business Rate uplift generated by each approved development in agreement with the Council's partners but means that most public realm schemes in the areas will need to be much later in the programme until the uplift in new Business Rates can support these elements.

It is essential that the Council, at both Member and Officer level, understand the importance of both the identification and delivery of these challenging financial goals. Failure must inevitably lead to Commissioner's exercising the powers set out in the October 5 Directions to the letter. At the end of this initial two-year period the Council must be some 15% smaller and will need to have articulated its future offer to its citizens. Every part of the Council will have been affected with the second year of the programme needing to address cross-cutting and service transformation themes.

There are a number of key initial areas for action which are commented on below.

Equal Pay

Equal Pay challenges have beset the Council for nearly two decades. Previous solutions have unravelled and opened up challenges anew. The cycle of this must be broken, and permanently so. Other Councils have ended discriminatory practices, and Birmingham must use the opportunity of intervention to do the same. This will only be achieved by five concurrent workstreams:

- **Job Evaluation.** The Council must agree a Job Evaluation scheme, with Trade Union agreement. The Council had been unable to agree a way forward with Trade Union representatives. With the support of Commissioners and their political advisers, progress has been made with the agreement of a process addendum with the unions, but the council were underprepared for the work needed to support this. Under new leadership in HR/OD, that work is beginning at pace.
- **Pay and Grading.** The lack of a revised, coherent pay and grading system has allowed the potential for job enrichment and still further potential pay discrimination. This is for Council leadership to design, with the appropriate Trade union engagement. There has been some progress on developing a plan for this, but it is

from a standing start. There had been almost no preparation for this in advance of the intervention.

- **Communication and engagement.** The Council must develop a regular, structured plan of engagement with the Trade Unions and staff on all employment issues and ensure any impacts of the concurrent workstreams are well understood and clearly signposted.
- **Litigation** BCC's external auditors in October 2023 reported that there has been a potential £760m liability arising relating to Equal Pay. Both GMB and Unison have brought a significant number of claims against the council in this matter. The Council must have a plan to manage and respond to these claims that meets the other workstreams.
- **Terms and Conditions.** BCC must develop a plan to review staff terms and conditions to a two-year timescale.

Alongside this activity a comprehensive system of performance management is required and a complete reworking of the sickness, grievance, and discipline procedures.

Housing

The Council's housing stock has been judged to be 38% non-decent by the regulator. The Council now accepts that the housing stock has not received the investment or organisational attention required over a significant period and that the landlord functions and investment in housing stock were not previously prioritised or structured to best deliver and fulfil its landlord duties. It is vital that BCC understands and applies the learning from the mistakes of the past and avoids repeating them. The Council is moving forward with two key strategies in the new year: the Housing Revenue Account (HRA) Business Plan and Rent Setting 2024/2025 and the Asset Management Strategy 2024- 2029. The approval of these strategic plans and the award of the interim repairs' arrangements will provide the necessary, although not sufficient foundations for improvement and recovery. The delivery of the plans will require corporate and housing commitment, prioritisation and a whole council focus and approach to improvement.

The City Housing Directorate must take a rigorous, consistent and long-term approach to delivering effective, resilient, and improving landlord functions through the prioritisation of investment in its existing housing stock, ensuring they have the right dedicated senior leadership expertise, capability and capacity and a skilled, permanent workforce in place to deliver at pace and with strong managerial grip to achieve decent homes.

The directorate needs to be coherently organised around its landlord functions and aligned with the agreed improvement workstreams and work closely with colleagues from across the organisation to drive improvement and compliance. The HRA Business Plan ensures that City Housing is appropriately resourced over the long term to confidently respond to recommendations from the regulator and ombudsman, tenant and leaseholder feedback, benchmarking, and best practice and to drive sustained improvement to meet its commitments to tenants and leaseholders while recognising and addressing the scale and scope of improvement required across its housing stock which may not be delivered by refurbishment alone.

A comprehensive delivery plan must be established and include the commitments and targets set out in the HRA Business Plan and the Asset Management Strategy and progress will be

closely monitored by City Housing, CLT, Cabinet Member, Cabinet and Scrutiny, tenants and leaseholder groups and the Social Housing Regulator. Any deviations from agreed milestones and targets will be tracked, monitored, managed, and reported with mitigating and corrective actions identified and taken, as necessary. It is vital that BCC builds and retains trust and confidence in its ability to progress at pace.

Highways PFI

The letter sent by the Lead Commissioner to the Secretary of State for Transport (copy attached for completeness) sets out the position. To date, this letter has not been responded to or acknowledged. The Council has now commenced Judicial Review proceedings against the decision and sought an expedited process.

Announcing the decision in December with an existing contract termination date of 31st January 2024, provided no time to establish a new contractual relationship on other than a short-term basis, with a consequent substantial uplift in rates. It is also an inherently unstable position which will require a new procurement exercise putting significant pressure on a management team who are already heavily committed to service changes to deliver next year's budget. This would test even the best well embedded management. It is likely to set back progress on other issues.

Oracle and Income Management System

It is well known in public sector management that implementing any major proprietary software system requires adopting best practice processes the system provides rather than attempting to adapt major elements of the system to existing current, inefficient, ways of working. Birmingham did not want to follow this hard-won wisdom, poorly managed/led the programme, ignored all the warning flags, and have reached the inevitable endpoint. Stabilisation of the current system is required to enable the council to operate while they embark on rescuing the position. This is highly likely to require a full reimplemention of the Oracle system, and the deployment of a new income management solution. Done correctly this will deliver additional benefits as business processes supported by the system can be redesigned to be more efficient and operated at a lower cost. In addition, the new implementation will provide the platform to transform core corporate business services. However, this is unlikely to be fully complete in less than an 18–24 month timescale from the start of the new programme.

Governance Review

Failures in governance and the cultural acceptance that there is a correct and lawful way of receiving advice and taking decisions has long been a feature of the Council's problems. Changing and embedding the required process will be a fundamental part of the improvement journey.

The Council has acted to ensure the Audit Committee's terms of reference now match CIPFA best practice guidance. From the next Annual meeting it will be chaired by an opposition councillor and training will be mandatory for its members. The Council has also accepted the findings of the CFGS review and has received a report from Prof Colin Copus which will change the way full Council works. Together, all these changes will provide a more appropriate constitutional framework but it will be changed behaviours that will make this come to life.

Overview

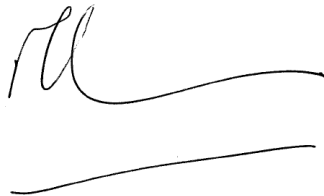
Birmingham City Council are facing a greater challenge than many other authorities and are only now recognising that this requires a comprehensive culture and operational reset at both Member and Officer level. It has been slow to understand the scale of the financial difficulty it has created for itself. However, it is now starting to respond to the Commissioner and Direction regime. There will be inevitable setbacks along the way, and it is too soon to have confidence in the outcome. What is clear is that the leadership is willing to try, and we will support, guide, and challenge them over what will be a very painful process extending for some years. If necessary, the Commissioners will exercise Council functions, as per the Directions issued on 5 October, although our preferred mechanism remains to help the Council get it right itself.

You will receive a separate, financially based letter to support the Council's applications for Council Tax increases above the cap level and extraordinary financial support and a full letter at the end of our first six months.

Commissioners are always happy to provide more information and explanation to you and your officials as required.

Yours sincerely,

Max Caller CBE, on behalf of the Commissioner team.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a long horizontal flourish.

The Commissioners:

Max Caller CBE, John Coughlan CBE, Chris Tambini, Pam Parkes FCIPD, Jackie Belton, Myron Hrycyk, Lord John Hutton, John Biggs.