

Agenda Cabinet

**Wednesday, 12 January 2022 at 3.30 pm
at Council Chamber, Sandwell Council House, Freeth Street, Oldbury,
B69 3DB**

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1 Apologies for Absence

2 Declarations of Interest

Members to declare any interests in matters to be discussed at the meeting.

3 Minutes (Pages 7 - 40)

To confirm the minutes of the meeting held on 15 December 2021 as a correct record.

4 Additional Items of Business (Pages 41 - 52)

To determine whether there are any additional items of business to be considered as a matter of urgency.

5 Determination of Admission Arrangements for Sandwell's Community and Voluntary Controlled Schools for 2023/24 (Pages 53 - 80)

Children & Education



To approve the publication of the Local Authority's Admission Arrangements for 2023/24 academic year for places in all community and voluntary controlled schools.

- 6 **Request to procure for the Holiday Activity and Food Programme 2022-2023** (Pages 81 - 118) **Children & Education**

To seek approval to undertake a procurement exercise for holiday activity provision via the Holiday Activity and Food programme 2022-2023.

- 7 **Mobysoft Limited- RentSense Software Contract** (Pages 119 - 128) **Housing**

To approve a contract for Mobysoft's RentSense product to deliver an efficient and effective arrears recovery process.

- 8 **SEND Transport arrangements: February 2022 to July 2024** (Pages 129 - 218) **Children & Education**

To consider proposals in relation to travel arrangements for children with special educational needs and disabilities to facilitate their attendance at an appropriate education provision.

- 9 **Schools Funding 2022/2023** (Pages 219 - 254) **Children & Education**

To approve the Schools Funding 2022/23 proposals.

- 10 **Recommendations of the Scrutiny Review of Elective Home Education** (Pages 255 - 266) **Children & Education**

To consider the recommendations from the Children's Services and Education Scrutiny Board in respect of the Elective Home Education Working Group:

- 11 **Exclusion of the Public and Press**

That the public and press be excluded from the rest of the meeting. This is to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local

Government (Access to Information) (Variation) Order 2006, relating to the financial and business affairs of any person, including the authority holding that information.

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| 12 | Procurement of a new Asset Management Database (Pages 267 - 276) | Regeneration & Growth |
| | To consider proposals for a new IT system (asset database) to enable all the Council's property and finance information to be managed effectively. | |
| 13 | Agreement with JKA (Pages 277 - 298) | Regeneration & Growth |
| | To consider proposals in relation to the option agreement with the developer for the Lion Farm site, Oldbury. | Finance & Resources |

Kim Bromley-Derry CBE DL
Interim Chief Executive
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Distribution

Councillor Carmichael (Leader of the Council)
Councillors Crompton, Ahmed, Bostan, Hartwell, Millard, I Padda, Piper and Simms

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Minutes of The Cabinet

**Wednesday 15 December 2021 at 3.30pm
in the Council Chamber, Sandwell Council House, Oldbury**

Present: Councillor Carmichael (Leader of the Council);
Councillors Ahmed, Bostan, Hartwell, Millard, I Padda, Piper
and Simms.

Officers: Kim Bromley-Derry (Interim Chief Executive), Gillian Douglas
(Director of Housing), Simone Hines (Director of Finance),
Tony McGovern (Director of Regeneration and Growth), Lisa
McNally (Director of Public Health), Surjit Tour (Director of
Law and Governance and Monitoring Officer), Elaine
Newsome (Service Manager – Democracy) and Suky Suthi-
Nagra (Democratic Services Manager).

223/21 **Apologies for Absence**

Apologies for absence were received from Councillors Crompton,
E M Giles, Moore, Mabena and Shackleton.

224/21 **Declarations of Interest**

There were no interests declared at the meeting.

225/21 **Minutes**

Resolved that the minutes of the meeting held on 18
November and 24 November 2021 be confirmed as a correct
record.



226/21 **Additional Items of Business**

There were no additional items of business to consider.

227/21 **Additional Licensing (West Bromwich Area)**

Approval was sought to authorise the Director of Housing to implement Additional Licensing for the defined part of West Bromwich, as per the proposal approved for consultation by Cabinet on 26 June 2019 (see Minute No. 81/19). This would ensure that Houses in Multiple Occupation (HMO) meet a minimum standard of management and that all other private rented property within a designated area was managed by the landlord to a satisfactory standard.

Local councils could choose to require private landlords or their managing agents to have a licence to rent out their property. The licence conditions stated that landlords must keep their property safe and well maintained as well as deal with any problems associated with the property such as dumped rubbish, untidy gardens or anti-social behaviour.

The area in West Bromwich identified had a potential 3,007 private rented properties/houses in multiple occupation that would require licensing under the 2 types of scheme.

Reason for Decision

The borough had experienced a major increase in private rented accommodation in some areas, including HMO not subject to the Mandatory Licensing Scheme.

It was recognised that some landlords and agents did not provide adequate accommodation or management of their properties. The council had implemented a range of powers and approaches to seek to address these issues, but a new approach was considered necessary to address the specific concerns relating to HMO private rented properties within the defined area of West Bromwich which had been the subject of consultation for these proposals.



Alternative Options Considered

The options considered included several possible interventions for tackling substandard and 'problematic' smaller HMOs in the area as set out below:

Do nothing - This option would involve the Council doing nothing to intervene in the small HMO sector this would leave the local housing market to be the driver for landlords carrying out improvements to their properties.

Do the minimum (reactive inspection programme only) - This option would mean that the Council intervention in the small HMO sector being limited to a basic complaint response service with action by other departments and agencies on a largely ad hoc basis.

Informal area action (Proactive inspection programme) - This would be delivered through a non-statutory Action Area, considering parts of the borough where there was concentration of poorly managed or maintained properties.

Voluntary Accreditation - Accreditation schemes have a set of standards (or code) relating to the management or physical condition of different HMOs and recognise properties/landlords who achieve/exceed the requirements. This was a voluntary scheme which relied upon the cooperation of landlords and agents and as such it was unlikely to attract a large part of the sector.

Targeted use of Interim Management Orders (IMOs) and Final Management Orders (FMOs) - The Housing Act 2004 gave local authorities powers to use Management Orders for tackling comprehensive and serious management failures. These powers were currently available for HMOs that were required to be licensed under the Mandatory HMO licensing scheme but not those HMOs that fell outside this national scheme.

Article 4 Direction - This option would rely on the use of this power to control the numbers of new HMOs and the market to drive property improvements. It would only succeed in reducing numbers if appropriate planning policy was adopted to restrict numbers, it was not retrospective and would not resolve the quality of the PRS stock, living conditions for tenants or neighbouring properties.



Agreed:-

- (1) that the Director of Housing be authorised to implement Additional Licensing for the defined part of West Bromwich, as per the proposal approved for consultation by Cabinet on 26 June 2019;
- (2) that in connection with Resolution (1) above, the Director of Housing be authorised to:
 - (a) publish the notice of decision within 7 days of the decision;
 - (b) undertake a promotional campaign, including timescale for implementation, to run from February 2022;
 - (c) introduce a 3-month grace period for additional licensing from 1 April 2022 to 30 June 2022; and
 - (d) commence enforcement activity for unlicensed premises from 1 July 2022.

228/21

Day to Day Repairs to Housing

Approval was sought to authorise the Director of Housing, in consultation with the Director of Finance and Section 151 Officer, to award a contract for the provision of day to day repairs to the Council's housing stock, for the period 1 January 2022 to 31 December 2023 at an anticipated value of £1,300,000 following the conclusion of the current procurement exercise.

Reason for Decision

The current contract was due to expire on 31 October 2022. However, one of the incumbent contractors had gone into administration and the other incumbent contractor did not have the capacity to receive orders which would leave the Council in the position of not having adequate resources available to maintain the pace of demand for delivering the required repairs to Council properties.



The Council was therefore seeking to procure and appoint 3 contractors, 2 to undertake day to day repairs and 1 to undertake repairs to fencing, for a contract period of 24 months running from January 2022 to December 2023.

Alternative Options Considered

There were no other options available. This contract was required in order for Sandwell MBC to be able to repair and maintain the current housing stock.

Current in-house provision did not have the capacity to maintain the pace of demand for delivering the required repairs to Council properties and therefore support from external contractors was required.

Agreed:-

- (1) that the Director of Housing, in consultation with the Director of Finance and Section 151 Officer, be authorised to award a contract for the provision of day to day repairs to our housing stock, for the period 1 January 2022 to 31 December 2023 at an anticipated value of £1,300,000 following the conclusion of the current procurement exercise;
- (2) that in connection with Resolution (1) above, the Director – Law and Governance and Monitoring Officer be authorised to enter into appropriate contracts.

229/21

Review of council tenant rents and housing related property charges

Approval was sought to authorise the Director of Housing to make several amendments to council tenant rents and housing related charges for 2022/23.



This included increasing housing service charges by the consumer price increase (CPI) which was 3.1% plus 1% which was equivalent to a 4.1% increase. Approval was also sought to increase rent at the traveller's pitch site in Hillside View, Tipton, by the lower level of either 2% or the consumer price increase (CPI) plus 1%. For 2022/23, this would be an increase of 2%. This increase to be implemented, subject to consultation with residents of the site contract, was to be awarded following a compliant further competition and evaluation process under the NHS Shared Business Services, Digital Workplace Solutions Framework agreement. The rental charge for garage sites was proposed to be increased by £4.13 to £11 per week.

Approval was also sought for properties managed by Riverside under the Private Finance Initiative (PFI) agreement to be subject to a 2% rental increase and 4.1% increase in service charges.

Additionally, properties that sat outside the Housing Revenue Account (including service tenants for Parks, Sandwell Valley and Caretaking) received a 4.1% increase in rental charges and service charges. This was equivalent to CPI plus 1%. Furthermore, it was proposed to increase the leaseholder annual fee by CPI plus 1% in 2022/23 to £104.10.

Reasons for Decision

On an annual basis, council tenants, leaseholders and other residents were notified of the rent and other related housing charges to be set from April. Approval was sought to agree the revision of these charges for the new financial year 2022/23.

The rental income was essential to the financial robustness of the Housing Revenue Account (HRA). Rental income offsets operational costs and financial charges and the surplus was used to invest in capital improvements; in particular, to fund the council's affordable homes new build programme.

Approval had already been granted by Cabinet on 8 January 2020 to increase rents by 2% in each of 3 financial years: 2020/21, 2021/22 and 2022/23. This report sought approval for service charges and other rental charges only.



Alternative Options Considered

It was recommended from April 2022 to increase rents by 2% for tenants within the Riverside managed PFI estate of Wednesbury. The council did have the discretion to set PFI rents. This increase was consistent with the increase in the council's rents.

The Department for Levelling up Housing and Communities (DLUHC) policy allows social landlords to increase their annual rents by Consumer Price Index (CPI) plus 1%. This would be a 4.1% increase for our tenants. The lower 2% increase proposed in January 2020 was agreed by Cabinet. The lower increase recognised the impact of the rise in fuel costs, the ending of furlough and ending of the universal credit uplift, on our tenants.

An alternative to increasing rental and service charges would be to reduce services where costs could not be met through operational budgets.

Agreed that in relation to council tenant rents and housing related charges for 2022/23, the Director of Housing be authorised to:

- (1) increase housing service charges by the consumer price increase (CPI) which is 3.1% plus 1% which is equivalent to a 4.1% increase;
- (2) increase rent at the traveller's pitch site in Hillside View, Tipton, by the lower level of either 2% or the consumer price increase (CPI) plus 1%, for 2022/23, this will be an increase of 2% subject to consultation with residents of the site
- (3) increase rental charges for garage sites by £4.13 to £11 per week;
- (4) that properties managed by Riverside under the Private Finance Initiative (PFI) agreement be subject to a 2% rental increase and 4.1% increase in service charges;
- (5) that properties that sit outside the Housing Revenue Account (including service tenants for Parks, Sandwell Valley and Caretaking) receive a 4.1% increase in rental charges and service charges. This is equivalent to CPI plus 1%;
- (6) increase the leaseholder annual fee by CPI plus 1% in 2022/23 to £104.10.



Provision of 10 new council homes at Britannia Road, Rowley Regis – Award of contract

Approval was sought to award a contract to Seddon Construction Ltd, in the sum of £2,297,287.00 for the construction of ten houses (8x 2 bed semi-detached and 2x 4 bed semi-detached) at Britannia Road, Rowley Regis using the Homes England Delivery Partner Panel 3 Framework, West Midlands Lot.

The cost of the proposed contract with Seddon Construction Ltd was covered within the original capital allocation of adequate resources to fund the proposed project on 20 March 2019 (see Minute No. 34/19). Project costs were originally split between the Housing Revenue Account (HRA) and Homes England grant funding. However, funding was now proposed to be split between the HRA and Right to Buy 1-for-1 (RTB) capital receipts in accordance with clause 7.3 of the original approval. The funding sources for all schemes within the Council New Build programme were constantly monitored to ensure that the most beneficial funding source was selected, that all Homes England grant commitments were achieved and that all RTB capital receipts were allocated to prevent any loss of the receipts due to not expending them within the designated time periods. An exemption was therefore required to the Council's Procurement and Contract Procedure Rules.

Reasons for Decision

This scheme would provide ten new council-owned affordable homes that meet Building Regulations and current housing requirements.

Sandwell's Housing Management Team had provided housing demand data in relation to bidding activity for different property types in the area which showed that there was demand for all proposed property types.

Subject to the approval and completing contractual arrangements, it was envisaged that works could commence January 2022 and complete October 2022.



Alternative Options

The alternative option was to not accept this tender through Exemption to Procurement and Contract Procedure Rules and to go back out and retender. Recent tender activity for other schemes had shown a reduction in the number of tender returns which was probably a direct result of above and the current construction market conditions. It was not recommended to re-tender as this would cause at least a 6 month delay to a start on site, there was no guarantee how many tenders would be returned and the tender sum was likely to increase considerably if the current trend continued.

Agreed:-

- (1) that the Director Regeneration and Growth be authorised to award a contract to Seddon Construction Ltd, in the sum of £2,297,287.00 through Exemption to Procurement and Contract Procedure rules (rule 15, rule 8.11 regarding single tender returns) for the construction of 10 houses (8x 2 bed semi-detached and 2x 4 bed semi-detached) at Britannia Road, Rowley Regis as tendered using the Homes England Delivery Partner Panel 3 Framework, West Midlands Lot;
- (2) that the Director – law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to award of the contract and/or other agreements as may be deemed necessary;
- (3) that any necessary exemptions be made to the Council's Procurement Contract Procedure Rules to enable to course of action referred to in Resolution (1) above to proceed.



Award a Contract Plant Hire Equipment

Approval was sought to award a contract for the provision of plant hire equipment once evaluation processes were complete and following compliant competitive tender processes.

Plant hire equipment was essential for Highways Services to facilitate general maintenance, repairing footways and carriageways on the highways network around the Borough.

As the Local Highway Authority; the Council had a statutory duty to ensure the Highway Network was maintained in a safe and useable manner.

To meet this duty, the plant and equipment stipulated within this contract was used to enable the direct labour force to maintain carriageways and footways across the Borough.

Reason for Decision

Procurement was required because the current contract for the supply of Plant Hire Equipment expired on 31 October 2021.

Alternative Options

There were no recommended affordable alternatives to obtain plant equipment to maintain our Highway Network.

Agreed:-

- (1) that the Director of Borough Economy be authorised to award a contract for the provision of Plant Hire Equipment once evaluation processes are complete and following compliant competitive tender processes;
- (2) that the in connection with Resolution (1) above, Director of Law and Governance and Monitoring Officer be authorised to execute any documentation necessary;



- (3) that any necessary exemptions be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in (1) and (2) above to proceed.

232/21

Award a Contract for Coated Road Stone and Instant Road Repair Materials

Approval was sought for the Council (SMBC) to work in collaboration with Dudley Metropolitan Borough Council and Wolverhampton City Council, with SMBC acting as lead Authority, in the supply of Coated Road Stone and Instant Road Repair Materials.

Approval was also sought to award contracts and accept tenders for the provision of Coated Road Stone and Instant Road Repair Material; for general maintenance, repair of footways and carriageways on the highways network around the Borough once evaluation processes were complete and following compliant competitive tender processes.

Reasons for Decision

Procurement was required because the existing contracts for the supply of Coated Road Stone Materials and Instant Road Repair were about to expire.

The framework tender was a collaboration with Dudley Metropolitan Borough Council and Wolverhampton City Council with Sandwell acting as lead Authority with SMBC benefitting from economies of scale and reduced tendering costs.

The tender exercise would aim to ensure continuity of operations and enable a smooth and efficient switch to the new contract.

Alternative Options

There were no recommended affordable alternatives to obtain material to maintain the Highway Network.



Agreed:-

- (1) that Sandwell Metropolitan Borough Council (SMBC) work in collaboration with Dudley Metropolitan Borough Council and Wolverhampton City Council, with SMBC acting as lead Authority, in the supply of Coated Road Stone and Instant Road Repair Materials;
- (2) that the Director of Borough Economy be authorised to award contracts and accept tenders for the provision of Coated Road Stone and Instant Road Repair Material; for general maintenance, repair of footways and carriageways on the highways network around the Borough once evaluation processes are complete and following compliant competitive tender processes;
- (3) that in connection with Resolution (1) and (2) above, the Director of Law and Governance and Monitoring Officer be authorised to execute any documentation necessary to enable the above;
- (4) that any necessary exemptions be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in Resolution (2) above to proceed.

233/21 **The Appropriation of Flat 148 Tower Road, Oldbury B69 1PE**

Approval was sought to declare the premises known as flat 148 Tower Road, Oldbury B69 1PE surplus to the requirements of Property Services.

It was also proposed to appropriate the premises from the General Fund to the housing revenue account (HRA) and to authorise the Director – Housing to manage and let the premises as part of the council's housing stock with the Director – Finance making the appropriate adjustments to the Capital Financing Requirements to reflect the appropriation between the General Fund and HRA.



Reasons for Decision

The proposed appropriation of the premise would accommodate subsequent use by housing as part of the housing stock within the remit of the housing revenue account.

The flat was previously included as part of a commercial lease for the shop premises at 144 Tower Road, Oldbury. Currently, the commercial property market did not support demand for this type of hybrid accommodation.

Returning the property to housing stock would assist in meeting demand for flatted residential accommodation.

Alternative Options

Currently, the commercial property market did not lend itself to this type of hybrid accommodation where a commercial premise with residential accommodation were let by way of a single lease. The Council could continue as per the original letting but the property would be more difficult to market as a commercial lease.

The premises could be appropriated to housing stock to provide residential accommodation in the Tividale area where there was a demand for flatted accommodation.

Agreed:-

- (1) that approval be given to declare the premises known as flat 148 Tower Road, Oldbury B69 1PE, as identified on site plan identification reference SAM/48660/008, surplus to the requirements of Property Services;
- (2) that in connection with Resolution (1) above, the Director – Regeneration and Growth be authorised to appropriate the premises from the General Fund to the Housing Revenue Account;
- (3) that the Director – Housing be authorised to manage and let the premises as part of the council's housing stock;



- (4) that the Director – Finance be authorised to make the appropriate adjustments to the Capital Financing Requirements to reflect the appropriation between the General Fund and Housing Revenue Account.

234/21

Domestic Abuse Safe Accommodation Strategy 2021-24

Approval was sought to adopt the Domestic Abuse Safe Accommodation Strategy 2021-2024 and to authorise the Director of Borough Economy, in consultation with the Cabinet Member for Community Safety, to review and approve subsequent reviews and amendments to the Domestic Abuse Safe Accommodation Strategy except where the changes were major or involve amended legislation.

Final Statutory guidance on the new duty for local authorities was issued by the Department of Levelling Up, Housing & Communities (DLUHC) on 1 October 2021.

Under the duty, local authorities were required to:

- assess the need for victims of domestic abuse and their children in safe accommodation services in their areas;
- produce a strategy to detail how they will respond to the duty;
- commission support to victims and children in safe accommodation;
- appoint a domestic abuse local partnership board for the purposes of providing advice to the authority about the exercise of the authority's functions;
- report back annually to central government that they have met these obligations.

Sandwell Domestic Abuse Strategic Partnership (DASP) were already responsible for the development, co-ordination and delivery of the local domestic abuse strategy. DASP had been established as the new statutory board and the terms of reference had been updated to reflect the new requirements and responsibilities.



The Safe Accommodation Strategy outlined the key points and recommendations from the needs assessment and how these would be addressed. The needs assessment had incorporated a range of data from partners; stakeholders feedback and feedback from domestic abuse victims-survivors.

The draft safe accommodation strategy was widely consulted on across SMBC and DASP partners and was published on the council's website on 25 October 2021 to comply with the statutory requirement to publish a draft strategy by that date. The final safe accommodation strategy was required for publication by 5 January 2022.

An implementation plan would be developed to underpin the delivery of the safe accommodation strategy which would be regularly monitored by DASP.

New Burdens Funding had been allocated to the council to support the delivery of the new safe accommodation duty and proposals for this were currently being developed.

Reasons for Decision

The Domestic Abuse Act 2021 placed a new statutory duty for local authorities to provide specialist support for victims of domestic abuse in safe accommodation, including a requirement for each local authority to produce a safe accommodation strategy by 5 January 2022.

Alternative Options

It was a requirement under the Domestic Abuse Act 2021 that a domestic abuse safe accommodation strategy was published by 5 January 2022. Therefore, no alternative option has been identified.

Agreed:-

- (1) that approval be given to adopt the Domestic Abuse Safe Accommodation Strategy 2021-2024;



- (2) that the Director of Borough Economy, in consultation with the Cabinet Member for Community Safety, be authorised to review and approve subsequent reviews and amendments to the Domestic Abuse Safe Accommodation Strategy except where the changes are major or involve amended legislation.

235/21

B2022 Commonwealth Games – Host Integration Project

Approval was sought to authorise the Director of Finance to agree a budget of £1,000,000 from Council reserves to enable the delivery of the Host Integration Project.

It was also proposed to authorise the Director of Finance to submit funding and agree funding bids with third parties that could support the delivery of the Host Integration Project and authorise the Director of Regeneration and Growth, in consultation with the Director of Finance and the Director – Law and Governance and Monitoring Officer, to undertake procurements and sign legal agreements that support the delivery of the Host Integration Project.

The report also sought approval to authorise the Director of Regeneration and Growth to create three new fixed term full time equivalent posts (until 31 August 2022) as follows:

- Sandwell Aquatics Centre Facility and Operations Manager (H Grade);
- Sandwell Aquatics Centre Deputy Facility and Operations Manager (G Grade); and
- Sandwell Commonwealth Games Volunteer Co-ordinator (E Grade).

Reasons for Decision

Hosting a venue for the Birmingham 2022 (B2022) Commonwealth Games was a once in a lifetime opportunity for the borough of Sandwell and one that Sandwell Council wish to make the most of for its residents. The delivery of the Host Integration Project would support the delivery of many opportunities.



As part of the bid to host the Games, Sandwell Council agreed a 'Host City Guarantee' with the Commonwealth Games Federation and Birmingham City Council in September 2017. This agreement detailed what the Council would be required to deliver as part of the overall Games delivery. The Host Integration Project would deliver all the requirements detailed within the 'Host City Guarantee'.

To support the delivery and success of the Host Integration Project and the B2022 Commonwealth Games, additional resources outlined, both from a financial and staffing perspective were required for the project to be a success.

Alternative Options

Do nothing – this would leave Sandwell Council in breach of the 'Host City Guarantee' that was entered into in September 2017 and would leave Sandwell Council at risk of the recovery of funding towards the Aquatics Centre. Also, the non-delivery of the Host Integration Project would mean that the B2022 Commonwealth Games with all the excitement and benefits that it would bring to the borough would not be able to be delivered.

Agreed:-

- (1) that the Director of Finance be authorised to agree a budget of £1,000,000 from Council reserves to enable the delivery of the Host Integration Project;
- (2) that the Director of Finance be authorised to submit funding and agree funding bids with third parties that could support the delivery of the Host Integration Project;
- (3) that the Director of Regeneration and Growth, in consultation with the Director of Finance and the Director – Law and Governance and Monitoring Officer, be authorised to undertake procurements and sign legal agreements that support the delivery of the Host Integration Project;



- (4) that the Director of Regeneration and Growth be authorised to create three new fixed term full time equivalent posts (until 31 August 2022) as follows:
 - Sandwell Aquatics Centre Facility and Operations Manager (H Grade);
 - Sandwell Aquatics Centre Deputy Facility and Operations Manager (G Grade); and
 - Sandwell Commonwealth Games Volunteer Co-ordinator (E Grade);
- (5) that the Director Regeneration and Growth be authorised to submit a further report to Cabinet in March 2022 detailing the final Operational Plan for the Host Integration Project.

236/21 **Draft General Fund Budget 2022/23**

Consideration was given to the draft budget position for 2022/23 and the proposed savings required for consultation which was subject to a further report in February 2022 setting out the results of the consultation referred to in above for Cabinet to consider prior to final budget proposals being approved.

Reasons for Decision

The Local Government Finance Act 1972 required the Council to set a balanced, risk assessed budget each year and approve a Council Tax precept by 11 March.

Alternative Options

Cabinet could request that alternative savings options be proposed and agreed, although there was limited time to do this and still be able to carry out the appropriate consultation on alternative savings.

Agreed:-

- (1) that the draft budget position for 2022/23 and the savings required be noted;



- (2) that the savings identified in Appendix A be approved in principle for consultation and an Equality Impact Assessment where required;
- (3) that the Director of Finance submit a further report in February 2022 setting out the results of the consultation referred to in Resolution (2) above for Cabinet to consider prior to final budget proposals being approved;
- (4) that the draft budget and savings options be considered by the Budget and Corporate Scrutiny Management Board in January 2022.

237/21 Council Tax Base Calculation 2022/2023

The Council was requested to approve the Council Tax Base for 2022/2023 to be set at 74,858.45

Approval was also sought to authorise the Section 151 Officer to adjust the Council Tax Base as required following approval of the 2022-2023 Council Tax Reduction Scheme by Council on 18 January 2022.

The Council Tax Base must be reduced to reflect any anticipated losses on collection. In recent years this had meant a reduction of 1% as experience had shown that a 99% collection rate was ultimately achievable.

At the end of October 2021, the in-year collection rate had increased slightly by 0.10% compared to the same point last year. Compared to the same period prior to the on-set of the pandemic however the collection rate had decreased by 2.32%. A drop of 2.32% equates to approximately £3m of uncollected Council Tax.



The Council had received a hardship fund of £3.5m to help residents who were struggling to meet their Council Tax payments. To date £1.2m had been awarded to this fund to residents in receipt of a partial Local Council Tax Reduction and we would continue to spend the fund before the end of March 2022. This would help improve the in-year collection rate for 2021/22.

As its not yet know whether a hardship fund would be made available for 2022/23 and it was clear that many residents would move into the new financial year with previous-year Council Tax debt, the Council Tax Base for 2022/23 had been reduced by 2% thereby assuming a 98.5% collection would ultimately be achieved. This reduced the Council Tax Base as follows:

<u>Collection Rate %</u>	<u>Tax Base</u>
98.5	74,858.45

The actual levels of Council Tax for 2022/2023 would be dependent upon final decisions yet to be taken on both Sandwell budgets and those of the precepting bodies, together with consideration of any surplus or deficit on the Collection Fund.

Reasons for Decision

The Council Tax Base must be calculated in accordance with the Local Authorities (Calculation of Council Tax Base) (England) Regulations 2012. It was used to determine the annual amount of collectable Council Tax.

The regulations set out the methodology to be used by authorities when calculating their Council Tax Base. They further dictate that the Council Tax Base should be set between 1 December and 31 January prior to the financial year to which it refers.

The Council Tax Base for 2022/23 had been calculated as 74,858.45.



Alternative Options

There were no alternative options available.

Agreed that the Council be recommended to:-

- (1) approve the Council Tax Base for 2022/2023 to be set at 74,858.45;
- (2) authorise the Section 151 Officer to adjust the Council Tax Base as required following approval of the 2022-2023 Council Tax Reduction Scheme by Council on 18 January 2022.

238/21

Business Rates Retention Forecast – 2022/23

Approval was sought for the business rate retention forecast for 2022/23, based on 99% Business Rates Retention, be set at £84.06m, subject to any changes arising from the issue of the National Non- Domestic Rate (NNDR1) form by the Spending Review announcements.

Approval was also sought to authorise the Section 151 Officer to adjust the estimate to take account of any required changes arising from the issue of the National Non-Domestic Rate (NNDR1) form, Department for Levelling up, Housing and Communities, Spending Review, Budget Statement announcements and funding arrangements for Business Rates Retention.

Based on information received from Planning regarding large businesses due to come into the rating list next year and large businesses due to be demolished, the Council was not expecting Business Rates growth during 2022/23

Although it appeared to show a reduction in Business Rates income from last year's estimate, at the point of calculating the estimate last year, there was no indication that the retail, hospitality, leisure industries and nurseries reliefs would continue. The government later confirmed continuation of the reliefs for 2021/22.



The government had already announced that these reliefs would continue for 2022/23 at 50%. Reliefs had the effect of reducing the collectable rates, however, the council received a Section 31 grant which compensated us fully for the loss in income. This had been estimated to amount to £15.6m.

The government had also confirmed in the October 2021 budget that the business rates multiplier would be frozen for 2022/23 and that local authorities would be funded for the loss in income. This was approximately £2m.

Reasons for Decision

There was a statutory requirement placed on all collection authorities to calculate how much Business Rates income each authority was likely to receive for the coming financial year.

Alternative Options

There were no alternative options available.

Agreed:-

- (1) that subject to any changes arising from the issue of the National Non- Domestic Rate (NNDR1) form by the Spending Review announcements, the business rate retention forecast for 2022/23, based on 99% Business Rates Retention, be set at £84.06m;
- (2) that in connection with Resolution (1) above, the Section 151 Officer be authorised to adjust the estimate to take account of any required changes arising from the issue of the National Non- Domestic Rate (NNDR1) form, Department for Levelling up, Housing and Communities, Spending Review, Budget Statement announcements and funding arrangements for Business Rates Retention.



The Council was recommended to approve no changes being made to the Local Council Tax Reduction Scheme for 2022/23 and that Council approve the Local Council Tax Reduction Scheme for 2022/23.

Reasons for Decision

The Local Council Tax Reduction Scheme (LCTRS) provided crucial support to low income families and our most vulnerable residents.

The LCTRS was based on income bands and residents on very low incomes could continue to receive 100% support.

Sandwell was now the only council in the West Midlands to provide up to 100% support and one of only a few nationally.

Alternative Options

Nationally, 75% of local authorities had introduced a minimum Council Tax payment. This meant that everyone, including those people on a very low income, must pay something towards their Council Tax.

Sandwell did not want to introduce a minimum payment into its LCTRS as the Council wished to protect the most vulnerable households and improve child poverty.

Agreed to recommend to Council that:-

- (1) no changes are made to the Local Council Tax Reduction Scheme for 2022/23;
- (2) the Local Council Tax Reduction Scheme for 2022/23 be approved.



The Council was recommended to consider the findings of the external auditor, Grant Thornton, Value for Money Governance Review report and for the Leader of the Council and the Interim Chief Executive to develop an action plan to address the statutory, key and improvement recommendations of the Governance Review for approval by Council on 18 January 2022.

Reasons for Decision

Under sections 20 and 21 of the Local Audit and Accountability Act 2014, auditors must determine whether the council had made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This was known as the Value for Money (VFM) conclusion and was reported publicly. As the council's external auditors, Grant Thornton had conducted a review into the council's governance arrangements and would be reporting their findings of this review to Full Council in January 2022.

At that stage the report must include the council's management response to the statutory and key recommendations. As the recommendations span the governance arrangements across the whole council, the action plan that supported this response must be developed by the Leader of the Council and the Interim Chief Executive to ensure corporate wide improvements were delivered and sustained.

Alternative Options

The Governance Review was undertaken as part of the external auditor's role to provide assurance on the council's arrangements for securing economy, efficiency and effectiveness in its use of resources, and therefore the report was a public document and must be reported to Full Council. As the report included statutory recommendations, the council had a legal obligation to respond appropriately. There were no alternative options to consider.



Agreed that the Council be recommended to:-

- (1) receive Grant Thornton's Value for Money Governance Review report;
- (2) consider the action plan developed by the Leader of the Council and the Interim Chief Executive to address the statutory, key and improvement recommendations of the Governance Review for approval.

241/21 **Cabinet Petitions Minutes – 13 October 2021**

The minutes of the Cabinet Petitions Committee meeting held on 13th October 2021 were noted.

242/21 **Exclusion of the Public and Press**

Resolved that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under paragraph 3 of Schedule 12A to the Local Government Act, 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, relating to the financial and business affairs of any person, including the authority holding that information.

243/21 **Land on the west side of Tunnel Road, West Bromwich**

Approval was sought to declare the land located on the west side of Tunnel Road, West Bromwich surplus to Council requirements.

Approval was also sought to dispose of the freehold reversionary interest in approximately 0.22 hectares (0.53 acres) approximately of land situated on the west side of Tunnel Road, West Bromwich, to the existing tenant, on terms and conditions to be agreed by the Director - Regeneration and Growth.



Additionally, in the event that the terms for disposal of land were not agreed by the tenant, approval was sought to authorise the Director – Law and Governance and Monitoring Officer to dispose of the freehold interest in the land on the open market and otherwise on terms and conditions agreed by the Director – Regeneration and Growth.

Reasons for Decision

The report sought to approve to dispose of the freehold reversionary interest in a parcel of Council-owned land situated on the west side of Tunnel Road to the current tenant, or if terms were not agreed, to effect a subsequent sale of the land on the open market subject to the existing lease.

The land was currently leased to by virtue of a 99-year lease from 1958 and this would continue with the Council receiving a fixed annual rent of £120.

Under Planning allocation, the land was situated within an area identified as Potential High Quality Employment Land and was not affected by any current or future Council regeneration projects.

Alternative Options

The Council could retain the freehold of the ground lease which would continue to yield the sum of £120 per annum. There would be minimal future costs to the Council as the lease was a ground lease with the upkeep and maintenance of the building/s, together with all outgoings, being the tenant's responsibility.

The existing lease could be surrendered and a new longer lease granted with rent reviews at 5-year intervals. This, however, would not provide the tenant with the comfort he required to attract inward investment and additionally it was an isolated interest which the Council would consider for disposal.

Alternatively, the Council could consider disposal of the freehold on the open market, but this may not generate the same level of capital receipt and additionally it may jeopardise the tenant's expansion proposals including the opportunity to create further business and employment opportunities within Sandwell.

Agreed that approval be given to:-



- (1) declare the land located on the west side of Tunnel Road, West Bromwich surplus to Council requirements;
- (2) authorise the Director – Law and Governance and Monitoring Officer to dispose of the freehold reversionary interest in approximately 0.22 hectares (0.53 acres) approximately of land situated on the west side of Tunnel Road, West Bromwich, shown for identification purposes only edged black on Plan No SAM/49100/010 attached, to the existing tenant, Mohammed Danish Vayani, on terms and conditions to be agreed by the Director - Regeneration and Growth;
- (3) in the event that the terms for disposal of land referred to in Resolution (2) above does not, for whatever reason, proceed to Mohammed Danish Vayani, to authorise the Director – Law and Governance and Monitoring Officer to dispose of the freehold interest in the land on the open market and otherwise on terms and conditions agreed by the Director – Regeneration and Growth;
- (4) that the Director – Law and Governance and Monitoring Officer be authorised to enter into or execute under seal, if necessary any other related documentation in connection with the disposal of the site on terms and conditions to be agreed by the Director - Regeneration and Growth.

244/21

Provision of new council homes on 4 no sites to be delivered via Construction West Midlands framework 2- Design stage

Approval was sought to design and develop 4 no. sites across Sandwell with new affordable rent council housing, subject to planning permission being obtained.



The project would design/deliver 50-60 new Council-owned affordable rented properties on a maximum of 4 no council-owned sites which would include houses, bungalows and apartments. The schemes would also include M(4)3 full wheelchair compliant standard for people with specific needs.

The development of the proposed council sites with new homes would result in the following benefits:

- reducing the amount of vacant, under-utilised land within its ownership which is incurring maintenance costs;
- increasing the numbers of authority owned stock which would ease pressure on our existing housing;
- replacing housing stock lost through Right to Buy;
- increasing income to the Housing Revenue Account;
- Contributing positively to the financial position of the Council by generating New Homes Bonus and new Council Tax receipts;
- developing fit for purpose accommodation;
- increased good quality, energy efficient housing provision in the Borough;
- increasing the levels of new build Council housing stock within the Borough contributing to target forecasts;
- linking to the work of Think Local and Find-it-in-Sandwell approaches that would offer significant employment and training opportunities as well as additional community benefits to the local economy, including working with local supply chains and use of local labour;
- producing positive outputs for community safety through the redevelopment of a vacant site.



Reasons for Decision

Following the introduction of greater flexibilities for local authorities the Council was able to develop future sites, subject to planning permission, as part of the new strategic approach to provide more and better housing in the borough.

Alternative Options

Option A - Deliver the schemes through the in-house design team and procure a development contractor through the traditional route.

Option B – Develop the sites utilising other funding sources

Agreed:-

- (1) that approval be given to design and develop 4 no sites across Sandwell with new affordable rent council housing, subject to planning permission being obtained;
- (2) that the Director of Finance be authorised to allocate adequate resources from the Council's Housing Revenue Account to deliver the scheme designs and enable the agreed Homes England delivery programme to be met utilising grant funding offered under the extended Homes England Strategic Partnership 1 Programme 2016 to 2021;
- (3) that approval be given to authorise the steps necessary for the delivery of the proposed projects, including:
 - (a) subject to Resolution (2) above, the Director of Regeneration and Growth in consultation with the Director of Finance and the Director of Housing, be authorised to prepare tendering documentation and subsequently procure, in accordance with any statutory regulations and the Council's Procurement and Financial Regulations to use the Construction West Midlands framework (CWM2) procurement route to undertake the Design and development



documents to RIBA (Royal Institute of British Architects) stage 4 level;

- (b) subject to a) above, the Director – law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to award of the contract for the Design RIBA stage 4 of a maximum of four sites and/or development/partnership agreement, any consents or applications required for Planning or Highways appertaining to the delivery of the schemes and any other agreements with the procured contractor(s), as may be deemed necessary to facilitate development of the sites with housing schemes to RIBA stage 4;

- (c) that subject to receiving the necessary Strategic Investment Unit appraisal approval mark of 65 or above for each individual site, the Director of Regeneration and Growth, in consultation with the Director of Finance and the Director of Housing, be authorised to accept the Financial closure offer for the construction of Council new build properties, in accordance with any statutory regulations and the Council's the Director – law and Governance and Monitoring Officer be authorised to enter into or execute under seal any documentation in relation to award of the contract for the development of each of the individual sites and/or development/partnership agreement, any consents or applications required for Planning or Highways appertaining to the delivery of the schemes and any other agreements with the procured contractor(s), as may be deemed necessary to facilitate development of the sites with housing schemes on terms and conditions to be agreed and implemented by the Director of Regeneration and Growth.



Oracle Fusion Implementation Partner Contract Cancellation

Consideration was given to proposals in relation to the Council's Oracle Fusion Implementation partner contract with Inoapps.

The Leadership Team meeting held on 27 October 2021 reaffirmed the Council's commitment to migrate to Oracle Fusion confirming that all of the organisational benefits identified in the original report to Cabinet, 9 October 2019, were still valid. The Council's payroll system and platform was not adequate to deliver the council's business needs.

The Council had entered into a contract with Inoapps to deliver the project.

The contract had moved from a time and materials contract to a fixed price contract, agreed by the Oracle Fusion Programme Board on 9 October 2021. Moving to a fixed price, as proposed by Inoapps Limited, was intended to manage the Council's risk and limit its financial liability whilst delivering the same outcomes defined by the original contract. However, subsequently Inoapps Limited had informed the Council that it could deliver the project for the fixed sum agreed and had requested additional money and would not complete until October 2022.

Due to concerns by the Council on the delivery of the contract, it was proposed to terminate the contract.

Reasons for Decision

Due to the financial value associated with the initiative, Cabinet approval for any next steps was required.

Alternative Options

Option 1

The Council had the option to terminate the contract with Inoapps and revert to using the previous software.

Option 2

The Council could terminate the contract with Inoapps and look for new software.



Option 3

The Council could continue to implement Oracle Fusion with Inoapps Limited.

Option 4

Oracle E- Business Suite, currently used by the Council would be supported by the supplier no further than the end of December 2023.

Option 5

The Council could pursue Inoapps with a view to seeking to reach settlement as part of an agreement to vary the contract and to recover some losses.

Agreed:-

- (1) that the Director of Finance, in consultation with the Cabinet Member for Finance and Resources, be authorised to:
 - a) reject the new proposal from Inoapps dated 2 November 2021;
 - b) serve notice of termination for the contract currently delivered by Inoapps Limited regarding Contract SCC498 Appointment of Oracle SaaS Cloud System Implementation Partner;
 - c) take the necessary steps to seek to recover the Council's losses arising from these breaches;
 - d) that the Director of Finance be authorised, in consultation with the Cabinet Member for Finance and Resources, to procure a new implementation partner using the G-Cloud procurement framework;



- e) that any necessary exemptions be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in a) to d) above to proceed;
- (2) that in connection with Resolution (1) above, the Director of Finance, in consultation with the Director of Law and Governance and Monitoring Officer, be authorised to undertake a new procurement exercise to award a new contract;
- (3) that the Director of Finance, in consultation with the Leader and the Cabinet Member for Finance and Resources, be authorised to allocate further resources from reserves up to a maximum of £4.3m, to deliver the project;
- (4) that the Director of Finance, in consultation with the Director of Law and Governance and Monitoring Officer, be authorised to award contracts on the outcome of the procurement process set out in Resolution (2) above.

Meeting ended at 4.04pm.

Contact: democratic_services@sandwell.gov.uk



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Urgent report to Cabinet

12 January 2022

Subject:	Business Rates Covid Additional Relief Fund
Cabinet Member:	Councillor Maria Crompton - Cabinet Member for Finance and Resources
Director:	Simone Hines – Director of Finance
Key Decision:	Yes
Contact Officer:	Ian Dunn ian_dunn@sandwell.gov.uk Carl Jones carl_jones@sandwell.gov.uk

1 Recommendations

That approval be given to:

- 1.1 Approve Sandwell’s policy for administering the Business Rates Covid Additional Relief Fund (CARF) arising from new regulations introduced through the Government’s Department for Levelling Up, Housing and Communities.
- 1.2 The sum of £7,582,533 Sandwell has received to support businesses that we identify as meeting the eligible criteria.
- 1.3 That the Director of Finance be authorised to make any changes necessary to the Business Rates Covid Additional Relief Fund policy in order to ensure all the funding is expended within the time frame.



2 Reasons for Recommendations

- 2.1 In late December 2021, the Government, through the Department for Levelling Up, Housing and Communities introduced new financial support for businesses called CARF.
- 2.2 Throughout the pandemic, the service has been responsible for paying out many Covid support grants to businesses. To ensure businesses receive the financial support they are entitled to, we want to make the CARF scheme as simple as possible, and make the awards without the need for businesses to apply. We know from previous experience that when we have run an application process not all businesses apply for support they might be entitled to even when we contact them directly to make them aware of potential support.
- 2.3 We will therefore, based upon the guidance issued by the government, identify the businesses entitled to the CARF and then award relief directly to their business rates accounts.
- 2.4 This will ensure the financial support will be paid to businesses a lot quicker than via an application process.

3 How does this deliver objectives of the Corporate Plan?

	<p>A strong and inclusive economy</p>	<p>Collection of Business rates is important as it gives the council money to spend and invest locally. The award of this relief will reduce the amount of Business Rates the Council has to collect and will give additional financial support to businesses</p>
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4 Context and Key Issues

- 4.1 This fund will be available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates. Sandwell has been allocated £7,582,533 to support businesses in this way and we have identified approximately 1700 businesses who could be entitled to some financial support.
- 4.3 Relief will be granted to businesses using discretionary relief powers under section 47 of the Local Government Finance Act 1988. This means the relief will be awarded through business rates accounts via our business rates systems. Revised business rate bills will then be issued showing the amount of relief awarded. Central government will fully reimburse local authorities up to the maximum level of the allocations.
- 4.4 The purpose of this report is for Cabinet to agree the policy created to oversee the award of this discretionary business rates relief.
- 4.5 Eligibility criteria:
- This relief is payable in respect of the 2021-22 financial year only
 - Businesses must have been adversely affected by the pandemic and not be in receipt of Expanded Retail Relief or Nursery Discount or unoccupied during 2021-22
 - Businesses owned or funded by the local authority are not supported
 - Businesses must have been trading as at 1st April 2021
 - Changes after 1st January 2022 will not be amended retrospectively
- 4.6 Sandwell Council will support businesses in the following sectors based on information provided in the Government's guidance notes as to those who were most affected, to support the award of this relief;
- Information and Communication
 - Wholesale and Retail



- Offices not included in other business sector categories
- Retail and hospitality properties not receiving relief elsewhere
- Mining and quarrying
- Transport
- Manufacturing

4.7 Each business we aim to support using CARF will receive relief equal to 18% of their respective business rates liability for 2021/22. This will spend around £6.9m of the CARF.

4.8 By awarding 18% of our funding this will retain about £633,000 to support any businesses which challenge the fact that they have not received the relief and subsequently prove that they are eligible. Businesses will be provided via our website with instructions as to how to challenge any instance where the relief has not been awarded.

4.9 If having made all awards (and after addressing any potential challenges) some of the funding remains unallocated, payments will be allocated to some of those other business sectors who were less affected, that were not initially included in the list of those we wish to support. This funding will be allocated to those businesses evidencing the biggest negative financial impact.

4.10 Where relief applied to an account subsequently puts the account into credit if possible we will move this credit to the next financial year 2022-23. Where a refund is formally requested by a business this be refunded.

5 Alternative Options

5.1 As an alternative to the direct award of CARF we could introduce an application process which would enable those businesses who feel they might qualify for the relief to apply via an online form.

5.2 This would delay getting the financial support out to the businesses who require this financial support, and the potential for businesses to miss out on the support by not applying.



5.3 An application process would also take up a lot of staff resource to manage due to the potential number of applications we may receive and the limited resource we have available to us.

5.3 As any awards we give out are reimbursed to the Council in the form of a Section 31 grant it is in our own interests and our local businesses interest to make these awards as quickly and efficiently as possible.

6 Implications

Resources:	The Business Rates Team (part of Revenues and Benefits) will be responsible for updating computer systems to award relief on relevant accounts.
Legal and Governance:	Relief will be granted using discretionary powers under section 47 of the Local Government Finance Act 1988.
Risk:	If businesses are not provided with this relief then they may not be able to pay their Business Rates bills. This would in turn affect our ability to collect business rates and ultimately if collection is down then this reduction may negatively affect the Council's ability to provide services.
Equality:	No impact
Health and Wellbeing:	No impact
Social Value	No impact

7. Appendices

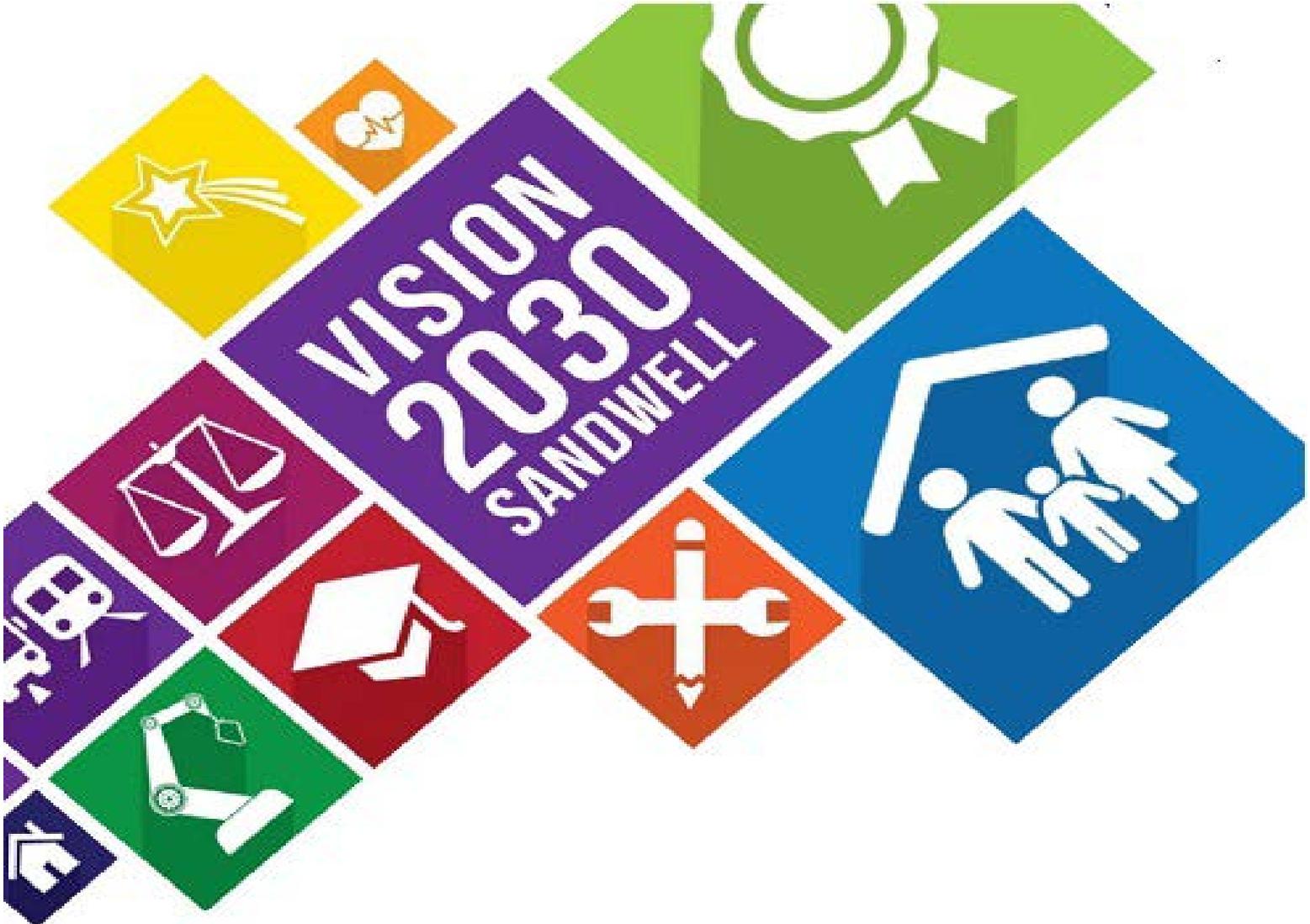
7.1 CARF policy

8. Background Papers

None



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Sandwell Metropolitan Borough Council
Revenues and Benefits Service
Business Rates
Covid Additional Relief Fund Policy
2021/22



Meeting Ambition 10



1. INTRODUCTION

- 1.1 In late December 2021 the Government, through the Department for Levelling Up, Housing and Communities introduced new regulations to support businesses entitled to Covid-19 Additional Relief Fund (otherwise known as CARF).
- 1.2 This fund will be available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates. Sandwell has been allocated £7,582,533 to support businesses in this way.
- 1.3 Relief will be granted to businesses using discretionary relief powers under section 47 of the Local Government Finance Act 1988. This means that rather than providing a physical monetary payment, relief will be awarded through business rates accounts via our business rates systems. Revised bills will then be issued showing the amount of relief awarded. Central government will fully reimburse local authorities up to the maximum level of the allocations.

2. GENERAL PRINCIPALS/REGULATIONS

- 2.1 This relief is payable in the 2021-22 financial year only and cannot be carried over to 2022/23.
- 2.2 Businesses must have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.

- 2.3 Businesses that have received Expanded Retail relief or Nursery Discount or those which are unoccupied in 2021-22 are ineligible for CARF. The relief cannot also be claimed in respect of properties owned or funded by the local authority.
- 2.4 Reliefs must be awarded after mandatory and other discretionary reliefs funded by Section 31 grants have been applied.
- 2.5 Where a change in circumstance occurs during 2021-22 the award of relief may need to be recalculated.
- 2.6 Changes reported after 1st January 2022 will not be taken into account and will not be amended retrospectively after this date.

3. Businesses Supported

- 3.1 Guidance notes provided by the government to accompany the Covid Additional Relief Funding details business sectors along with the percentage positive or negative financial impact they have experienced as a result of the Covid pandemic.
- 3.2 This information was matched to Sandwell's rating list in order to identify individual businesses in each sector.
- 3.3 Having taken into account those businesses which the Council is instructed cannot be supported though this relief, it has been deemed that accounts in the following business sectors (as identified by the official Valuation Office Agency rating) will receive a reduction in their 2021-22 Business Rates bills:
 - Information and Communication
 - Wholesale and Retail
 - Offices not included in other business sector categories
 - Retail and hospitality properties not receiving relief elsewhere
 - Mining and quarrying
 - Transport
 - Manufacturing

The Award Process

- 3.4 The purpose of this policy is to outline the way in which Sandwell Council will administer this discretionary relief, which will take the form of a direct award to those businesses that we identify as meeting the eligible criteria.

- 3.5 This policy will insist that businesses must be trading prior to 1st April 2021 to qualify for the relief. If businesses were not trading prior to this date then it is assumed that they will have started up their business during the pandemic and so would already have been aware of the financial situation.
- 3.6 Reliefs will be calculated and applied manually to each account on the Business Rates computer system. Following the award of relief a revised Business Rates Bill will be issued along with a covering letter explaining the award and instructing businesses to declare if they do not qualify as a result of the Covid subsidy rules or are not financially impacted by Covid-19. Any business contacting the council to instruct they do not qualify will have their relief removed and a revised bill will be issued accordingly.
- 3.7 Where relief applied to an account subsequently puts the account into credit if possible we will move this credit to the next financial year 2022-23. Where a refund is formally requested by a business this will be refunded.
- 3.8 To calculate the amount of relief we will award we have divided the £7.5m funding available to Sandwell Council by the total liability of all accounts at the beginning of 2021/22 we are supporting, to determine the percentage relief each account would receive.
- 3.9 The amount of relief awarded to each eligible business will be equal to 18% of their Business Rates liability irrespective of their rateable value. By awarding 18% this will allow some of the funding being kept back for any businesses that feel they are eligible but have not been identified by the Council as such.
- 3.10 If having made all awards (and after addressing any potential challenges) some of the funding remains unallocated, payments will be allocated to some of those other businesses that were not initially included in the list of those we wish to support. This funding will be allocated to those businesses evidencing the biggest negative financial impact.

4. POLICY REVIEW

- 4.1 This is a one off policy which will only be required for the 2021-22 financial year and as such will not require further review outside of this financial year.

5. EQUALITIES

- 5.1 This policy has been produced in line with the Council's obligation to the Public Sector Equality Duty provided by the Equality Act 2010. No adverse impact on any protected characteristic has been identified as a result of this policy.

6. THE RIGHT TO SEEK A REVIEW

- 6.1 Under the Local Government Finance Act 1988, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept a customer's request for a re-determination of its decision.
- 6.2 A request for a review / re-determination must be made within four weeks of receipt of notification of the decision and must set out the reasons for the request and any supporting information.
- 6.3 The Council will consider each request on its merits and will consider whether the customer has provided any additional information against the required criteria that will justify a change to its decision.

7. NOTIFICATION OF REVIEW/RE-DETERMINATION

- 7.1 The Council will notify a customer of its decision within 28 days of receiving a request for a review or re-determination.

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Report to Cabinet

12 January 2021

Subject:	Determination of Admission Arrangements for Sandwell’s Community and Voluntary Controlled Schools for 2023/24
Cabinet Member:	Cabinet Member for Children and Education, Councillor Karen Simms
Director:	Director of Children and Education, Michael Jarrett
Key Decision:	No Business item
Contact Officer:	Martyn Roberts, School Place Planning and Capital Manager martyn_roberts@sandwell.gov.uk

1 Recommendations

- 1.1 That the Director of Children and Education, in accordance with the School Admissions Code 2021, be authorised to publish the Local Authority’s Admission Arrangements for 2023/24 academic year for places in all community and voluntary controlled schools as set out in Appendix 1.

2 Reasons for Recommendations

- 2.1 The Local Authority (LA) must abide by the requirements of the School Admissions Code (‘Admissions Code’) and associated regulations and determine admission arrangements for community and voluntary controlled schools each year. This report relates to the proposed arrangements to apply for the 2023/24 academic year and there is no obligation on the LA to consult on these arrangements as it last consulted in October / November 2017. The proposed arrangements are in line with the requirements of the Admissions Code.



3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <p>The recommendation in this report supports the desire of the council to focus resources on the specific needs and aspirations of the community. This contributes to the Council's Vision 2030 Ambition 1 – Raising aspirations and resilience, Ambition 3 – Young people to have skills for the future, Ambition 4 – Raising the quality of schools.</p>
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4 Context and Key Issues

4.1 Purpose of the Report

4.2 The Admissions Code published in September 2021 requires the Local Authority (as the admissions authority for community and voluntary controlled schools), to formally agree admission arrangements for those schools every year, even if the arrangements have not changed from previous years. Admission authorities must determine admission arrangements for entry in September 2023 by 28 February 2022.

The Admissions Code also requires the LA to consult governing bodies of community and voluntary controlled schools where it proposes either to increase or keep the same Published Admission Number (PAN). The proposed admission arrangements and PANs are attached as Appendix 1 to this report.

4.3 Background and main considerations

4.4 The LA last consulted all stakeholders on its admission arrangements in October / November 2017 with Cabinet agreeing to publish these arrangements for the 2021/22 academic year at its meeting on 26 February 2020 (Minute No. 56/20) and for the 2022/23 academic year at its meeting on 10 February 2021 (Minute No. 21/21). The arrangements are not proposed to change for the 2023/24 academic year and are attached in Appendix 1.

The list of schools and their PANs are included in Appendix 1. All PANs are proposed to be the same as last year.



4.5 The current position

4.6 The LA's oversubscription criteria for the academic year 2023/24 for community and voluntary controlled schools is recommended to continue in line with that agreed for 2022/23.

4.7 Consultation (Customers and other Stakeholders)

4.8 There is not a requirement to consult on oversubscription criteria unless there are changes to the previous year's arrangements or if the admission authority has not consulted for a period of 7 years. The LA last consulted on arrangements in October / November 2017.

4.9 The Admissions Code does not require the LA to consult all community and voluntary controlled schools where it is proposed to increase or keep the same PAN as the previous year. Therefore, the LA has not consulted with all such schools as there were no proposals to alter PANs.

5 Alternative Options

5.1 There is no alternative option open to the LA in relation to its responsibilities for agreeing and publishing oversubscription criteria for community and voluntary controlled schools. The LA must abide with the requirements of the Admissions Code.

6 Implications

Resources:	No strategic resource implications have been identified.
Legal and Governance:	The School Admissions Code (issued under Section 84 of the School Standards and Framework Act 1998) was published in September 2021 and associated regulations require all admission authorities to determine (formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required.



	Following determination of arrangements, any objections to those arrangements must be made to the Schools Adjudicator. Objections to admission arrangements must be referred to the Adjudicator by 15 May in the determination year.
Risk:	<p>The Corporate Risk Management Strategy (CRMS) has been complied with. The Local Authority has a statutory duty to determine admission arrangements for all community and voluntary controlled schools in accordance with the Admissions Code and associated regulations. Based on the information provided, it is the officers' opinion that there are no current "red" risks that need to be reported with regards to this proposal.</p> <p>If this report's recommendation to publish the admission arrangements for community and voluntary controlled schools is not approved the LA will be in breach of its statutory duty as determined by the Admissions Code.</p>
Equality:	An Equality Impact Assessment initial screening has been undertaken and a full Equality Impact Assessment is not required for this report.
Health and Wellbeing:	This proposal supports the prioritisation of applications from the local community and gives clarity to parents and carers about how their applications will be considered, including how they will be measured under the distance criterion.
Social Value	In supporting the prioritisation of applications from the local community the proposal will ensure that children will be educated and develop within their residential and social communities.

7. Appendices

- 7.1 The proposed admission arrangements are attached in the appendix to this report. These also include the Published Admission Numbers (PAN) of all community and voluntary controlled schools.



8. Background Papers

None.



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Admission arrangements for community and voluntary controlled schools in Sandwell for 2023/24

These arrangements relate to the schools listed on pages 8 to 11 of this document.



Admissions priorities for places in oversubscribed community and controlled primary schools - academic year 2023/2024

- (a) A 'looked after child' or a child who was previously looked after but immediately after being looked after became subject to an adoption, child arrangements, or special guardianship order including those children who appear to have been in state care outside of England and ceased to be in state care as a result of being adopted. A looked after child is a child who is (a) in the care of a local authority, or (b) being provided with accommodation by a local authority in the exercise of their social services functions as defined by section 22 (1) of the Children Act 1989 at the time of making the application for a school place
- (b) Children with a particular medical condition. Applications submitted under this criterion must be accompanied by a medical declaration form (ASU75M) signed by the child's general practitioner or consultant confirming the condition, detailing the child's needs and specifying why, in their opinion, the preferred school is the only or most appropriate to meet the child's needs. All applications under this criterion will be assessed by the local authority to decide whether the child's needs can be met most appropriately by the preferred school.
3. (a) Children having a brother or sister at the preferred school (not nursery) at the time of admission.
(b) For admissions to infant schools, children having a brother or sister at the preferred school or at a linked junior school at the time of admission.
(c) For admissions to junior schools, children having a brother or sister at the preferred school or at a linked infant school (not nursery) at the time of admission.
4. For admissions to junior schools, children being on roll at the linked infant school at the time of admission.
5. *Children accepted on denominational grounds, supported by the Anglican/Church of England Church

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Applications based on this criterion must be accompanied by a completed declaration form signed by a Vicar or Priest to signify attendance at an Anglican / Church of England Church on at least one occasion per month.

6. Children prioritised by distance measured in a straight line from a child's home** to the centre point of the school site***. In all cases, should the number of applicants exceed the number of places available, places will be allocated based on distance between home and school, as measured in a straight line from home to the centre point on the school site with priority being given to those living closest to the school.

NB. Children with a Statement of Educational Needs or an Education & Health Care Plan (EHCP) (previously known as Statement of Educational Needs), naming a particular school will be admitted before all other applicants.

Note:

* Applicable only to schools that are designated by the Secretary of State as having a religious character.

** Measured from the Local Land and Property Gazetteer address base for the property. In all cases, should the number of applicants exceed the number of places available, places will be allocated based on distance between home and school, as measured in a straight line from home to the centre point of the school site with priority being given to those living closest to the preferred school.

Additional arrangements for year of entry admissions to community and controlled schools 2023/2024

The following additional policy statements are included in the local authority admission arrangements for admissions to community and controlled primary and secondary schools for 2023/2024.

1. Late applications

Late applications for places will only be considered alongside those received by the closing date under the following circumstances:

- When the applicant has bought, rented or leased a house or flat and has moved into Sandwell after the closing date, but before the allocation of places has been made.
- When the applicant has moved home within Sandwell to an address more than three miles from their previous address but closer to the preferred school after the closing date but before the allocation of places has been made.
- When a child who is in public care (looked after) or was previously in public care moves into Sandwell after the closing date, but before the allocation of places has been made.
- When a sibling has commenced at the preferred school after the closing date but before the allocation of places has been made.
- When the applicant is a single parent and was prevented from submitting their application on time due to long term illness of more than six weeks' duration from the date on which application forms became available.

If your application is received after the closing date and not covered by one of the circumstances above, then it will be processed after consideration of all on time and accepted late applications.

2. Waiting lists

Places will be offered initially to applicants whose forms have been received by the closing date or whose application has been considered as being made on time (under 1 above).

Any preferences which cannot be met following the application of the admission priorities will be put on a waiting list which will be ranked in accordance with the published admission priorities.

Waiting lists will be maintained until the end of the autumn term proceeding the year of entry and will then be discarded.

Places will only be offered from the waiting list if the number of confirmed offers (including those offered as a result of independent appeals) is less than the published admission number.

3. Further applications in the same academic year

The local authority will only consider more than one application in the same community or controlled school in the same academic year if one or more of the following significant changes apply:

- (a) The child becomes looked after by the local authority;
- (b) The child has a medical condition which was not present when the previous application was considered;
- (c) The child's brother or sister has been admitted to the school for which the application has been made and was not there at the time of the last application;
- (d) The applicant has changed address since the previous application was considered and the applicant now lives closer to the school for which the application was made;
- (e) A vacancy arises in the relevant year group.

4. Changing or adding new preferences

Once a parent/carer has submitted an application they will be able to amend it online before the closing date. However, if the closing date has passed it will not be possible unless they meet the criteria to be considered as a "late" application (in 1 above).

5. **Twins and multiple births**

Special conditions will apply if one child from a set of twins or other multiple births does not gain admission to the preferred school through the admissions criteria. The local authority will exceed the admission number for the school concerned to prevent separation of twins or children from multiple births.

6. **Tie breaker**

If two or more applicants tie for last place during the allocation process the final place shall be decided by the tossing of a coin.

7. **Deferred entry**

Parents may seek a place for their child outside of their normal age group, for example, if the child is gifted and talented or has experienced problems such as ill health. In addition, the parents of a summer born child may choose not to send that child to school until the September following their fifth birthday and may request that they are admitted out of their normal age group – to reception rather than year 1.

Sandwell's policy on deferred entry for community and voluntary controlled schools is available at:

www.sandwell.gov.uk/downloads/file/23043/delayed_entry_policy

Definitions used in admissions administration

1. Brother and sister (Sibling)

The definition of a brother or sister is:

- (a) a brother or sister sharing the same parents*;
- (b) a half-brother or half-sister, where two children share one common parent*;
- (c) a step brother or step sister, where two children are related by a parent's marriage*;

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- (d) adopted or fostered children*,
- (e) children of unmarried parents*

*and living at the same address;

It does not include:

- (a) cousins or other family relationships;
- (b) brothers or sisters who, at 1 September in the year of entry will not be registered pupils at the preferred school;
- (c) brothers or sisters who, at 1 September in the year of entry will be in the sixth form at the preferred school.

2. Children in Public Care

A child in public care means a child who is (a) in the care of a local authority or (b) being provided with accommodation by a local authority in the exercise of their social services functions (see section 22 (1) of the Children Act 1989) at the time an application is made.

An adoption order is an order under section 46 of the Adoptions and Children Act 2002.

A child arrangement order (previously residence order) is an order settling the arrangements to be made as to the person with whom the child is to live under section 8 of the Children Act 1989.

Section 14A of the Children Act 1989 defines a special guardianship order as an order appointing one or more individuals to be a child's special guardian (or special guardians).

3. Home address

The home address of a child is the address at which a parent with parental responsibility lives. It may also be the address at which a child resides (and sleeps) for the majority of the school week (Sunday to Thursday night). In the event of a query on the home address we will require two examples from the following list;

- Council tax

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- Tenancy agreement
- Solicitor's letter confirming completion of purchase

Where parents have shared responsibility for a child, and the child lives with both parents for part of the school week, then the home address will be determined as the address where the child lives for the majority of the school week. Parents will be required to provide documentary evidence to support the address they wish to be considered for allocation purposes. At least one item of proof must demonstrate where the child lives.

4. Armed Forces Children

Sandwell Local Authority understands that families of UK Service personnel often have to move at short notice within the UK and from abroad. If we receive an application along with an official letter declaring a relocation date, then we will be able to arrange a school place in advance of the relocation. Please contact the Admissions Team on 0121 569 6765 for further information.

5. Linked school

For the purposes of admissions to infant and junior schools, linked schools shall be as follows:

- Abbey Infants School - Abbey Junior School;
- Hamstead Infant School - Hamstead Junior School;
- Moat Farm Infant School - Moat Farm Junior School Trust;
- Ocker Hill Infant School - Ocker Hill Academy;
- Silvertrees Academy Trust School - Tipton Green Junior School.

Admission numbers (primary) for 2023/24

A. Community and controlled primary schools

School name (Primary)	Published Admission Number
Abbey Infant School	90
Abbey Junior School	90
Annie Lennard Primary School	30
Bearwood Primary School	60
Blackheath Primary School	60
Bleakhouse Primary School	60
Brandhall Primary School	60
Burnt Tree Primary School	60
Cape Primary School	90
Causeway Green Primary School	60
Crocketts Community Primary School	60
Eaton Valley Primary School	60
Ferndale Primary School	90
Galton Valley Primary	60
Glebefields Primary School	60
Grace Mary Primary School	30
Great Bridge Primary School	60
Grove Vale Primary School	60
Hall Green Primary School	60
Hamstead Infant School	60
Hamstead Junior School	60
Hanbury Primary School	60
Hargate Primary School	60

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School name (Primary)	Published Admission Number
Highfields Primary School	60
Holy Trinity CE Primary School	60
Joseph Turner Primary School	60
King George V Primary School	30
Langley Primary School	60
Lodge Primary School	60
Lyng Primary School	60
Moat Farm Infant School	120
Oakham Primary School	60
Ocker Hill Infant School	60
Pennyhill Primary	90
Perryfields Primary School	60
Reddal Hill Primary School	60
Rood End Primary School	60
Rounds Green Primary School	60
Ryders Green Primary School	60
Sacred Heart Primary School	60
St Martin's CE Primary School	30
St Mary Magdalene CE Primary School	30
St. James' CE Primary School	60
The Priory Primary School	60
Tipton Green Junior School	90
Tividale Community Primary School	60

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School name (Primary)	Published Admission Number
Tividale Hall Primary School	60
Uplands Manor Primary School	120
Whitecrest Primary School	30
Yew Tree Primary School	90

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Equality Impact Assessment Template

Please complete this template using the [Equality Impact Assessment Guidance document](#)

Version 3: January 2013

Title of proposal (include forward plan reference if available)	Determined Admission Priorities for Sandwell's Community and Voluntary Controlled Schools for 2023/24
Directorate and Service Area	Children and Education – Education Support Services
Name and title of Lead Officer completing this EIA	Martyn Roberts, School Place Planning and Capital Manager
Contact Details	Education Support Services Sandwell Council House PO Box 16230, Freeth Street, Oldbury West Midlands B69 9EX Tel: 0121 569 8341 Email: martyn_roberts@sandwell.gov.uk
Names and titles of other officers involved in completing this EIA	Donna Williams, Admissions Lead
Partners involved with the EIA where jointly completed	
Date EIA completed	5.11.21
Date EIA signed off or agreed by Director or Executive Director	
Name of Director or Executive Director signing off EIA	
Date EIA considered by Cabinet Member	

See [Equality Impact Assessment Guidance](#) for key prompts that must be addressed for all questions

**1. The purpose of the proposal or decision required
(Please provide as much information as possible)**

The Admissions Code published in September 2021 requires the Local Authority (LA) (as the admissions authority for community and voluntary controlled schools) to formally agree admission arrangements for those schools every year. Admission authorities must determine admission arrangements for entry in September 2023 by 28 February 2022.

This report recommends the adoption of proposed admission arrangements for 2023/24 which are unchanged from the previous year's arrangements.

2. Evidence used/considered

The recommendation fulfils the requirements of the Admission Code 2021 that the LA must determine the admission arrangements for all community and voluntary controlled schools by 28 February 2022, for the 2023/24 academic year.

3. Consultation

There is a statutory requirement under the Admission Code for the LA to consult at least once every 7 years or if there are changes proposed for the admission arrangements. As the LA last consulted in October/November 2017, and there are no changes proposed for the admission arrangements, there has been no consultation undertaken on the oversubscription arrangements.

4. Assess likely impact

There will be no adverse impact to any group as a result of the recommendation. If agreed, the proposed arrangements will be consistent with the requirements of the Admission Code and are fair, transparent and clear for all applicants for a school place.

4a. Use the table to show:

- Where you think that the strategy, project or policy could have a negative impact on any of the equality strands (protected characteristics), that is it could disadvantage them or if there is no impact, please note the evidence and/or reasons for this.
- Where you think that the strategy, project or policy could have a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relationships within equality characteristics.

Protected Characteristic	Positive Impact ✓	Negative Impact ✓	No Impact ✓	Reason and evidence (Provide details of specific groups affected even for no impact and where negative impact has been identified what mitigating actions can we take?)
Age			✓	
Disability			✓	
Gender reassignment			✓	
Marriage and civil partnership			✓	
Pregnancy and maternity			✓	
Race			✓	
Religion or belief			✓	
Sex			✓	
Sexual orientation			✓	

Other			✓	
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Does this EIA require a full impact assessment? Yes No

If there are no adverse impacts or any issues of concern or you can adequately explain or justify them, then you do not need to go any further. You have completed the screening stage. You must, however, complete sections 7 and 9 and publish the EIA as it stands.

If you have answered yes to the above, please complete the questions below referring to the guidance document.

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5. What actions can be taken to mitigate any adverse impacts?

6. As a result of the EIA what decision or actions are being proposed in relation to the original proposals?

7. Monitoring arrangements

8. Action planning

You may wish to use the action plan template below

Question no. (ref)	Action required	Lead officer/ person responsible	Target date	Progress

9. Publish the EIA

Where can I get additional information, advice and guidance?

In the first instance, please consult the accompanying guide “Equality Impact Assessment Guidance”

Practical advice, guidance and support

Help and advice on undertaking an EIA, using the electronic EIA toolkit or receiving training related to equalities legislation and EIAs is available to **all managers** across the council from officers within Improvement and Efficiency. The officers within in Improvement and Efficiency will also provide overview quality assurance checks on completed EIA documents.

Please contact:

Kashmir Singh - 0121 569 3828

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Report to Cabinet

12 January 2022

Subject:	Request to procure for the Holiday Activity and Food Programme 2022-2023
Cabinet Member:	Cabinet Member for Children and Education Councillor Karen Simms
Director:	Director of Children and Education, Michael Jarrett
Key Decision:	Yes
Contact Officer:	HAF Lead Officer, Samantha Harman Samantha_harman@sandwell.gov.uk

1 Recommendations

- 1.1 That the Director of Children and Education be authorised, in consultation with the Chief Finance Officer, to undertake a procurement exercise for holiday activity provision via the Holiday Activity and Food (HAF) programme 2022-2023 to a maximum value of £360,000.
- 1.2 That the Director of Children and Education be authorised to request an exemption to the Council's Procurement and Contract Procedure Rules to contract an existing schools catering provider for the Holiday Activity and Food programme 2022-2023 to the maximum value of £144,000.



2 Reasons for Recommendations

- 2.1 The Department for Education has recently informed all Local Authorities (LA) in England that the Holiday Activity and Food programme will now be funded for an additional three years, 2022 – 2025. Sandwell has not received the grant determination letter detailing the indicative allocations, but we were assured by the DfE that these would be disseminated late Autumn and that LA's should start to plan for the 2022 programme accordingly with the assurances that the grants will be similar to that of 2021 when Sandwell was awarded £1,932,480.00. See Appendix 3 email from Programme HAF.
- 2.2 Approval is therefore requested to undertake a procurement process for holiday activity provision for centralised activity providers at a maximum value of £360,000 and to undertake an exemption to procurement procedures to contract an existing centralised meal provider at a cost of £144,000. Both decisions will require Cabinet approval in order to meet the procurement and contracting regulations in order to meet the timescales to enable live delivery for Easter 2022.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people The negative impact summer holidays may have potentially makes the HAF important in closing the outcomes gap between more and less disadvantaged children in Sandwell.</p>
	<p>People live well and age well The involvement of families and children in accessing healthy food and enrichment activities will support families to live well.</p>
	<p>Strong resilient communities Sandwell HAF is embedded within a community offer and delivered at a local level which aims to build resilience of children, families and neighbourhoods.</p>
	<p>A strong and inclusive economy The use of local providers to support the delivery of the HAF reinforces Sandwell's ambitions for community wealth building.</p>



4 Context and Key Issues

- 4.1 The following was reported to the Children’s Services and Education Scrutiny Board on 29 November 2021. The Committee noted the report and thanked the author for her work.
- 4.2 The Holiday Activities and Food programme was expanded in 2021 so that children on benefit related free school meals in England could be offered free healthy meals and enriching activities over the Easter, summer and Christmas holidays. With an investment of up to £220 million delivered through grants to all local authorities.

Sandwell was awarded a grant of £1,932,480 for the period of the programme. The DfE have informed us that based on the success of the HAF21 programme further funding will be available year on year to 2025.

As yet we have not received the grant determination letter detailing the indicative allocations, but we have been assured by the DfE that these will be disseminated late autumn and that local authorities should start to plan for the 2022 programme accordingly with the assurances that the grants will be similar to that of 2021.

5 Alternative Options

- 5.1 There are no viable alternative options, as the Holiday Activity and Food programme 2022 will continue investing through a grant making scheme to support the voluntary and community sector to deliver holiday activity in communities. Local VCS capacity is limited and will not meet the sufficiency of places that we are required to offer that exceed 17,500 children currently in receipt of benefit related free school meals.
- 5.2 A procurement process was undertaken for our current schools catering provider. It identified value for money, local jobs for local people and the provider has the skills, knowledge and experience to deliver against the School Food Standards which is a requirement of the grant.

6 Implications

Resources:	The HAF programme is a restricted grant for the purpose of restricted activity and cannot be used for any other purpose other than that set out in the grant determination letter.
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	The DfE have given us assurances that the indicative allocation will be in line with 2021's award of £1,932,480.
Legal and Governance:	The HAF Programme is DfE grant funded and it is restricted for the purpose of this activity only as set out in the grant determination letter.
Risk:	<p>There are no specific crime and disorder implications arising from the content of this report.</p> <p>The Corporate Risk Management Strategy (CRMS) has been complied with - to identify and assess any significant risks associated with this decision/project. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. Based on the information provided, it is the officers' opinion that no significant risk has been identified.</p> <p>Risk is continually monitored through the HAF steering group, reporting to the Children and Young People's Strategic Board. If the Cabinet report is not approved, the Council will fail to meet the requirements of the DfE grant and will be unable to provide sufficient places to eligible children.</p>
Equality:	An Equality Impact Assessment (EIA) initial screening has been undertaken. The screening identified that there are no adverse impacts on people or groups with protected characteristics.
Health and Wellbeing:	<p>The HAF programme has a positive impact on all of those participating and will continue to do so.</p> <p>A sufficient supply of high-quality holiday activity and food provision:</p> <ul style="list-style-type: none"> • Enables children and young people to eat more healthily over the school holidays. • Enables children and young people to be more active during the school holidays. • Enables participation in engaging and enriching activities which support the development of resilience, character and wellbeing along with their wider educational attainment.



	<ul style="list-style-type: none"> • Enables children and young people to be safe and not to be socially isolated. • Enables families a wider knowledge of health and nutrition and to be more engaged with school and other local services.
Social Value	The HAF programme encourages the use of private and voluntary sector engagement and is seen as a conduit to boost local business whilst seeking to ensure wider investment from other parties.

7. Appendices

Appendix 1: Evaluation report – draft

Appendix 2: HAF presentation (for context)

Appendix 3: email from Programme HAF to HAF Lead Officer for Sandwell

8. Background Papers

Source email: Programme, HAF HAF.PROGRAMME@education.gov.uk



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Midterm Evaluation of the 2021 Holiday Activities and Food programme

Report Authors: Samantha Harman, Tracey Jobber & Natasha Chavda

#SummerOfPlay

November 2021

Project background

School holidays are a period of concern for some families. The negative impact summer holidays may have potentially makes this period important in closing the outcomes gap between more and less disadvantaged children³.

Research conducted prior to the COVID-19 pandemic showed deprivation continuing to be a major concern. Young people from low-income families were more likely to experience isolation during school holidays. Their parents could not afford costly enriching activities, so they had fewer opportunities to develop life skills (e.g. creativity, flexibility, teamwork) compared to their more affluent peers. (Evaluation of the 2019 holiday activities and food programme, 2020)

Between 2018 and 2020 to help close the existing evidence gap, The Department for Education committed investment that delivered free healthy meals and fun activities to disadvantaged children in pilot Local Authorities.

The Holiday Activities and Food programme was expanded in 2021 so that children on free school meals in England could be offered free healthy meals and enriching activities over the Easter, summer and Christmas holidays. With an investment of up to £220 million delivered through grants to all local authorities.

The indicative allocation for Sandwell was £1,932,480 and an interim delivery report was submitted to the Department of Education February 2020. In Sandwell there are over 17,000 who have risk factors aligned to requiring FSM (Holiday activities and food programme 2021, 2021)

A number of actions were agreed to support the delivery of the programme:

- Sandwell governance for this scheme would be through the Children and Young People's Strategic Commissioning Partnership.
- SMBC Play Service were identified as the lead service to steer this programme
- An interim steering group was identified to support the programme which includes a wide representation of internal and external partners.



HAF REPORTING STRUCTURE



Historical delivery in Sandwell

Prior experience of delivering similar programmes created a developed understanding of what was required in deciding how the programme moved forward in Sandwell.

- Let's do Lunch Model - Two previous small-scale delivery models and evaluations to learn from involving primary aged children

Although these projects were well received by the recipients and the families, take-up was only between 10% and 25 % despite them being marketed widely. This may be attributed to families having to attend a specific venue at a specific time to access the food offer or multiple age groups in families.

Based on the financial model applied to these pilots the overall cost to continue with this model would be £2,154,240

Request a copy of the report email: Samantha_harman@sandwell.gov.uk

- 2019 HAF Model - A scaled up 2019 HAF application detailing a three spoke delivery model – through schools and community centres, parks and CV sector organisations.

Based on the financial model applied to this proposal the overall cost to continue with this model would be £709,185 although it needs to be noted that some of these costs were not scrutinised due to the speed the application had to be submitted and would need revisiting. A disadvantage of this model assumed that uptake would be low, and potentially exclude 65% of the target group from accessing HAF.

Request a copy of the full application Samantha_harman@sandwell.gov.uk

The aims of the Sandwell HAF21 programme were agreed in January 2021

- To have a strategic quality centred approach that encourages CYP who meet risk criteria aligned to the purpose of FSM to participate in activities that stimulate growth and development.
- To connect partners to people to access activities and food provision that improve physical health outcomes for CYP.
- To support VCS infrastructure through preferred supplier network and charter mark.
- Develop robust systems and processes to issue vouchers that reduces schools transactional burden.*
- To provide a range of activities that empowers parents and carers to access experiences that stimulate growth and development.

*We need to note that the development of a voucher activity programme after discussion with the DfE was subsequently disallowed.

Key statistics

6934

**Children
reached**

59,989

Contact hours

**48 voluntary &
community
organisations
grant funded**

18,359

**Meals
delivered**

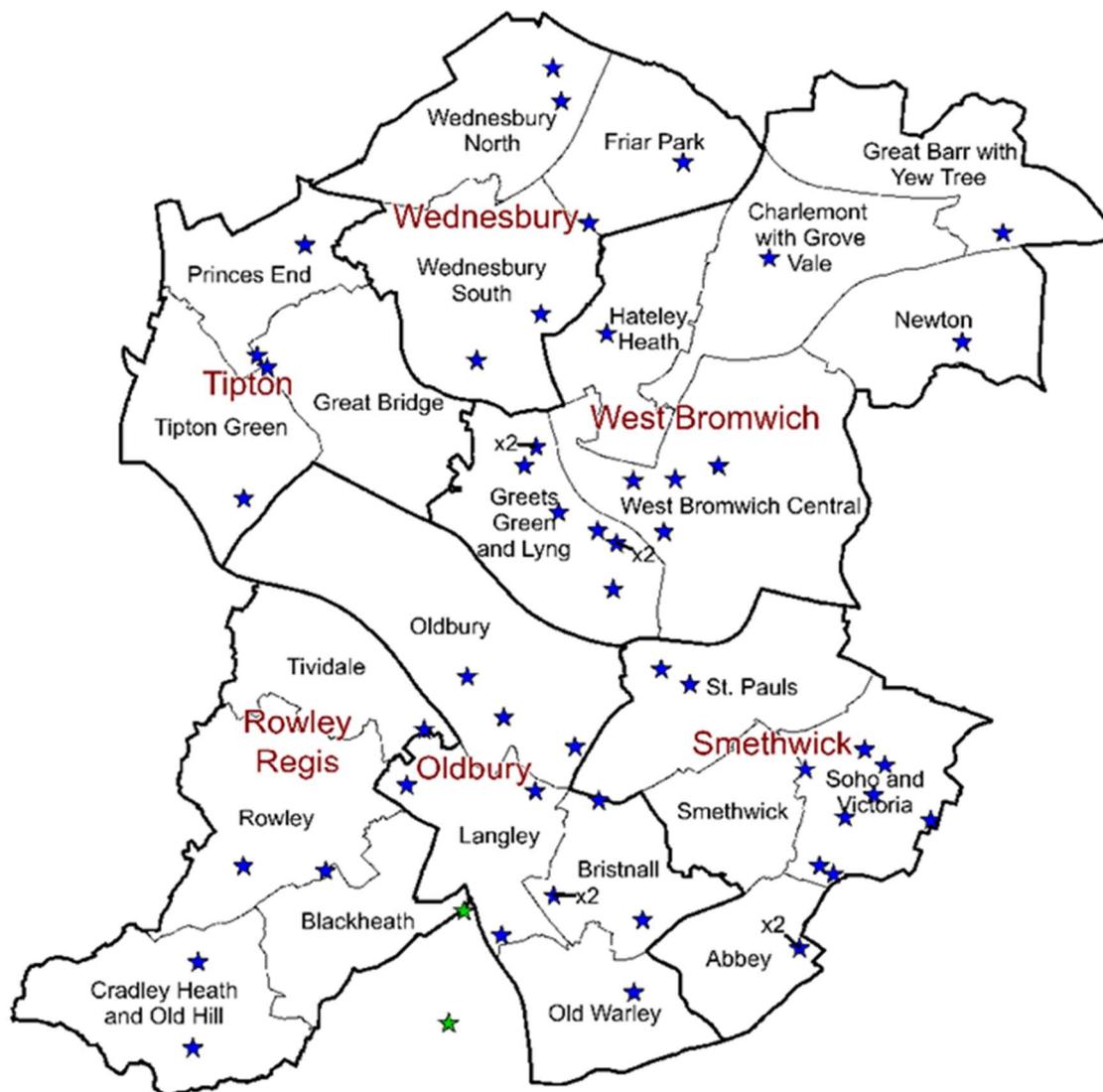
893

Sessions

Data Analysis

Location & project breakdown

Delivery Partners' Locations



Research
Sandwell

Contains Ordnance Survey data.
© Crown copyright and database right 2021.

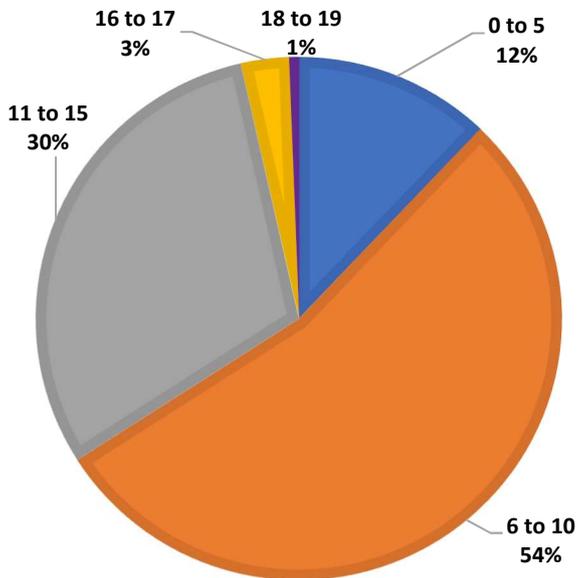
Legend

- ★ Sandwell Location
- ★ Non-Sandwell Location

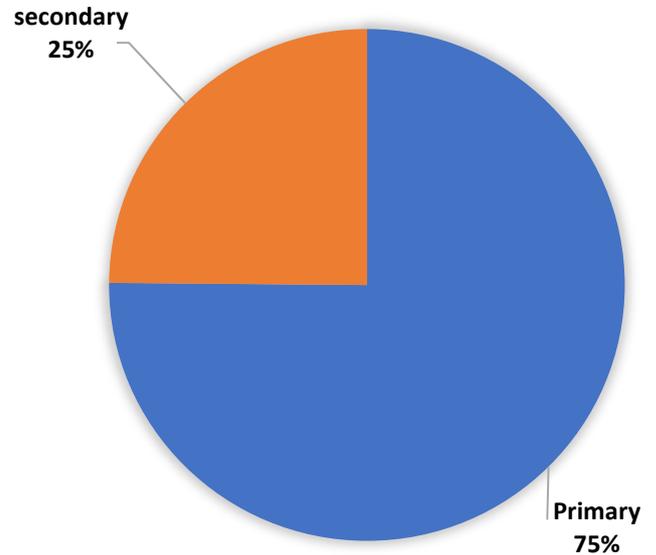
This map shows the locations of face-to-face project delivery across Sandwell as part of the Easer and Summer offer.

Data Analysis

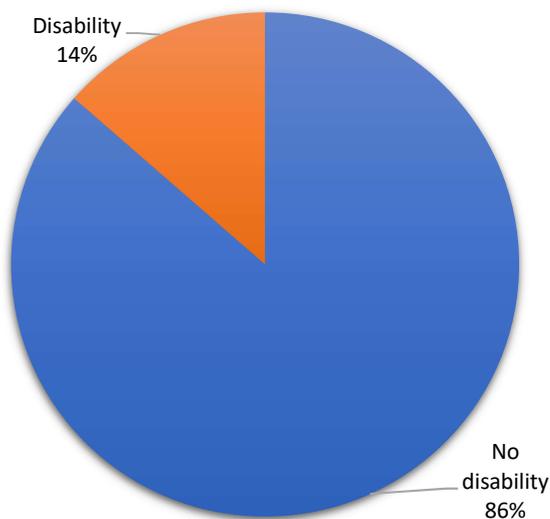
Age range breakdown of registered participants



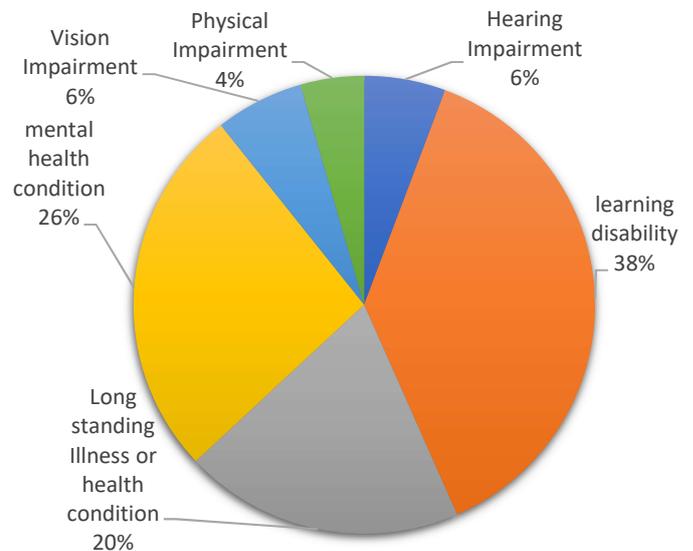
Age range breakdown by school



SEND data of registered participants

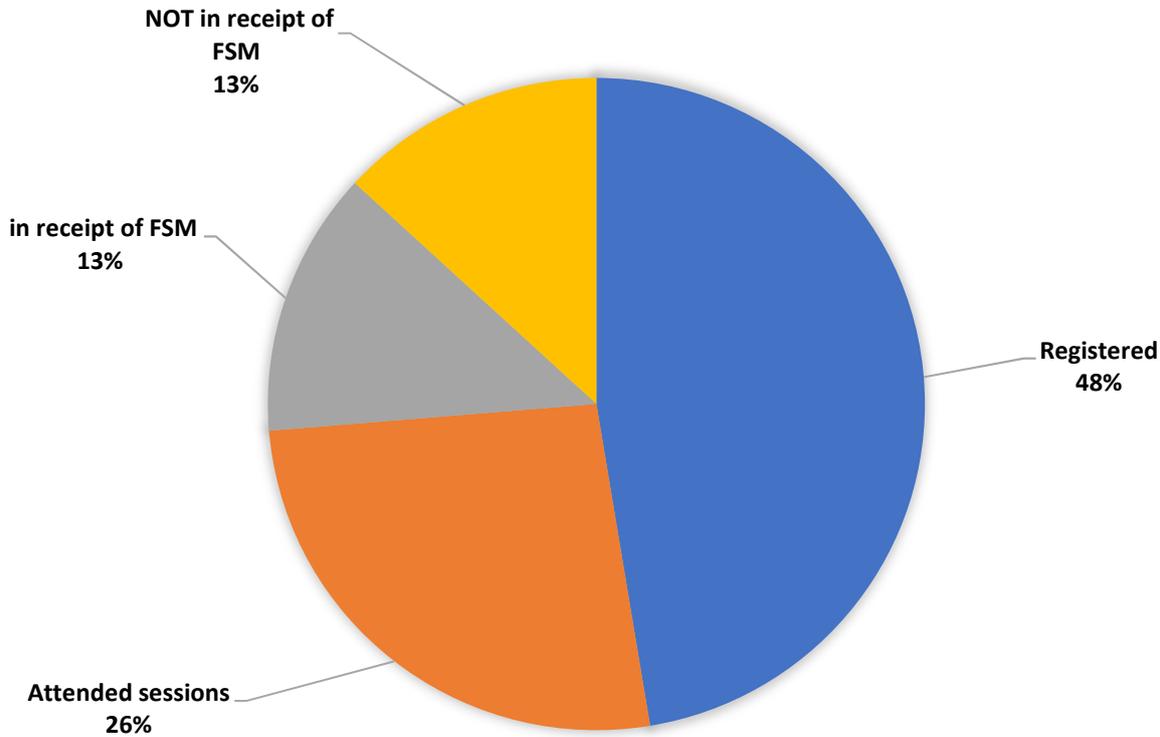


SEND data broken down by area of need



Data Analysis

Young people's attendance

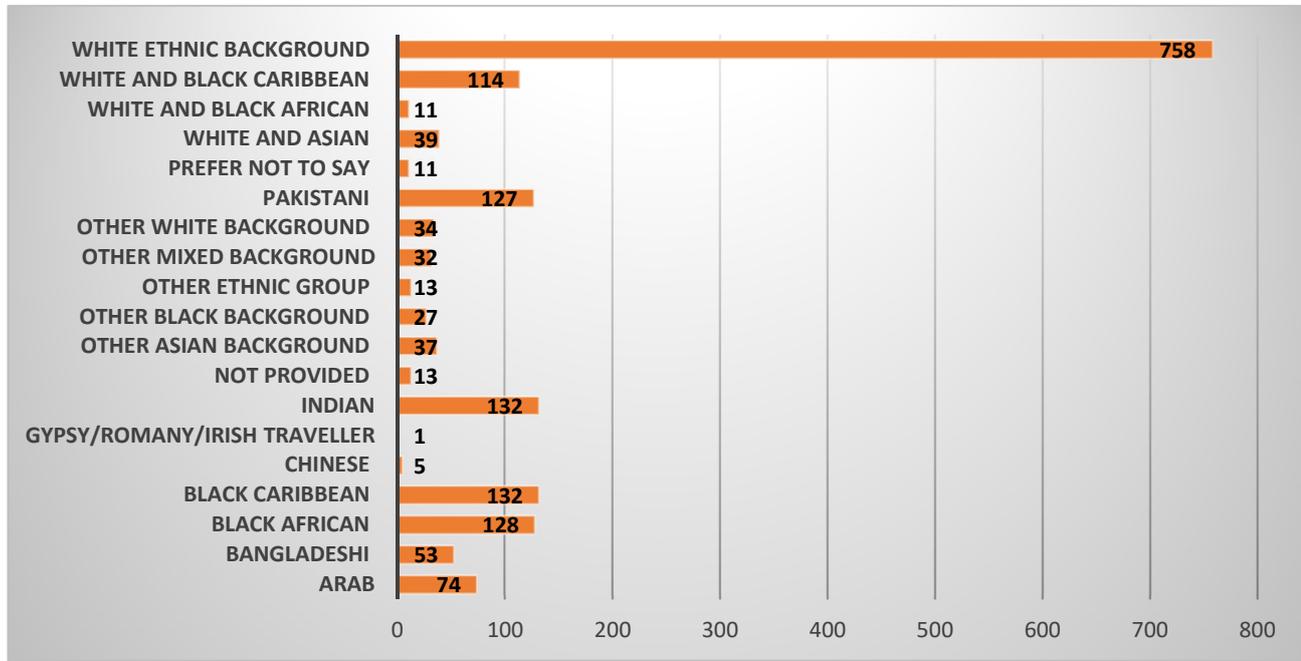


Free School Meals data



Data Analysis

Ethnicity data



Parent/carer survey analysis

60%

of parents/carers
found registering
easy

76%

Of parents/carers
rated the quality of the
sessions excellent or
very good

54%

Of parents/carers
rated the free meals
excellent or very good

95%

Of parents/carers would allow their children to
take part in sessions again

Testimonials

“All sessions were amazing, and my children enjoyed the activities and the food provided. We have been very pleased with all of the sessions.”

“Amazing, so good of council to start activities up for our youth they really need this to thrive especially after all that Covid has meant them in missing out.”

“My children loved the activities that were provided during the summer holidays. All staff were always friendly and excellent with the children. It was nice to have something for them in our area as we have never had anything like it available before”

“My 2 children loved it and would love to do it again, they learned new skills and enjoyed everyday off and the staff was great we did them at West Bromwich Leisure Centre.”

Testimonials

“My child loved the Summer Playscheme this year! Lion Farm Action Centre put on a fun activities that my child came home to tell me about and she made many new friendships. The staff were fantastic with the children and were always happy to help with any questions I asked: and always met the children with a smile. The meals were lovely I could run through the menu which was email to me with my child and see what she was going to eat each day, I received recipe cards from Lion Farm Action Centre which I have found very useful. There was a good selection of different meals and healthy salads to go with each meal. I would be very happy sending my child to playscheme again. Thanks”

“My son loved going to the summer holiday club, he made new friends and got to do lots of fun activities. The food that he was offered was tasty and plentiful and he would love to do the holiday club next year too if possible.”

“The YCA did a fantastic job at keeping my child active and engaged during the summer holidays. She enjoyed the meals and I was happy that they were made in a healthy way which encouraged her to make some changes in the way she eats at home. This was definitely needed after all the lockdowns!”

“There was a wide range of activities offered which I found was really good. I hope this continues in the future. The outdoor activities with Sandwell farm and nature reserve were excellent. My children accessed play scheme, sports camp, go outdoor activities and they thoroughly enjoyed them all. They also attended an activity with action for children where they do some kickboxing, received gloves pads and a free membership for over the summer. This is something they have continued with and they attend weekly.”

Testimonials

“My son enjoyed the sport activities and it was a breath of fresh air to have something for Children that can't get away for a holiday during these long weeks. New friends are also made and physical exercise helped the children both mentally and physically as they all came away with smiles on their faces.”

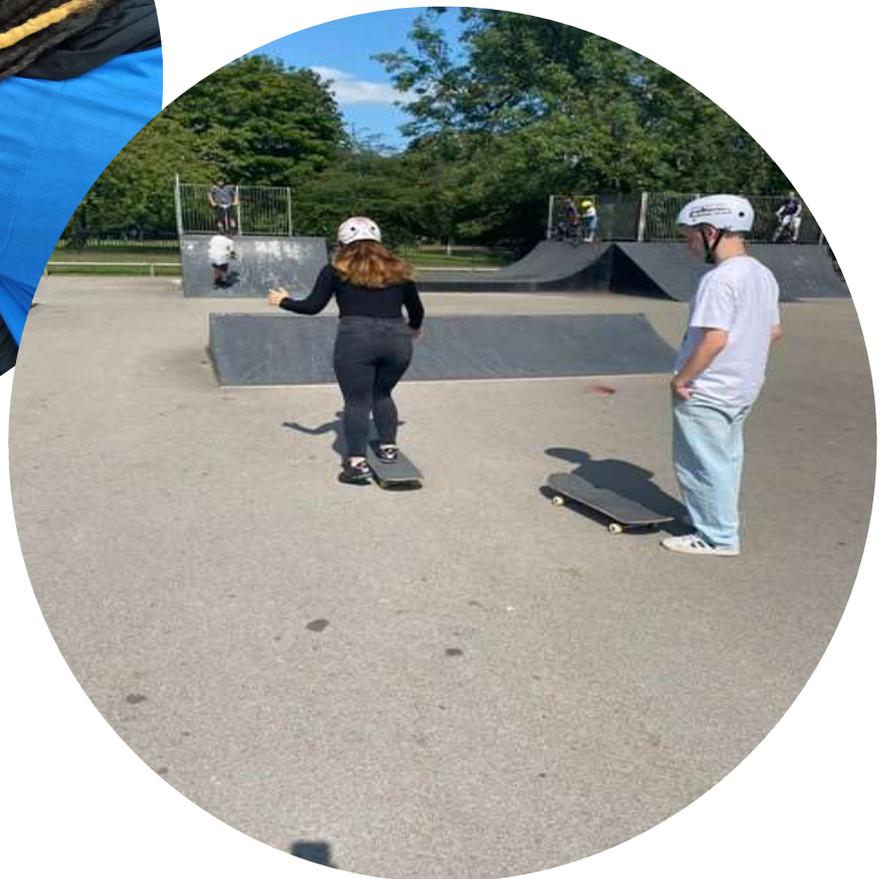
“The session was really interactive, and the instructors were very encouraging. My children were 7 and 12, and both were able to access and enjoy the session at their relevant levels.”

“Sessions was brilliant. My son enjoyed very much and he asking when something like that will be on again. People who do Bushcraft were excellent.”

“Me and my children loved the activity packs and the meal packs, we made a meal and dessert together and really loved the whole experience”

Lessons Learnt

- Marketing and communication require development to drill down and identify how we gain traction with families that convert to attendance without applying stigma to the offer.
- Further discussions need to be had with schools to identify how we can access premises and offer activity on a greater scale.
- Observations have identified that when we implement a universal offer the uptake improves exponentially and this in turn reduces perceived bias with those not in receipt of benefit related free school meals.
- Commissioning and procurement of services proved challenging due to timescales defined by the DfE mechanism need to be in place to support future delivery.
- The positioning of HAF strategically as a mechanism to support the wider determinant of inequalities that are linked to food insecurity and equal access to activity for our children and young people.



Delivery partners

We would like to thank all our local delivery partners who engaged with the programme and made it happen.



Delivery partners



Delivery partners



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Department
for Education

Holiday activities and food programme

Our focus

- School holidays can be pressure points for some families because of increased costs and reduced incomes
- Some children are more likely to experience 'unhealthy holidays' in terms of nutrition and physical health
- Some children from lower-income families are less likely to access fun activities
- Free holiday clubs are a response to this issue. They can work best when they provide consistent and easily accessible activities, for more than just breakfast or lunch



Our programme

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- Since 2018, we have invested in local programmes that deliver free healthy meals and fun activities to disadvantaged children in the summer.
- In summer 2018, we invested £2 million in seven summer holiday pilots across England.
- In summer 2019 we invested £9m in programmes in 11 local authority areas, to improve coverage, joint-working, promotion, consistency and quality.
- In summer 2020 we invested £9m in 17 local authority areas, including projects that covered more than one LA.



Our summer 2020 projects

- StreetGames UK – Newcastle upon Tyne
- Edsential – Chester West and Chester, Halton and Wirral
- Gateshead Local Authority – Gateshead
- Leeds Community Foundation – Leeds and Bradford Metropolitan District
- Mayor’s Fund for London – Lambeth and Southwark
- The Romsey School – Hampshire County Council, Portsmouth City Council, Southampton City Council and Isle of Wight Council
- Spring North – Blackburn with Darwen
- Suffolk Local Authority – Suffolk County Council
- Tower Hamlets Local Authority – London Borough of Tower Hamlets
- Voluntary Action Sheffield – Sheffield

Covid-19 had a great impact on the delivery of the HAF 2020 programme, but we worked with our 2020 coordinators to ensure that the programme went ahead and supported thousands of children and families.

Expansion in 2021

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- The Holiday Activities and Food programme will expand in 2021 so that children on free school meals in England will be offered free healthy meals and enriching activities over the Easter, summer and Christmas holidays.
- Our investment of up to £220 million will be delivered through grants to all local authorities.
- We greatly value the important role that community and voluntary organisations have played in this programme over the last three years, and we encourage all local authorities to work with a wide range of partners in the delivery of this programme.



Impact of January 2021 Lockdown

- We don't know when schools will re-open again and when it will be safe to run HAF clubs face-to-face
- The 2020 programme showed us what was possible despite the restrictions
- The offers ranged from full face-to-face clubs with a focus on outside activities to food parcels with home activity packs
- LAs may want to plan for a combined approach – but we appreciate this is not ideal
- We will confirm further advice and guidance on the impact of the latest lockdown ASAP



Our minimum standards aim to support high quality provision



Healthy food



Enriching activities



Physical activities



Nutritional education



Policies and procedures

And a few other requirements:

- Inclusive and accessible provision (e.g. SEND and rural children)
- Provision offered to all FSM children in the local authority
- At least 4 hours for 4 days a week. For 4 weeks in the summer, and for a week in Easter and Christmas.

Our model aims to support high quality provision coordinated across a local area

Local coordinator objectives



MAP
PROVISION



AWARD
FUNDING



SUPPORT
PROVIDERS



PROMOTE
PROVISION



WORK WITH
OTHERS



DEVELOP
SUSTAINABLE
APPROACHES

We want children attending clubs to:

- Eat more healthily
- Be more active
- Take part in engaging and enriching activities
- Be safe and not isolated
- Have greater knowledge of health and nutrition
- Be more engaged with school and other services
- Have greater knowledge and awareness of holiday club provision

Feedback from parents

We asked holiday parents/carers about their experiences of the programme in 2020. Findings included:

- Despite Covid, the overwhelming majority confirmed their child had accessed provision in person with a clear majority attending exclusively in person
- The majority of respondents told us that their child attending a holiday club reduced stress and pressure, many told us it financially supported them and many told us it provided reassurance that their child was somewhere safe.
- Most respondents had been provided with advice on cooking healthy meals by their club.
- Most respondents would be willing to purchase longer hours, if they were offered. But some respondents were unaware they could reclaim up to 85% of the costs for attending Ofsted rated settings through Universal Credit

What has worked well?



Huge amount of work done by coordinators and staff



Variety of approaches, from centrally-set programmes to club-led programmes and combination of the two



Big focus on building capacity in the sector



Some innovative approaches to mapping demand, ensuring that provision was in place in areas of real need



Minimum standards seemed to work well



4:4:4 seemed to work well - this needs to be applied flexibly



Some really good engagement with parents and families

Challenges and reflections



Building the widest possible local partnerships, including schools and other partners



Collecting data and management information



Some settings needed to work hard to meet the food standards



Areas need sufficient time to plan and prepare



Some smaller clubs needed intensive support

DfE implementation team



Regular conversations with local authorities from January 2021 and responding to issues.



Convening regional peer-to-peer support networks, sharing best practice and linking to relevant national organisations.



Reviewing delivery plans in advance of holidays and reports of provision submitted by local authorities following each delivery period. This may inform future payment instalments.



Providing more support for local authorities that need it.



Transition to national support partner from April 2021 but with DfE local implementation support continuing

Next steps

Further meetings

- Repeat of meetings planned for February
- First delivery report due by 19 February, setting out the intended scale and reach of their programme for Easter 2021 (we will be in touch shortly to provide you with a short template for these)
- Areas encouraged to continue to meet if it is useful
- Surgery sessions

Contact details

- Implementation leads: Viv McCotter and Tara Whitehorn
- North, East & Midlands: Vanessa Mynard, Tom Edwards and Hannah-Mai Flynn
- South & West: Deborah McKay and Julie Nelmes

General enquiries: HAF.Programme@education.gov.uk



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Report to Cabinet

12 January 2022

Subject:	Mobysoft Limited- RentSense Software Contract
Cabinet Member:	Cabinet Member for Housing Cllr. Zahoor Ahmed
Director:	Director of Housing Gillian Douglas
Key Decision:	Yes Above the £250,000.00 threshold
Contact Officer:	Service Manager – Housing Management Nigel Collumbell nigel_collumbell@sandwell.gov.uk

1 Recommendations

- 1.1 That the Director – Housing be authorised to enter into a direct award contract via Crown Commercial Services G-Cloud Framework Agreement with Mobysoft Limited for RentSense software for a period of two years with the option to extend for a further two years when the existing contract expires on 23 February 2022 given no further extension provision exists within the current contract, at a total cost of £905,356, should the two year option to extend be exercised.
- 1.2 That subject to the approval of 1.1 the Director of Housing be authorised to enter into a new two-year contract with the option to extend for a further two years with Mobysoft Limited from 24 February 2022 to 23 February 2026.
- 1.3 To authorise the Director – Law and Governance and Monitoring Officer to execute any documentation necessary to enable the course of action referred to in 1.1 above.
- 1.4 That any necessary exemptions be made to the Council’s Procurement and Contract procedure Rules to enable the course of action referred to in 1.1 and 1.2 above to proceed.



2 Reasons for Recommendations

- 2.1 Mobysoft’s RentSense product will enable the service to deliver an efficient and effective arrears recovery process that maximises cash collection, prevents tenants from getting into debt, supports tenancy sustainment and reduces homelessness.
- 2.2 The value and return on investment have clearly been demonstrated during the existing contract term in delivering greater caseload accuracy, a more manageable caseload enabling officers to focus on tenants most in need, reduced arrears, fewer tenants in debt, fewer evictions and in supporting tenant wellbeing and tenancy sustainment.

3 How does this deliver objectives of the Corporate Plan?

	<p>People live well and age well</p> <p>Effective and efficient arrears monitoring processes will enable the early identification of tenants who are vulnerable and or struggling financially allowing the appropriate support and advice to be provided at the start of difficulties reducing the impact that debt has on tenants’ health and wellbeing.</p>
	<p>Quality homes in thriving neighbourhoods</p> <p>The ability to efficiently monitor and recover outstanding rent arrears, ensures that the Income and Money Advice Service maximises income collection, reduces bad debt and ensures that the Council’s future house building programme can be met.</p>

4 Context and Key Issues

Background

- 4.1 On 5 February 2020 Cabinet approved the exemption to enter into a two-year contract with Mobysoft Limited for a new rent arrears ICT software product – RentSense as a direct award call off from Crown Commercial Services G-Cloud framework agreement. The cost of the contract was £408,442, which was met from existing budgets and is due to expire on 23 February 2022.



- 4.2 RentSense was deployed due to the historical inefficiencies of Capita's Open Housing Arrears Module which presented increasing risks to the Council as the service was unable to maximise rent collection.
- 4.3 RentSense is a series of complex algorithms that analyse a tenant's payment history which is coupled with predictive analytical technology that projects the risk and predicts which customers will pay and which will not.
- 4.4 RentSense enables officers to efficiently identify cases that require intervention including cases before they fall into arrears, allowing for proactive preventative work.

Outcomes – Impact on Arrears/Capacity/Performance Management

- 4.5 Since going live with RentSense on 19 June 2020, the service has achieved the following:
- £125k rent arrears reduction at year end 2020/21. In June 2020 projections indicated that rent arrears were expected to increase by £1m by 31 March 2021
 - £430,545 arrears reduction for the period June 2020 to October 2021
 - 13% reduction in average arrears value per universal credit (UC) case
 - 37% reduction in average arrears value per non-UC cases
 - 18% reduction in arrears amongst Introductory Tenancies
 - Reduced caseloads, which allows officers quality time to support our most vulnerable tenants and effectively respond to complex needs cases
- 4.6 The capacity and efficiencies realised from implementing RentSense enabled the creation of the Tenancy Smart Team (TST). Since implementation in January 2021 the TST have achieved the following:
- 241 tenancy smart assessments completed facilitating early identification of tenants at risk of tenancy failure as a result of financial pressures, enabling the team to put in place measures to mitigate the risk and support tenancy sustainment
 - 183 referrals for employment, financial budgeting and wellbeing support to a number of partner agencies including but not limited to: - Citizens Advice Sandwell, StepChange, Kaleidoscope,



Healthy Minds, Sandwell Consortium, SWEDA, Building Bridges, Black Country Click Start, Brushstrokes and Welfare Rights

- 80% of tenants assisted to address fuel poverty have lower rent arrears than at point of referral
- 79% of tenants provided with financial advice/support have lower arrears than at point of referral
- 71% of tenants provided with wellbeing support have lower arrears than at point of referral

4.7 Mobysoft also provides a comprehensive suite of performance reports and tools which assists with service delivery, service reviews, learning and development and performance management.

Return on Investment

4.8 Mobysoft predicted that RentSense would deliver a total benefit realisation of £698,498 within the first year. The return on investment to date is £825,262, this includes:

- Total arrears reduction since go live date of June 2020 £430,545.44
- Tenancy Smart Team created to undertake financial inclusion/prevention work. To undertake this additional work the service area would have had to recruit a 1.25 full time equivalent post at a cost of £48,136
- Capacity gain within the team realised through an average reduction in cases of 7800 per week. This is comparable to the capacity that would be created by recruiting 9 full time equivalent officers to manage the cases at a cost of £346,581.

New Contract Proposal

4.9 The annual cost of the new contract will be £226,339 and Mobysoft Limited have agreed to remove the 3% uplift clause allowed for in the existing contract. The removal of the annual uplift fixes the costs at £226,339 per annum for each subsequent year during the contract, saving a significant sum over the four-year term.



- 4.10 A variation to the existing contract was made during August 2021 which allowed for a trial period of Mobysoft's additional non-standard functionality - daily processing. A number of benefits have been realised from daily processing that have included more capacity gain and a further reduction in caseload. This additional and beneficial functionality is reflected in the increased annual cost as cited at 4.9 above.
- 4.11 In addition to fixing the annual costs for the four years, Mobysoft are also offering:
- Continued Director consultancy support, free of charge, valued at c.£20k
 - Provision of a proof of concept analysis exercise on automation capabilities, enabling specifically categorised vulnerabilities to be recognised and automatically moved to an officer intervention stage, valued at c.£15k
 - Provision of FTA manager (former tenant arrears monitoring solution) free of charge for 6 months with no set up fee applied (value undetermined until software deployed)

5 Alternative Options

- 5.1 An options appraisal has been completed to determine the recommendation for consideration. The options appraisal focused on the key priorities for the collection of Social Housing rent arrears and measured these against the projected outcomes.

Option 1 – Use Capita's Open Housing Management System

- 5.2 Since 2013 Capita have failed to resolve the inefficiencies in the rent arrears recovery module and there is no guarantee moving forward that any future version upgrade will deliver on the functionality required to reduce arrears, increase cash collection and manage the escalating demands of universal credit.

Option 2 – Procure a new Housing Management System



- 5.3 The current contract with Capita expires March 2023 and approval is being sought to commence a system review. The end to end process to review, procure and implement a new housing management system should this be the decision taken would not be completed until approximately 2025.

The implementation would require significant full-time resources to support the migration to a new system, additional capital costs and would involve an intensive change programme including data cleansing, data migration, extensive testing and training and there is no evidence to support that any new supplier relationship would be better (or worse) than Capita in delivering an efficient and effective income collection service.

Option 3 – Enter into a new contract with Mobysoft Limited

- 5.4 This would not require any additional resources and Mobysoft have delivered on the projected outcomes which included a reduced arrears caseload, capacity gain enabling officers to focus on complex arrears cases and mitigate the impact of universal credit, increased cash collection and a reduction in arrears.
- 5.5 Based on the options appraisal the recommendation is to enter into a new contract with Mobysoft Limited to deploy their RentSense product as there is no other proven product capable of delivering what RentSense does.
- 5.6 If approval is not granted the Council will be at risk of not maximising rental income into the Housing Revenue Account which could have implications on the Council's ability to provide quality services such as, repairs, voids, tenancy management and allocation services and on future investment in new build properties. This could further impact service provision as:
- The service to tenants will be negatively impacted if the Council is unable to manage income collection effectively
 - Poverty levels amongst tenants will increase leading to a negative impact on health and wellbeing



- The impact of universal credit will result in arrears levels increasing to such a degree that the Housing Revenue Account business viability will be at risk
- There will be greater pressure placed on statutory services such as Children's Services and Homelessness
- The increasing demand may have a negative impact on workforce wellbeing

6 Implications

<p>Resources:</p>	<p>The total cost of the contract is £905,356 which is broken down as £226,339 per annum as noted in item 4.9. The cost of the contract can be met from existing resources within the Housing Revenue Account.</p> <p>There are no anticipated human resource implications for the Council arising from this contract.</p> <p>There are no implications for the Council's material assets.</p>
<p>Legal and Governance:</p>	<p>The Homelessness Reduction Act 2017 places additional duties on Local Authorities to prevent homelessness. The provision of effective and efficient arrears monitoring processes will ensure the Income and Money Advice Service is able to prioritise preventative arrears work which will contribute to tenancy sustainment and reduce homelessness.</p> <p>The Ministry of Justice Pre-Action Protocol for Possession Claims by Social Landlords, places specific legal obligations on social landlords to avoid litigation including the requirement to contact tenants as soon as they fall into arrears and to provide the relevant advice and support to sustain their tenancy. The early identification of tenants in arrears or likely to fall into arrears will enable the service to contact tenants at the earliest opportunity to ensure that rent is paid, and any difficulties are resolved preventing court proceedings.</p>



	<p>An exemption to the Council’s procurement and contract rules is being sought as there is no other third-party supplier able to provide a comparable specialist software product to that of Mobyssoft’s RentSense for the results required by Social Housing Landlords, and a call-off from Crown Commercial Services G-Cloud framework agreement is in compliance with the Public Contract Regulations 2015.</p> <p>The Corporate Procurement Service Manager is satisfied with the course of action being proposed and Cabinet authority being sought given that an exemption to Procurement and Contract Procedure Rules is needed to enter into a new contract of the value proposed.</p>
Risk:	<p>The Corporate Risk Management Strategy has been complied with to identify and assess the risks associated with the decision being sought. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. The assessment has identified there are no current ‘red’ risks that need to be reported.</p> <p>The Housing Directorate Risk Register currently includes an amber risk for housing rental income- the contract with Mobyssoft Limited is cited as a control measure to mitigate the risks involved in collection of rent arrears. The recommendations if approved, will assist in the continued mitigation of this risk.</p> <p>The RentSense product supplied by Mobyssoft Limited is fully compliant with the requirements of the General Data Protection Regulations 2018, and the service area is currently working with Law and Governance to ensure the DPIA is updated to reflect the new contractual arrangements.</p>
Equality:	<p>There are no equality issues arising from this report.</p>



	An equality impact assessment is not required for this decision as there is no material change to the Mobysoft contract or service delivery.
Health and Wellbeing:	<p>A robust and intelligent ICT rent arrears product is key in delivering an efficient Income and Money Advice Service. Effective service delivery will support health and wellbeing outcomes, particularly in areas such as financial/social inclusion and debt management.</p> <p>The early identification of tenants in financial difficulties or with complex needs enable the service to refer to relevant support/advice agencies, addressing some of the impact of poverty and improving the health and wellbeing of tenants.</p>
Social Value	Mobysoft Limited have offered to annually donate to a charity of the Council's choice. It is proposed that such donations are linked to mitigating risks of poverty or social deprivation in the Borough.

7. Appendices

7.1 None

8. Background Papers

Cabinet Report - Mobysoft Limited RentSense February 2020



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Report to Cabinet

12 January 2022

Subject:	SEND Transport arrangements: February 2022 to July 2024
Cabinet Member:	Cabinet Member for Children and Education, Councillor Karen Simms
Director:	Director of Children and Education, Michael Jarrett
Key Decision:	Yes
Contact Officer:	Sue Moore, Group Head, Education Support Services Sue_Moore@sandwell.gov.uk

1 Recommendations

- 1.1 That the Director of Children and Education, in consultation with the Section 151 Officer and Cabinet Member for Children and Education, be authorised to:
- (a) abandon, for the reasons set out at paragraph 2.12 in this report, the mini-competition undertaken under the Dynamic Purchasing System (the new DPS), pursuant to which the contract award decision was deferred by Cabinet at its meeting on 16 June 2021 and inform all operators who are on the new DPS of the decision to abandon this process.
 - (b) extend the existing contracts with providers for the continued provision of SEND transport beyond the current expiry date of 23 February 2022 until 21 July 2022, in accordance with the terms of those contracts, to ensure/enable continuity of service pending the award of new contracts, with any extension to be subject to the additional checks and balances on providers as approved by Cabinet on the 21 July 2021.



- (c) tender any new SEND Transport work or any SEND Transport work that is not undertaken by operators using the current DPS Framework to cover the period 23 February to 21 July 2022.
 - (d) agree any necessary exemptions pursuant to the Council's Procurement & Contract Procedure Rules to enable the course of action referred to in (b) and (c) above to proceed.
- 1.2 That, subject to the approval of recommendation 1.1(a-d) above, the Director of Law and Governance & Monitoring Officer be authorised to agree, enter into and/or execute under seal (if necessary) all requisite contracts and ancillary documentation in relation to the extension of the contracts for the continued provision of Sandwell's SEND transport.
- 1.3 That the Director of Children and Education, in consultation with the Director of Law and Governance and the Section 151 Officer, be authorised to (i) undertake a new procurement exercise to establish a new Framework Agreement to award new contracts for SEND Transport from 1 September 2022 to July 2024 (inclusive), and (ii) undertake, if necessary, the procurement of any new additional ad-hoc SEND Transport work arising during this period, not covered by the new contracts awarded under (i) using a new DPS.
- 1.4 That the Director of Children and Education and the Director of Law and Governance, be granted delegated authority to agree, enter into and execute all requisite contracts and documentation (including under seal) in relation to the provision of SEND Transport work pursuant to the procurement exercises referred to at 1.3 above, and award contracts to all successful bidders as appropriate/required.

2 Reasons for Recommendations

- 2.1 The Local Authority has a duty and has powers to make particular travel arrangements for children with special educational needs and disabilities to facilitate their attendance at an appropriate education provision.
- 2.2 In summary, the three recommendations above are:
- (i) To abandon the mini-competition undertaken under the new DPS
 - (ii) To extend the existing arrangements to ensure the continued delivery of this essential service, with the appropriate additional safeguards

- (iii) To embark on the procurement of a framework agreement with measures and provisions in place to ensure the needs and priorities of the Council and the service users are most appropriately and fully met, with support (if required) by using the new DPS for additional ad-hoc service.

2.3 **Abandonment of the Mini-Competition**

- 2.4 In planning for the end of the existing arrangements (which were due to expire February 2022) the Council established a new DPS, which included a new approach to the procurement of the provision of SEND Transport for the next 5 years. It was established with the intention of being able to contribute to the Council's evolving priorities and to address new and important safeguarding concerns, that had not been envisaged when the previous arrangements (under the old DPS) were set up.
- 2.5 The new DPS had several significant differences to the old DPS. Most notably, rather than the DPS being used simply for ad hoc contracts for services as required, it was intended to be used to award four large contracts to deliver the majority of the services required by the Council for the whole of the term of the new DPS. The new DPS also sought to implement more stringent requirements on the providers/contractors, and was intended to make contract management easier, and less resource intensive, the consequence of which would be that more officer time could be spent on improving performance.
- 2.6 Following the evaluation of the tenders submitted under the new DPS, a recommendation to award four contracts was included within a report to Cabinet, and, submitted on 16 June 2021 for consideration. If approved by Cabinet, contracts for the provision of the services for the next five years would have been awarded to the bidders identified in that report.
- 2.7 During the consultation process leading up to the 16 June 2021 Cabinet, Members raised concerns (set out in more detail at paragraph 2.12 below) about the procurement approach taken, and as a result of these concerns, no decision was made at Cabinet. Members also asked for this procurement to be included in the wider review of governance being undertaken by Grant Thornton. Childrens Services and Education Scrutiny Board also undertook their own review of SEND Transport Models to inform future decision-making. The Review is attached as Appendix A and the External Audit Review is Appendix B and Appendix Ba.

- 2.8 A further report was brought to Cabinet on 21 July 2021 seeking approval to extend the existing contracts until 23 February 2022 to ensure transport arrangements were in place for the start of the new academic year. This period of time also enabled the internal review, Grant Thornton review and Childrens Services and Education Scrutiny Board review to take place and to be considered.
- 2.9 The reviews that have been undertaken have identified the following recommendations (among others):
- Increasing the number of lots, changing the way price and quality are assessed and greater financial modelling (Internal review completed in June 2021)
 - Improving quality of provision by requiring all drivers and passenger assistants to undertake a first aid accreditation (Childrens Services and Education Scrutiny report October 2021)
 - Encouraging competition from a wide range of suppliers including small and medium enterprises and avoiding the increased risk associated with awarding contracts to a small number of providers (Childrens Services and Education Scrutiny report October 2021)
 - Sufficient documented consideration does not appear to have been given to both financial modelling and the risks, particularly around resilience, associated with the potential placing of all four large contracts with just two companies, who in themselves come under the ownership of one individual (Grant Thornton review)
- 2.10 A public body is entitled to abandon a mini competition under a DPS provided its reasons are rational, not based on a desire to favour or penalise certain providers and proportionate. Public bodies in such situations are legally entitled to make a decision to abandon a mini-competition and run an entirely new procurement process. Any new procurement process should be designed to remedy reasons for abandonment.
- 2.11 SEND Transport also formed part of Grant Thornton's (the Council's external auditors) Value for Money Governance review (a copy of which is set out at appendix B). They noted that the Council already uses a DPS for commissioning travel assistance services, so has familiarity with the approach, as do providers. The review recommended:
- Not losing the significant progress made on the contract specification's focus on service quality.

- Greater support, involvement, dialogue and oversight with the officer teams with responsibility for progressing the procurement.
- Ensuring the contract provides the Council with effective management and oversight of the personal transport market.
- Record keeping, and declarations of interest are undertaken in line with Council policies and procedures.
- Decision making does not create real or perceived risks in relation to inappropriate procurement decisions.
- Procurement timescales provide adequate time for both suppliers to submit high quality bids, and the Council to undertake appropriate evaluation, scrutiny and decision making. This timescale should include appropriate time in advance of the procurement for the council to undertake the necessary strategic thinking and planning required, and mitigate the risk of not making an award in the planned timescale

2.12 Whilst it is recognised that a DPS has many benefits, which have been highlighted in paragraph 2.5 above, the recommendation is however that this mini-competition is abandoned, for the following reasons:

- (i) Financial resilience – the risk to the Council, and the Service Users in not having a wider pool of contractors in terms of financial resilience is considered to be unsuitable and undesirable. The impact of one of such a small number of providers failing financially was not fully considered and mitigated during the procurement process and in the evaluation process. If one provider were to fail financially, then the Council would be in a position of having to re-procure either the whole or a significant proportion of the service, in a position where the primary procurement vehicle (the new DPS) was no longer regularly used, and bidders have no incentive to actively participate. The financial impact of this on the Council is unpredictable, but, is considered to put the Council in a position of being exposed to the market to an unsustainable degree.
- (ii) Service resilience/sustainability – the risk to the Council and the Service Users in not having a wider pool of contractors is considered to be unsuitable and carries to greater a risk. The impact of one of such a small number of providers failing in terms of service standards was not fully considered and mitigated during the procurement process and in the evaluation process. Whilst it is envisaged that a smaller number of contractors would enable the Council to manage service standards more effectively, if service standards still fell to an unacceptable standard (despite the Council’s efforts, the Council would have little choice but to re-procure either the whole or a significant proportion of the service. Only having two contractors raises concerns over the sustainability

of the service and service delivery interruption. Both expose the Council and Service Users to an unacceptable risk, which is compounded by very limited cost-effective mitigations being available.

- (iii) The Evaluation Process - The assessment exercise undertaken in relation to the mini-competition submissions pursuant to the new DPS needed to be more robust
- (iv) Implementation of External and Internal Recommendations – it is not possible to give effect to the recommendations made by the Council’s external auditor and the Scrutiny Board within the mini-competition. In order to implement a new procurement, which would address the concerns and recommendations raised by the external auditor and Scrutiny Board, the mini-competition would need to be abandoned.

2.13 Extension of the existing arrangements

2.14 The Council has a duty to continue to provide a service to this group of vulnerable service users, with the minimum of risk and disruption.

The extension of the existing arrangements is permitted under the Public Contract Regulations 2015.

Extension will ensure a continuous service and involve the least disruption for the service users.

One implication of extending the existing arrangements for these services is that any improvements intended to be implemented as a result of the new arrangements will not be delivered as quickly as initially planned (although they will be implemented as part of the new procurement exercises). However, in the interim, the team managing the existing contracts will continue to carry out additional checks and inspections on current providers, with a clear instruction to providers that any safeguarding issues or other significant failure in service standards that are not addressed promptly will result in the Council taking robust action as it deems necessary to address such failings, which could include termination of the contract.

Another implication of extending the existing arrangements is that the anticipated overspend will continue until new arrangements are put in place, at which point new financial projections will be prepared.

2.15 Evaluation of the appropriate procurement methodology

2.16 There are several methods of procuring SEND Travel services, which range from a traditional fixed term service contract/number of contracts, to call-off contracts from a new Framework Agreement, to call-off contracts from a new Dynamic Purchasing System, through to spot purchasing. Each method has advantages and disadvantages, and some fit more closely with certain types of product or service than others, and with some it is easier to include certain requirements, safeguards and remedies.

2.17 An evaluation of each of the approaches has been undertaken to consider which approach the Council should adopt, as the most suitable approach.

- A fixed-term service contract/number of contracts is usually suitable where a defined service is required for a specific period, it gives the most certainty to providers in terms of what is required of them, and also provides certainty to the Authority in areas such as the cost and performance. However, it can be quite rigid in terms of not taking into account a changing regulatory environment or variations in service requirement.
- A Framework Agreement establishes a list of suppliers, from whom the Authority can request individual categories of work. This has more flexibility and is most suitable where there are going to be multiple but uncertain contractual requirements, but it can be expensive to establish, and does not allow new entrants to the market to be added during the term.
- A Dynamic Purchasing System is a fully electronic framework agreement, which allows new bidders to be added, and for bidders that no longer meet the entry requirements to be excluded, over the life of the DPS. It is intended to be used where there are easily defined, standard form or “off the shelf” requirements that are needed to be procured on an ad-hoc basis, and is also intended to encourage competition between bidders within the DPS. It is not traditionally used for long term contracts, and the mini-competitions are usually evaluated primarily on cost (the bidders having already satisfied the conditions for admission to the DPS, when they apply to be admitted).

2.18 The evaluation of all of the methods of procurement provides the necessary assurances to the council that the best and most suitable approach is being used to ensure the best outcome in terms of quality of provision and how that provision can be monitored and the effective steps that can be taken if operators fail to meet the necessary standards.

2.19 The evaluation of the available procurement approaches also provides the opportunity for the recommendations from Scrutiny's Review of Special Educational Needs and Disabilities Transport Models to be incorporated within the procurement process, and given due consideration, including ensuring (so far as is able) that:

- providers should ensure drivers and Passenger Assistants are trained, and accredited where appropriate, in First Aid, non-verbal communication, use of safety harnesses and manual handling. In addition, there should be Advanced Passenger Assistants who are specifically trained to provide emergency medication on transport, including but not limited to administering pre-loaded EpiPens or pre-loaded buccal midazolam devices;
- the approved procurement model encourages competition from a wide range of suppliers;
- small and medium enterprises should be afforded opportunities to tender for the contracts;
- local/mainstream schools should be the first consideration if they can address the needs of pupils, whilst recognising that some parents may prefer alternative places;
- some harmonisation of provision should be considered to balance effective management of contracts whilst retaining a diversified group of providers;
- the model for provision should avoid the increased risk associated with awarding contracts to a small number of providers.

2.20 Approval is now sought to implement a Framework Agreement, which will include provisions to address the concerns and issues identified, and to deliver the best solution for service users and their families, provide sufficient assurances for the Council around quality of provision and deliver the most economical and sustainable solution.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <p>The Council is required to make arrangements for all children who cannot reasonably be expected to travel to school because of their mobility problems or because of associated health and safety issues related to their special educational needs or disability (SEND).</p>
	<p>Strong resilient communities</p> <p>Sandwell now has a national reputation for getting things done, where all local partners are focused on what really matters in people's lives and communities.</p>
	<p>A strong and inclusive economy</p> <p>Using local operators to provide transport enables the local economy to thrive.</p>
	<p>A connected and accessible Sandwell</p> <p>Public transport is an important component of the system for organising travel to school. Travel assistance training is made available to all children and young people who can benefit from independence in their travel to school.</p>

4 Context and Key Issues

- 4.1 The Local Authority has a duty and has powers to make particular travel arrangements for children with special educational needs and disabilities to facilitate their attendance at an appropriate education provision. These responsibilities are set out in the Education Act 1996, as amended by the Education and Inspections Act 2006 and are summarised in Department for Education Guidance as follows:

“To make arrangements for all children who cannot reasonably be expected to travel to school because of their mobility problems or because of associated health and safety issues related to their special educational needs or disability (SEND). Eligibility, for such children should be assessed on an individual basis to identify their particular transport requirements.”

- 4.2 Since February 2018 the provision of passenger transport services has been arranged via a Dynamic Purchasing System (DPS) which was originally due to end on 31 July 2021. In total there were 122 different contracts delivered by 18 different operators. At present 659 pupils access SEND transport attending 82 Sandwell schools and 47 out of borough schools.
- 4.3 Existing measures to monitor the performance of operators will be continued to ensure acceptable standards and good practice is maintained.
- 4.4 The current contracts were awarded pursuant to the DPS and are due to expire in February 2022. It is possible to extend the existing arrangements with operators pursuant to the DPS until the end of the academic year.
- 4.5 There are risks and mitigations to be considered by extending the existing contracts

	Risk	Mitigation
1	Concerns raised previously regarding the poor business practices of some operators cannot be fully addressed through the continued use of the current DPS.	Measures that have already been put in place and increased monitoring will help to continue to mitigate this risk between February 2022 and July 2022
2	Some of the current providers may not want to extend their contract to July 2022 or may have now accepted other work and no longer have capacity.	If this happens the work will be re-tendered using the current DPS And other providers on the current DPS could be contracted to cover any immediate need or shortfall.
3	Increased costs from operators	Continued promotion of alternative offer of travel assistance support Robust contract management
4	Risk of potential challenge with regard to the procurement	The Council is entitled to extend the existing DPS and award contracts pursuant to it in accordance with the Public Contract Regulations. All of the current bidders would be entitled to continue to bid for work.

- 4.6 In addition the following contracts will also need to be extended until 21 July 2022

- (a) SEND transport for pupils who will be attending High Point Academy, a new secondary special school in Wednesbury, the financial value of which cannot be determined until all school places are confirmed and eligible pupils are assessed regarding their need for transport;
- (b) transport for excluded primary pupils on behalf of Primrose Pupil Referral Unit, the financial value of which is provided by Primrose Pupil Referral Unit;
- (c) transport for Looked After Children on behalf of Sandwell Children's Trust, the financial value of which is provided by Sandwell Children's Trust.

4.7 It is legally permissible to extend the contracts issued via the current DPS for a reasonable period, until 21 July 2022, in order to give the Council an opportunity to undertake a new procurement process, taking into account the Council's priorities and the needs of service users. It is necessary to take this action prior to the expiry of the current contracts, which are due to expire 23 February 2022.

5 Alternative Options

5.1 *Running a new mini-competition under the New DPS*

5.2 A new mini-competition could not be split into smaller lots, for shorter periods, so would not remedy all the issues arising and raised during the review process, particularly in relation to the mini-competition again producing only two successful bidders.

5.3 *Continue to use the existing arrangements, under the previous DPS.*

5.4 It is possible for the Council to extend the previous DPS (completed in 2018), however this would not address the concerns and issues raised recently and would not positively contribute to the Council's current priorities.

5.5 This option would be the quickest, and simplest in terms of operational issues, and would result in the least amount of disruption for the service users.

However, it would be difficult to manage the financial implications of continuing with the existing arrangements, and it would be difficult to deliver the improvements in terms of safe-guarding and passenger safety and encourage the use of green technology by continuing the existing arrangements.

5.6 *Procure a new Fixed Term Service Contract.*

This would be the least flexible option and high risk in terms of service delivery due to the rigid nature of a fixed term contract. Once a fixed term contract has been let, no further suppliers can be added to the contract, therefore should any suppliers wish to leave the contract, there would be no mechanism available to replace them with an alternative supplier.

It would not be possible to resolve some of the issues that have been identified in respect of the outcome of the mini-competition undertaken pursuant to the new DPS, by utilising a Fixed Term Service Contract.

The changeable needs of the service users, are not easily dealt with within a fixed term contract, with individual suppliers, and it is more difficult to retain financial control, and ensure best value when new service users are added, or service users switch off or their needs change during the term. Some degree of flexibility can be included within a fixed term contract however, the very fluid nature of the requirements means there is risk that the contract would not provide the degree of flexibility required.

A single supplier, for all or a significant proportion of the service requirements would expose the Council, and service users to the risk of service interruption in the case that the single supplier was unable to deliver the required service.

Financial models, and payment mechanisms traditionally associated with fixed term contracts, where service requirements are subject to change, are not easily adaptable to situations where the needs of the service users are subject to such a range of requirements and degrees of support, as is the case with SEND transport.

6 Implications

- 6.1 The previously agreed extension to existing contracts is due to expire on 23 February 2022 under clause 1.3 of the contract. The order forms of the contracts anticipated that annual contracts, starting in February each year would be granted, up to 23 February 2022, in accordance with the special terms of the Contract Part A Section 8 of the Invitation to Tender (ITT).
- 6.2 The extension should be kept under review and reconsidered further ahead of the expiry of any extensions that are sought to ensure that they are not longer than reasonably necessary.

Resources:	<p>The projected overspend for 2021/22 is £1.87m over the revised allocation of £5m, (which includes an additional allocation of £3.1m allocated to reflect the increase in demand and overspend in 2020/21) The increase is partly due to an increase in pupil numbers from 818 to 899 and ongoing impact of delay re-procurement.</p>
Legal and Governance:	<p>The Legal obligations on the Council in respect of this service and the rules relating to the extension of the existing contracts are set out within the body of this report.</p> <p>It is possible that a challenge to the approach taken by the Council may be made, and whilst it is not possible to forensically assess the risk of such a challenge until it is made, the legal advice received on this matter is that the extension is in accordance with the Public Contract Regulations 2015.</p> <p>Any new procurement undertaken, would be undertaken in accordance with the Council's constitution and Public Contract Regulations 2015.</p>
Risk:	<p>The Corporate Risk Management Strategy (CRMS) has been complied with – to identify and assess the significant risks associated with this decision / project. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks.</p> <p>Based on the information provided, it is the officers' opinion that for the significant risks that have been identified, arrangements are in place to manage and mitigate these effectively.</p> <p>The risk implications and mitigating measures as a result of extending the existing contracts are set out within the report in Section 4.5.</p>
Equality:	<p>An Equality Impact Assessment (EIA) screening has been completed and a full EIA is not required for this proposal.</p>

	<p>Children and young people with special educational needs and disabilities (SEND) have protected characteristics under the Equality Act 2010. The Local Authority has a duty and has powers to make particular travel arrangements for children with special educational needs and disabilities to facilitate their attendance at an appropriate education provision.</p> <p>Local authorities must publish details of school transport for children and young people with special educational needs and disabilities in their local offer. This is set out in the Special Educational Needs and Disability Regulations 2014 – schedule 2 paragraph 14.</p> <p>Children who cannot reasonably be expected to walk to school because of SEND, disability or mobility difficulty are eligible for transport under section 508B and schedule 35B (2) of the Education Act 1996. The policy should explain how a child with SEND meets the criterion for school transport.</p>
<p>Health and Wellbeing:</p>	<p>The DfE/DHSC Code of Practice for children and young people with SEND is the statutory guidance that sets out the duties for health and wellbeing.</p> <p>Sandwell’s education system has a strong approach to inclusion and the majority of children and young people with Education, Health and Care Plans attend mainstream provision, or focus provision within a mainstream setting. This enables children to develop firm relationships with peers in a mainstream environment and supports an inclusive Sandwell society.</p>
<p>Social Value</p>	<p>Contracts awarded under the new Framework will require suppliers to demonstrate how they will be responsive to Social, Environmental and Local Economic prospects, and how they will construct and operate their works to deliver a positive impact on the local economic, social and environmental well-being of the local area.</p>

7. Appendices

Appendix A – Scrutiny Review

Appendix B and Appendix Ba – External Audit Review

8. Background Papers

- Sandwell's SEND Travel Assistance Policy can be found here:
[Special Educational Needs Travel Assistance Policy](#)
- Cabinet report – 12 August 2020
<https://sandwellintranet.moderngov.co.uk/CeListDocuments.aspx?Committeed=143&MeetingId=974&DF=12%2f08%2f2020&Ver=2>
- Cabinet report – 16 June 2021
<https://sandwellintranet.moderngov.co.uk/ieListDocuments.aspx?CId=143&MId=144&Ver=4>
- Cabinet report – 21 July 2021
<https://sandwellintranet.moderngov.co.uk/ieListDocuments.aspx?CId=143&MId=6007&Ver=4>
- Report to Children's Services and Education Scrutiny Board on Monday, 27 September
<https://sandwellintranet.moderngov.co.uk/ieListDocuments.aspx?CId=144&MId=6075&Ver=4>
- Childrens Services and Education Scrutiny report October 2021

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Report to Cabinet

20 October 2021

Subject:	Recommendations of the Scrutiny Review of Special Educational Needs and Disabilities Transport Models
Cabinet Member:	Cabinet Member for Children and Education, Councillor Karen Simms
Director:	Director – Law and Governance Surjit Tour
Key Decision:	Yes
Contact Officer:	Alexander Goddard, Democratic Services Officer alexander_goddard@sandwell.gov.uk

1 Recommendations

- 1.1 That the administration of Special Educational Needs and Disabilities Transport be reviewed to ensure consistency of approach and that resourcing is adequate in light of increasing demand on the service.
- 1.2 That the Parent Group for Children with Special Educational Needs and Disabilities be communicated and consulted with on any changes to the Special Educational Needs and Disabilities Transport service and, where possible, the views of affected children and young people are also sought.
- 1.3 That Education Health Care Plan assessments are carried out without delay to ensure early identification of recommended provision, including Special Educational Needs and Disabilities Transport requirements.
- 1.4 That child to adult ratios for minibuses be re-evaluated to ensure that they are appropriate and reflect assessed risks and needs on a case by case basis.



- 1.5 That the Independent Travel Training Programme be continued and increased.
- 1.6 That awareness campaigns relating to Personal Budgets and the Independent Travel Training Programme be refreshed to ensure all families are aware of the options available.
- 1.7 That Early Years provision in each town be reviewed, which may help reduce transport costs.
- 1.8 That time lengths of Special Educational Needs and Disabilities Transport journeys be reviewed to ensure that children are not needing to travel for more than 50 minutes in normal circumstances.
- 1.9 That place provision be reviewed and strategically located throughout the borough to minimise journey times for children using Special Educational Needs and Disabilities Transport.
- 1.10 That the following be considered in relation to the contracting of Special Educational Needs and Disabilities Transport for February 2022:-
 - (a) providers should ensure drivers and Passenger Assistants are trained, and accredited where appropriate, in First Aid, non-verbal communication, use of safety harnesses and manual handling. In addition there should be Advanced Passenger Assistants who are specifically trained to provide emergency medication on transport, including but not limited to administering pre-loaded EpiPens or pre-loaded buccal midazolam devices;
 - (b) a market position statement be prepared, encouraging competition from a wide range of suppliers;
 - (c) small and medium enterprises should be afforded opportunities to tender for the contracts;
 - (d) that local/mainstream schools should be the first consideration if they can address the needs of pupils, whilst recognising that some parents may prefer alternative places;
 - (e) some harmonisation of provision should be considered to balance effective management of contracts whilst retaining a diversified group of providers;
 - (f) the model for provision should avoid the increased risk associated with awarding contracts to a small number of providers.



- 1.11 That a trial scheme for providing Passenger Assistants in-house, or in partnership with schools, be undertaken as part of the contracting of Special Educational Needs and Disabilities Transport and that a full analysis is carried out on the trial scheme to determine its effectiveness.
- 1.12 That the feasibility of taking Special Educational Needs and Disabilities Transport provision in-house be assessed, this should include risks, costs, benefits, potential timescales and suitable performance indicators, and it should include the following options:
- (a) full Special Educational Needs and Disabilities Transport service in-house;
 - (b) combined provision with existing Adult Social Care Transport;
 - (c) only Passenger Assistants service provided in-house.
- 1.13 That, however the Special Educational Needs and Disabilities Transport service is provided in future, Passenger Assistants:-
- (a) must be trained, and accredited where appropriate, in First Aid, communication with non-verbal children; and
 - (b) during their induction and onboarding a clear and strong emphasis should be placed on relationship building between the Passenger Assistant, the family, the school and the transport provider;
 - (c) also include Advanced Passenger Assistants who are specifically trained to provide emergency medication on transport, including but not limited to administering pre-loaded EpiPens or pre-loaded buccal midazolam devices;
- 1.14 That how children with Autism Spectrum Disorders can receive earlier diagnoses be reviewed with partners, to help improve outcomes, including around transport needs, for that group.
- 1.15 That research relating to Special Educational Needs and Disabilities is considered whenever it is available to identify potential areas of improvement in Sandwell's service provision.

2 Reasons for Recommendations

- 2.1 The recommendations have been identified by the Children's Services and Education Scrutiny Board in order to address the findings of a scrutiny working group into Special Educational Needs and Disabilities (SEND) Transport Models. These recommendations cover matters for Cabinet to consider in relation to the commissioning of SEND Transport



at the end of the current extended contract period, matters relating to the longer-term delivery of SEND Transport and other, more general, recommendations on the topic.

3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people – providing transport to Sandwell’s children and young people with SEND so that they can access education is a vital component of this objective.
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4 Context and Key Issues

- 4.1 A proposal was approved by Cabinet on 12 August 2020 to establish a new Dynamic Purchasing System (DPS) for the Provision of Passenger Transport for 2021-25 (minute No 65/20 refers). Pursuant to the creation of the DPS, a closed bid tender process was held for the award of four passenger transport related contracts, such contracts to be effective from 1 September 2021.
- 4.2 At its meeting on 16 June 2021, the Cabinet deferred any decision relating to Special Educational Needs and Education Transport Contracts for 2021-25 until a suitable review had been undertaken due to questions relating to the process that had been followed. Cabinet has therefore not yet considered the outcomes of the closed bid tender process.
- 4.3 The requested reviews have been and continue to take place into the process and the Audit and Risk Assurance Committee (ARAC) is carrying out a piece of work in accordance with its terms of reference. The Budget and Corporate Scrutiny Management Board agreed that to add value by considering Special Educational Needs and Disabilities Transport from another lens would be beneficial. It therefore proposed a scrutiny review by the Children’s Services and Education Scrutiny Board of Special Educational Needs and Disabilities Transport Models.
- 4.4 It was acknowledged from the outset of the Scrutiny Review that the role of ARAC will be focused on the tendering arrangements and the



internal/external review so the Scrutiny Review focussed on the duty on the Council, ways in which it does and could dispense that duty and to formulate a view on the best model for the provision of SEND Transport.

- 4.5 The Children’s Services and Education Scrutiny Board formed a cross-party Working Group, including members of the Budget and Corporate Scrutiny Management Board and parent governor representatives, and agreed a scope for the Scrutiny Review. It was acknowledged that the Review needed to be carried out at pace in order to ensure suitable transport provision could be procured by February 2022, when the current interim arrangements would cease. To this end, the Chair of the Scrutiny Board directed the members of the Working Group to each take responsibility for a specific workstream that had been identified in the scope of the Review.
- 4.6 Members carried out a range of research including collating data from local, regional and national sources; speaking to a range of officers and stakeholders (including parents and school staff); and liaising with other local authorities. The findings of this research were discussed at multiple meetings of the Working Group and members have identified a range of recommendations to Cabinet relating to Special Educational Needs and Disabilities Transport Models, which are presented to the Children’s Services and Education Scrutiny Board for consideration.
- 4.7 The Working Group acknowledged that Special Educational Needs and Disabilities Transport is a vital component of the Corporate Plan objective relating to ‘Best Start in Life for Children and Young People’. Furthermore the Council has statutory duties around the provision of transport for children with Special Educational Needs and Disabilities (Education Act 1996) and the recommendations identified by the Working Group reflect this, together with the requirements placed upon the Council by the Equality Act 2010 and the Public Sector Equality Duty.

5 Alternative Options



- 5.1 The Cabinet could decide to not consider the recommendations of the Children’s Services and Education Scrutiny Board arising from the Scrutiny Review of Special Educational Needs and Disabilities Transport, however any potential service improvements would then not be realised.

6 Implications

Resources:	The main implications for the Council’s resources relates to financing of SEND Transport. These would be fully determined prior to Cabinet making any decisions on commissioning arrangements.
Legal and Governance:	The Council has a statutory duty (Education Act 1996) in relation to SEND Transport.
Risk:	The Scrutiny Board acknowledges the need to properly assess risk, especially of potential future models of SEND Transport delivery and recommends that this be part of a comprehensive feasibility study for longer-term options.
Equality:	Children and young people with special educational needs and disabilities (SEND) have protected characteristics under the Equality Act 2010.
Health and Wellbeing:	SEND Transport contributes to the health and wellbeing of those residents who use it.
Social Value	The recommendations include proposals that the Scrutiny Board feels would increase opportunities for local businesses.

7. Appendices

None

8. Background Papers

[Scoping Document for Scrutiny Review of SEND Transport Models](#)
[Council’s Statutory Duties in relation to SEND Transport](#)
[Background to the Commissioning of Passenger Transport](#)



Report to Cabinet

15 December 2021

Subject:	External Audit Report – Value For Money Governance Review
Cabinet Member:	Leader of the Council Cllr Kerrie Carmichael
Director:	Interim Chief Executive Kim Bromley-Derry
Key Decision:	No
Contact Officer:	Strategic Lead – Service Improvement Kate Ashley Kate1_ashley@sandwell.gov.uk

1. Recommendations

- 1.1. That Council be recommended to receive Grant Thornton’s Value for Money Governance Review report.
- 1.2. That the Leader of the Council and the Interim Chief Executive develop an action plan to address the statutory, key and improvement recommendations of the Governance Review for approval by Council on 18 January 2022.

2. Reasons for Recommendations

- 2.1. Under sections 20 and 21 of the Local Audit and Accountably Act 2014 auditors must determine whether the council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VFM) conclusion and is reported publicly. As the council’s external auditors, Grant Thornton have conducted a review into the council’s governance arrangements and will be reporting their findings of this review to Full Council in January 2022.



2.2. At that stage the report must include the council's management response to the statutory and key recommendations. As the recommendations span the governance arrangements across the whole council, the action plan that supports this response must be developed by the Leader of the Council and the Interim Chief Executive to ensure corporate wide improvements are delivered and sustained.

3. How does this deliver objectives of the Corporate Plan?

3.1. The scope of the report focused on the governance arrangements of the council and areas of improvement across the organisation. Therefore, this impacts on the council's ability to deliver all the objectives in the Corporate Plan.

	Best start in life for children and young people
	People live well and age well
	Strong resilient communities
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell



4 Context and Key Issues

4.1 Governance Review – Background and Scope

- 4.1.1 In their role as the council's external auditors since 2019, Grant Thornton's monitoring of the governance arrangements in place led to concerns around the council's ability to look forward and manage the challenges and opportunities that all local authorities currently face.
- 4.1.2 In July 2021, Grant Thornton gave notice of their intention to conduct a Value for Money Review of the council's governance arrangements in order for them to fulfil their responsibilities as external auditor and reach a satisfactory conclusion to their audit on Value For Money. The purpose of this review was for Grant Thornton to draw conclusions on a number of key lines of enquiry and determine the extent to which further action is required by the council if necessary.
- 4.1.3 The scope of the review covered seventeen key lines of enquiry, split into two categories of:
- Services and Management; and
 - Meetings, Complaints and Relationships



4.1.4 The review was conducted between August and October 2021 through a document review and interviews with a range of elected members, officers and external stakeholders.

4.1.5 The draft report was issued on 23 November 2021 to enable the council to consider the recommendations and develop a response that will be included in Grant Thornton's final report to Full Council in January 2022. The final version of the report was issued to the council on 03 December 2021 and is attached at Appendix 1.

4.2 Recommendations of the Review

4.2.1 Grant Thornton have identified three statutory and five key recommendations that relate to the overarching governance of the organisation. The council will need to include a response on how it will address these recommendations within Grant Thornton's final report when it is presented to Full Council. The current version of the report includes space for the council's response, which will be developed as set out in section 4.3 below.

4.2.2 The report also identified 37 further improvement recommendations which relate to the individual key lines of enquiry of the review. These will be addressed through an Improvement Plan that will also include the management response to the statutory and key recommendations of the Review.

4.3 Management Response - Improvement Plan

4.3.1 Grant Thornton have recognised that over the last few months the council has made progress towards resolving matters and improving the governance arrangements in place, and it is important that these changes are embedded. Therefore, the council's Improvement Plan will formally map out those actions already in place that will address the recommendations made by Grant Thornton as well actions to address any gaps.

4.3.2 An example of the key actions already in place includes:



- Established and currently implementing strategies to address the service issues highlighted in the Grant Thornton report, including SEND Transport, Lion Farm and the ERP system. Reports are scheduled for Cabinet in December 2021 and early 2022 to make key decisions on the way forward for these issues.
- Work has commenced on the development of a Corporate Commercial Strategy and training programme, bringing in expertise from CIPFA to ensure the council maximises the opportunities available
- Developing a performance management framework that underpins the delivery of the Corporate Plan and provides Leadership Team and members of collective oversight of progress towards the strategic outcomes in the Corporate Plan
- Regular meetings between Cabinet Members and Leadership Team held to discuss key issues and development opportunities
- Establishing a member working group to review and refresh the Member Development Programme, incorporating support from the LGA

4.3.3 These and other actions have contributed to Grant Thornton's view that there are 'green shoots of recovery. They also show a commitment on the part of the council's leadership to move the organisation forward.

4.3.4 Work will take place over December 2021 and January 2022 to further develop the Improvement Plan and the reporting mechanism that will ensure that senior officers and members have oversight of progress. This work will be led by the Leader of the Council and the Interim Chief Executive and will be presented to Full Council in January 2022 when Grant Thornton present their report.



5 Alternative Options

5.1 The Governance Review was undertaken as part of the external auditor's role to provide assurance on the council's arrangements for securing economy, efficiency and effectiveness in its use of resources, and therefore the report is a public document and must be reported to Full Council. As the report includes statutory recommendations the council has a legal obligation to respond appropriately. There are no alternative options to consider.

6 Implications

Resources:	The development of the Improvement Plan will be carried out within existing resources. Additional resources may be required to implement agreed actions to address the recommendations in the Governance Review.
Legal and Governance:	<p>The Governance Review was conducted under Sections 20 and 21 of the Local Audit and Accountability Act 2014, and therefore the report must be presented to Full Council as a public document.</p> <p>The council is legally required to respond to any statutory recommendations made by the external auditor, and demonstrate action is being or will be taken to address issues raised in the report.</p>
Risk:	<p>If the Council fails to take appropriate action to address the recommendations of the Governance Review, or the external auditors do not have sufficient confidence that appropriate actions are being taken, then the council risks not having effective governance arrangements in place to manage current and future needs of the organisation and the borough.</p> <p>This could lead to increased costs, damage to reputation and government intervention.</p>



Equality:	The recommendations of the Governance Review considered the council’s governance structures as a whole. Any changes to policies as a result of the recommendations will require Equality Impact Assessments during the development to ensure the implications of any proposals are fully understood before decisions are made.
Health and Wellbeing:	
Social Value	

7. Appendices

Sandwell Metropolitan Borough Council: Value for Money Governance Review – FINAL Report (03 December 2021)

8. Background Papers

List source/background documents



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Sandwell Metropolitan Borough Council: Value for Money Governance Review

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The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed for the purpose of completing our work under the NAO Code and related guidance. Our audit is not designed to test all arrangements in respect of value for money. However, where, as part of our testing, we identify significant weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose all irregularities, or to include all possible improvements in arrangements that a more extensive special examination might identify. 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

Context, background and scope of the review

Context to our VfM approach

Sections 20 and 21 of the Local Audit and Accountability Act 2014 (the Act) require auditors to be satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VfM) conclusion.

VfM work is carried out in line with the Code of Audit Practice (the Code) which is prepared by the National Audit Office (NAO) under the Act, and its supporting statutory guidance: Auditor Guidance Note 3 (AGN 03).

A revised Code came into force on 1 April 2020, after being approved by Parliament. The Code requires auditors to structure their VfM commentary on arrangements under three specified reporting criteria:

- Improving economy, efficiency and effectiveness: how the Council uses information about its costs and performance to improve the way it manages and delivers its services;
- Governance: how the Council ensures that it makes informed decisions and properly manages its risks; and
- Financial sustainability: how the Council plans and manages its resources to ensure it can continue to deliver its services.

Background to this review

In our 2019/20 Audit Findings Report we noted that a number of governance issues had come to our attention during 2021. We considered that there was insufficient evidence to confirm that these matters impacted 2019/20 and as such noted that they will be dealt with as part of the 2020/21 audit.

We have continued to monitor Sandwell Metropolitan Borough Council's (the Council) ongoing governance arrangements, including member-officer relationships and have become increasingly concerned at the Council's ability to look forward and manage the challenges and opportunities that all local authorities currently face.

There is an increasing perception of poor progress in resolving service and governance issues, a lack of trust between key individuals charged with governance, of a significant amount of time being spent responding to allegations and complaints, and of reviews being reopened, such as the reopening of previous standards reviews. We feel that until these significant issues are resolved that the Council is at risk of not having adequate governance arrangements in place to ensure that it can effectively discharge its statutory responsibilities and maintain its financial sustainability.

Under the NAO Code, we are required to consider whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. The auditor is no longer required to give a binary qualified / unqualified VfM conclusion. Instead, auditors report in more detail on the Council's overall arrangements, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

The purpose of this work has been to draw conclusions on the key lines of enquiry (KLOEs) identified as part of our scope, and if necessary determine the extent to which further action is required by the Council. This review, along with other VfM related activity, has been undertaken in order for us to consider whether there are any significant weaknesses in the Council's arrangements.

As already noted, our work is undertaken in accordance with the Local Audit and Accountability Act 2014, sections 20 and 24 and may result in Statutory Recommendations or a Public Interest Report.

Overview of the scope

Determining how much work to undertake on arrangements to secure VfM is a matter of auditor judgement. The focus of our review has been on the effectiveness of the Council's governance arrangements and how they are impacted by the matters detailed above.

We have identified seventeen KLOEs to assess the Council's governance arrangements, which are set out in the table below.

Whilst the focus of this review is on governance arrangements, where appropriate we will highlight findings in relation to the two other reporting areas set out in the Code.

	SERVICES & MANAGEMENT
A1	The Children's Trust
A2	Sandwell Leisure Trust
A3	Providence Place
A4	Special Educational Needs Transport
A5	Sandwell Land and Property Company
A6	MADE festival
A7	Waste service
A8	Governance and legal support re DPH
A9	Lion Farm
A10	Introduction of new ERP system (Oracle)

Our approach

Overview of the scope (cont'd)

	MEETINGS, COMPLAINTS & RELATIONSHIPS
B1	Chief Officers
B2	Senior Leadership
B3	Complaints
B4	Officers and members relationships
B5	Standards Committee
B6	Audit Committee
B7	Financial Reporting

Our approach

Our work in relation to this review was undertaken between August and October 2021.

Stage 1 – Review of key documents

We submitted an information request for key documents and then undertook a desk top review to reach an initial conclusion on the nature of further work required.

Stage 2 – Further Analysis and Clarifications

We then undertook interviews with key stakeholders in relation to each KLOE to clarify issues identified during stage one and to undertake more detailed analysis in relation to specific KLOEs. A total of 75 stakeholder interviews have been undertaken, representing a total of 122 discussions on individual KLOEs.

Our approach is designed to assess:

- Governance arrangements in place in relation to our scope;
- Council performance against these arrangements; and
- Identify any significant weaknesses and risks.

CfGS Governance Risk and Resilience Framework

We have drawn on the Centre for Governance and Scrutiny's (CfGS) Governance Risk and Resilience Framework, published in March 2021, to structure our work in relation to KLOE B4 - officer and member relationships. This Framework includes seven characteristics of good governance that have a particular focus on behaviours.

Acknowledgements

We would like to take this opportunity to record our appreciation for the assistance provided by council officers, council members, and external stakeholders with whom we have engaged during the course of our review.

Additional VfM Code Work

As already noted, we have identified governance arrangements as an audit risk. This requires additional work to inform our auditor's judgement on VfM. The work has been undertaken in line with the requirements of the Code and associated auditor guidance. This review helps us discharge our responsibilities under the Code and will include the reporting of any significant weaknesses in arrangements and other points for improvement identified during the review. Any fee variation is subject to approval from Public Sector Audit Appointments Ltd (PSAA) which is responsible for appointing auditors and setting audit fees for relevant authorities that have chosen to opt into its national scheme of auditor appointments.



Key Findings

Note: KLOE A8 has not yet concluded and will be reported separately.

Overview

Overview

The Council has seen deteriorating senior officer and senior member relationships over a number of years. This has resulted in a breakdown in trust, respect and confidence between those holding governance roles. This has limited the Council's ability to look forward and manage the challenges and opportunities it faces. This breakdown in relationships between senior officers and senior members is central to the governance issues identified by this review.

There has been poor progress in resolving service and governance issues, with a significant amount of time being spent responding to internal allegations and complaints. There is evidence of reviews and issues being reopened. This has impacted on the Council's ability to focus on service improvement.

The Council has been insular and siloed. Its focus has been on responding to external service-based challenges as well as managing the fallout from previous decisions or investigations. Senior officers and senior members have historically been unable to make the changes required to move away from this organisational culture and focus.

We note that since the appointment of the interim Chief Executive in August 2021, working with the then new Leader of the Council, that many of these matters are being resolved. The Council's senior leadership team, the majority of whom are recent external appointments, recognise the challenges and issues set out in this report and are supporting the interim Chief Executive on an improvement journey.

These 'green shoots' are positive and we have tried to reflect the improvements in this report. Without these changes we would have had concerns with regard to the Council's ability to manage and govern itself, and intervention by the Government may have been necessary.

Inevitably these changes are not yet embedded, and the Council will need to manage the transition to a permanent Chief Executive well, alongside maintaining continuity and stability of the wider leadership team, so that the new Chief Executive, working with the leadership team, continues to support the service and cultural changes that are being put in place and that momentum is maintained.

Due to the issues identified we have determined that it is appropriate to raise the following statutory recommendations under Section 24 of the Local Audit and Accountability Act:

Statutory recommendations

We have made a number of statutory and key recommendations which are set out page 12. Other improvement recommendations are made throughout the detailed findings of this report and are summarised in the Appendix.

Our statutory recommendations are:

- **It is imperative that senior officers and senior members take effective corporate grip of long-standing service issues highlighted by the findings in this report (including SLT, SCT, the waste service, the ERP system, and Lion Farm) and prioritise corporate effort in managing the issues identified, and embed the solutions into the Council.**
- **The Council must ensure that the learning in relation to commercial decisions, procurement and contract management highlighted in this report are understood through the organisation.**
- **Senior leadership, both officers and members, must demonstrate that they can continue to work together effectively, that they operate in line with the Council's values, codes, policies and procedures, and that there is zero tolerance to inappropriate behaviours. This includes changing the organisational culture in relation to complaints so that they restore balance and proportionality.**

Key findings

KEY FINDINGS

Corporate grip

Understandably COVID-19 has significantly impacted the leadership and organisational focus of all local authorities over the past eighteen months. Even taking account of this impact we consider that until recently the Council has failed to take an effective corporate grip on key issues facing the Council.

We note that it is hindered in taking a corporate grip by the lack of a clear performance management framework and agreed key corporate indicators, although we note recent progress has been made on this. This has impacted on the ability of the Leadership Team and Cabinet to have a single line of sight and single version of the truth. This has contributed to a culture of silo working, resulting in a lack of corporate ownership and accountability. This has, in turn, resulted in a lack of ownership and grip on key challenges and issues and an absence of intervention and decision making.

In failing to take ownership and seeking resolution, lessons have not been learned. This has resulted in a number of instances whereby the Council has repeated actions leading to similar outcomes. For example, the Wragge report continues to be an area of mistrust between members and between officers and members.

Procurement and commercial decision making

Our review has identified repeated instances where commercial decisions or procurement decisions have contributed to a number of key legacy challenges facing the Council, which have not been resolved.

These included legacy property related decisions such as those relating to Lion Farm, Providence Place and Sandwell Land and Property Company where there was either a lack of appropriate expertise and advice or failure to consider all appropriate options.

There are also more recent examples of poor procurement decisions relating to waste management and recycling, the Council's enterprise and resource planning (ERP) system and SEND Transport. In each case the procurements have either been poorly specified, did not provide adequate timescales, or those responsible for decision making have not been fully aware of the context and detail.

These property transactions and procurement decisions have created future service or delivery challenges. In some cases, they have impacted negatively on the Council's reputation. In each instance, until recently, the decisions have not had effective corporate ownership to allow appropriate management or resolution.

Contract management

Our review identified a number of key contracts having been impacted by either poor specification during procurement, a lack of clear contract management responsibility, or poorly defined approaches to contract management. These related to Sandwell Leisure Trust (SLT), Serco, Inoapps and Sandwell Children's Trust (SCT) and we note that the interim Chief Executive has recently commenced more effective engagement with these key suppliers and partners.

At varying times relationships between the Council and these key partners have been fraught with the lack of senior leadership grip significantly contributing to a deterioration of these relationships. A lack of clear corporate ownership has meant that issues with these contracts have not been resolved in a timely manner. This is particularly the case for SLT, Serco and Inoapps.

We also note that some key contracts such as SLT and SCT, have not previously had key performance indicators reviewed since the contracts were let, whilst others have not had appropriate focus on service quality (such as SEND Transport) or outcomes (such as SLT and Serco).

OTHER THEMES

Lack of longer-term planning

The insularity and short-term focus previously noted has meant that the Council has not had the necessary time and space to consider the long-term. Recent changes to the Council's leadership have seen a re-emphasis on longer-term planning, with time invested in a refresh of the Corporate Plan, which has now been approved by full Council.

However, as mentioned earlier, the lack of a corporate performance framework has meant that the Council has not received management information on key corporate indicators. We also note that the Leadership Team had not been receiving regular monthly budget monitoring reports and have not been effectively engaged in the budget setting process or medium-term financial planning. We understand that processes are being put in place to resolve these issues.

Key findings (cont'd)

Officer empowerment and decision making

The scheme of delegation and the involvement of senior members in key decision making has resulted in a lack of empowerment of officers in decision making and the agility of the Council to make, where necessary, prompt decisions. An example of which is the delay to taking a decision in relation to the rescheduled MADE Festival, which had been due to take place in August 2021. We consider that this reflects the lack of trust between senior members and senior officers at the time.

Capacity, experience and skills

The prevalence of interim and acting up arrangements in senior officer roles has in some places not seen effective back-fill arrangements put in place, resulting in capacity challenges for some key officers and teams such as Finance. These temporary arrangements have contributed to confusion over some key roles and responsibilities, such as those in relation to SLT and Oracle Fusion, impacting on effective contract management.

More generally, the lack of corporate ownership, again already discussed, has left some officers exposed in managing key service challenges and relationships without appropriate senior officer support and direction.

The impact of changes to senior officers and members

The Council has been through a period of significant change to its leadership, both in terms of senior officers and senior members. Following the local elections in May 2021 a new Leader was elected, who appointed a new Cabinet with effect from June 2021. Many of these Cabinet members had not previously held a Cabinet role, and some were fairly new to the role of councillor. There was a further change to the Council Leader in late November 2021, as we were finalising this report.

An interim Chief Executive has been in role since August 2021 and there has been significant changes to chief officers over the past year, with vacancies being filled by either external interims, or Council officers in acting up roles. These changes were driven in large part by a senior management review which concluded in October 2020, although we note that some chief officer departures were caused by unrelated circumstances.

Other than the Chief Executive there are currently ten chief officer roles, of these four are recent external appointments, and two other external appointments have been made with these officers starting in November 2021. Three officers remain from the previous leadership team, two in the same role and one appointed to one of the new roles created by the review.

Two roles remain vacant: the Chief Executive and the Deputy Chief Executive, with the recruitment of the former recently initiated. The Council has decided to not recruit the Deputy Chief Executive and to review the need for this role. In addition there is a Director of HR, which is not a permanent role and is being held by an external interim.

The impact of this recent period of change has been instability and uncertainty for the organisation. Whilst external interims are recognised positively for the experience they bring from working with other councils and having a “fresh pair of eyes” on some of the service challenges being faced, the wider organisation considers the use of interims as maintaining a holding pattern before permanent chief officers join. The Council will reach the position of having all roles filled by a permanent officers during November 2021, other than the two vacancies noted above.

The changes to key senior roles have led to a loss of corporate knowledge and history among senior officers and senior members. This has contributed to historic issues resurfacing and senior members making the initial decision to progress a major project or initiative not being the same group of members taking further decisions during the project's implementation, such as the SEND Transport procurement.

The current position

The themes set out in this section illustrate how the Council's recent behaviours and legacy issues impact on good governance and decision making.

The recent widespread changes at chief officer level and the election a new Leader and appointment of a new Cabinet, provide a significant opportunity for the Council to move away from this position. Indeed, there is a consensus that senior officers and members are in a much stronger, more effective and constructive position than in the recent past. There is also a clear desire to make the improvements required, and a greater understanding of roles and responsibilities.

The current Leader and interim Chief Executive have a positive working relationship and between them have introduced changes to manage some of the legacy issues noted above. These include the Leadership Team attending informal Cabinet, the introduction of “star chambers” as part of the budget setting process, enhancing the training programme for members, and a review of the Council's constitution including the scheme of delegation. Other changes are planned.

Key findings (cont'd)

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The current position (cont'd)

Many of these changes took place during the course of this review so it is too soon to judge if they are yet embedded. Key stakeholders we met during this review recognised that the Council is at the start of a necessary improvement journey.

Failure to maintain and embed current and planned changes will have a significant impact on the Council being able to realise its strategic ambitions and provide effective governance.

Whilst we recognise that recent changes have been positive, we remain concerned about the lack of trust across the wider organisation and continuing poor behaviours, for example, the leaking of the review into the Wragge report to local media in October 2021. It will take time for the wider organisation to regain trust in the senior leadership, see the stability required, and believe in the changes that have begun.

There was a change to the Council's Leader as we were finalising this report. This has highlighted the need for stability and continuity. The new Leader must use the platform for improvement which has been created to ensure a strong and positive working relationship both with the current Interim Chief Executive and the subsequent permanent Chief Executive.

The direction of travel is a necessary and positive one, but there is no quick fix for the challenges facing the Council. For these "green shoots" to deliver the widespread transformation and changes required, the Council's leadership needs to be relentless in its focus in delivering and embedding sustainable change, and use its past history as a reference point when focusing on improvement.

Recommendations and detailed findings

We now set out our statutory and key recommendations, followed by the detailed findings in relation to each individual KLOE.

We consider that these matters represent significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks. We have also identified several improvement recommendations, which are summarised at Appendix A. Further details on the types of recommendations we make are set out at Appendix B.



Statutory and key recommendations

Statutory and key recommendations

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Improvement recommendations are made throughout this report and these are summarised in the Appendix. Our statutory and key recommendations are summarised below.

Recommendation	
Statutory recommendations	
1.	It is imperative that senior officers and senior members take effective corporate grip of long-standing service issues highlighted by the findings in this report: (including SLT, SCT, the waste service, the ERP system, and Lion Farm) and prioritise corporate effort in managing the issues identified, and embed the solutions into the Council.
2.	The Council must ensure that the learning in relation to commercial decisions, procurement and contract management highlighted in this report are understood through the organisation.
3.	Senior leadership, both officers and members, must demonstrate that they can continue to work together effectively, that they operate in line with the Council's values, codes, policies and procedures, and that there is zero tolerance to inappropriate behaviours. This includes changing the organisational culture in relation to complaints so that they restore balance and proportionality.
Key recommendations	
4.	The Council's leadership needs be relentless in its focus in delivering and embedding sustainable change, and use its past history as a reference point when focusing on improvement.
5.	Critical to embedding the transformation and change required will be the appointment of the right permanent Chief Executive. The Council must ensure an effective recruitment process, including attracting a pool of appropriate candidates.
6.	The Council should ensure that a corporate performance framework is agreed so that the implementation of the Corporate Plan can be effectively monitored, and there is collective corporate responsibility rather than silo working.
7.	Members in key statutory roles, in particular in relation to Cabinet, scrutiny, standards and audit, need to be provided with effective induction and ongoing development, training and support. The member development programme should be reviewed to ensure corporate governance forms part of the training for members with governance roles.
8.	The Council should develop and agree an action plan in relation to the statutory, key and improvement recommendations included in this report, ensuring that they are specific, measurable, attainable, realistic and time-bound.

Statutory and key recommendations

Management responses to each statutory and key recommendation are summarised below.

#	Management responses
	Statutory recommendations
1.	
2.	
3.	
	Key recommendations
4.	
5.	
6.	
7.	
8.	

Detailed Findings

KLOE B4: Officer and member relationships

The purpose of this KLOE was to consider whether relationships between senior officers and senior members are appropriate in supporting good governance.

Introduction

We have set out our findings in relation to this KLOE before any of the other KLOEs due to the overarching importance of senior officer and senior member relationships for the discharging of effective governance and decision making.

We have drawn on the Centre for Governance and Scrutiny's (CfGS) Governance Risk and Resilience Framework, published in March 2021. The framework is designed to promote good governance practice and:

- recognises good governance is everyone's responsibility, and whatever their role, officers and councillors are likely to carry out work that intersects with the Council's governance framework every day;
- considers roles and responsibilities including those of the Council's statutory officers and political leadership
- includes a focus on behaviours;
- sets out seven characteristics for considering governance risk and management, designed to reflect and supplement the broader CIPFA/SOLACE: "Delivering good governance in local government" framework (2016).

We have structured our findings by the seven characteristics, which are:

- The extent of recognition of individual and collective responsibility for good governance;
- Awareness of political dynamics;
- How the council looks to the future to set its decision-making priorities;
- Officer and councillor roles;
- How the Council's real situation compares to its sense of itself;
- Quality of local / external relationships; and
- The state of member oversight through scrutiny and audit.

Twenty-five meetings were held with individual senior officers and senior members of the Council in relation to this KLOE, and our findings are based on our judgement of these key stakeholders' observations.

The extent of recognition of individual and collective responsibility for good governance

The Council is coming out of a period where there has been a breakdown in the trust, confidence and respect between senior officers and senior members, which has been characterised by:

- a perceived blame culture contributing to the siloed approach to directorates, with senior officers protecting their areas of responsibility and a lack of peer challenge within the Leadership Team and a risk of not giving bad news to members.
- a lack of collective responsibility and accountability in the absence of a corporate focus on key performance indicators and risks, weak corporate involvement in strategic financial planning, budget monitoring, and transparency.
- a lack of clarity on roles and responsibilities between officers and members.
- an inconsistent approach to the Council's scheme of delegation, including relatively low spending thresholds, and an overly bureaucratic approach to decision making, leading to unnecessary delays.

The characteristics set out above are a significant risk to good governance. However, we note that there have been recent improvements. We discuss these below.

The recent widespread changes at chief officer level and the election of a new Leader and appointment of a new Cabinet, provide a significant opportunity for the Council to move away from this position. Indeed, there is consensus that senior officers and members are in a much stronger, more effective and constructive position than in the recent past. There is a clear desire to make the improvements required, and greater understanding of roles and responsibilities.

The current officer and member leadership team have introduced changes to manage the legacy issues noted above, including the Leadership Team attending informal Cabinet, the introduction of "star chambers" as part of the budget setting process, enhancing the training programme for members, and a review of the Council's constitution including the scheme of delegation. All of these are positive actions.

Embedding the changes that have been made and that are planned will be critical if the Council is to realise its strategic ambition and provide effective governance. Whilst early indications are positive, the test of whether these changes become effectively embedded will be how the council's senior leadership manage legacy issues should they surface, and that they continue the work of the interim Chief Executive through the appointment of a high quality permanent Chief Executive.

An enhancement of the induction programme to new members of Cabinet, including on local government finance and their governance roles is recommended.

KLOE B4: Officer and member relationships (cont'd)

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Awareness of political dynamics

The Council has recently updated its Code of Member Conduct, incorporating updates to the Local Government Association (LGA) Model Code of Conduct. A member development programme is ongoing in relation to the Code and related areas such as gifts and hospitality, and arrangements for dealing with complaints under the Code. The Council has also commissioned the LGA to provide a mentoring programme for senior members.

There was consensus from our interviews that senior officers fully understood the need to act with neutrality when operating in a political environment. However, the recent history of the Council means that some senior officers remain impacted by the blame culture which was perceived to be in place. This, for example, has manifested itself in senior officers taking personally criticism of their service area, impacting on behaviours in meetings.

Whilst having in place effective codes, policies and procedures is good practice, it will be behaviours that determine whether the Council is able to successfully move away from its recent history. However, as already noted, the senior officers and members of the Council believe that there has been significant progress made in relation to how they operate and work together.

These changes in behaviour are recent and will need to be sustained to become embedded, so that the wider organisation - and external stakeholders - see and have confidence in this change.

The Council should consider how it provides appropriate support to those Chief Officers who were in role prior to the recent changes to senior officers, Leader and Cabinet. The Council should also ensure that corporate governance training is provided to members of the Cabinet and other members in governance related roles.

How the council looks to the future to set its decision-making priorities

There was consensus that the Council has not provided appropriate time and space to think clearly about the long-term, to horizon scan and undertake the strategic thinking required.

It was recognised that this was because the Council has spent recent years “fire-fighting” both in terms of managing day-to-day operational issues, as well as having an insular focus responding to internal allegations and complaints. There is also evidence of reviews and issues being reopened.

A Corporate Plan (Vision 2030) has been in place but there has been a lack of clarity about how the Plan’s ambitions, priorities and outcomes should be delivered. This has been recognised, and the Council has recently invested significant leadership time in a refresh of the Corporate Plan, including external consultation. More work needs to be done including the establishment of Directorate Plans and Service Plans which will set out how corporate priorities will be delivered, including KPIs. The Leader has recently restructured Cabinet portfolios to better reflect the updated Corporate Plan.

The Council should ensure that corporate KPIs are agreed so that the implementation of the Corporate Plan can be effectively monitored.

The forward plan of the Cabinet should be shared with the Audit Committee and Scrutiny Board to help structure their agenda planning.

There has been an ineffective approach to budget monitoring and budget setting with:

- monthly budget reports not being reported to the Cabinet or the Leadership Team, and
- Directors and Portfolio Holders not being effectively engaged in budget setting discussions.

This has been recognised and star chambers for Cabinet members and chief officers have been introduced to support the budget setting process. The Director of Finance has also introduced regular Cabinet briefings and monthly budget reporting to Cabinet.

The Leadership Team should agree key medium-term financial objectives and principles. There should be effective ownership of the principles that underpin the budget setting process, for example the Council’s approach to reserves, contingency and Minimum Revenue Provision (MRP).

KLOE B4: Officer and member relationships (cont'd)

Officer and councillor roles

As already noted there has been a breakdown in trust and mutual respect between senior officers and members in recent years, which is recognised by those in senior officer and senior member roles. However, in general, those in these roles felt that working relationships, including trust and respect, had improved in recent months and were currently no cause for concern. Nonetheless it was also recognised that a cultural shift needs to become firmly embedded, and that stability and continuity is required from those in these roles.

The Council has agreed the following values to define how people do things and are reflected in the way people behave:

- Trust – show respect, make personal impact, being open and honest.
- Unity – focusing on customers, working with a team, communicating effectively.
- Progress – being open to change, focusing on performance, getting team results.

Senior officers and senior members must lead by example to ensure that the “tone from the top” consistently reflects these values and behaviours. This is critical in ensuring that the wider organisation recognises that changes have been made and that all people are confident in adopting these values and behaviours. This should build on recently introduced staff briefings to include a programme of staff engagement including “pulse” checks to benchmark and monitor progress on the organisation’s wellbeing.

As with all councils, it was recognised that members come from different backgrounds, bringing different skills and capabilities. A member development programme is in place, with the Council being supported by the Local Government Association (LGA) in its update and delivery, and member personal development plans have been introduced, which is good practice.

The Council should ensure that the review of the member development programme is appropriate. In particular, thought should be given to how members with special responsibility roles are developed and supported. This should include succession planning for these roles.

How the council’s real situation compares to its sense of self

It was felt that Members have a good understanding of their communities’ needs and what outcomes are required to meet these needs, particularly in relation to their wards. However, it was recognised – as already mentioned – that the Council needs to ensure that these needs and outcomes are reflected in corporate priorities and outcomes and delivery is effectively monitored. Similarly, while improvements are being made in relation to public consultation on the Corporate Plan there remains no visible consultation on the Council’s budget setting priorities.

A key area of weakness is the lack of a performance management framework to manage corporate progress against key performance indicators. More also needs to be done to change the siloed approach to managing service delivery. We note that there has not been a structured or effective “early warning” system in place for the Council’s Leadership Team to identify key risks and issues.

This has been recognised and arrangements are being put in place so that the Leadership Team reviews strategic risks, budget monitoring and other performance data. **However, further work is required to establish a formal performance management framework and agree a set of key corporate indicators for the Leadership Team to collectively manage, receive appropriate management information to monitor progress, and set out clear lines of accountability, responsibility, and delegated authority.**

The Council has not had a consistent approach to financial benchmarking and so has had an absence of unit costs and financial trend data. The new Director of Finance has recently introduced financial benchmarking, which is good practice. **This will need to be sustained to create a culture of curiosity in services in how nearest statistical neighbours are performing, to support savings identification and to drive improvements.**

The recent restructuring of Council departments has resulted in a lack of clarity as to which department some services sit in, with the architects of the restructuring no longer working for the Council. Finance and services are currently working through such service allocations, but until this work is completed, financial reporting will not be fully aligned to departmental structures.

More generally there is good evidence that many senior officers are engaged in their respective professional bodies, which includes sharing learning, and that the Council is corporately engaged with the LGA.

KLOE B4: Officer and member relationships (cont'd)

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Quality of local / external relationships

The quality of local / external relationships is mixed. The Council works with a variety of local public, private and third sector bodies, and these relationships vary by service. It is recognised that the pandemic has enhanced relationships with some local public sector organisations, such as the NHS and police, and with local voluntary and community organisations, and that the Council should ensure that these gains are maintained.

However, the Council has had an insularity in recent years, which in particular has impacted its engagement with businesses, and sub-regional bodies such as the LEP and the West Midlands Combined Authority. This is recognised by the current political leadership of the Council and there are signs of a move to more active participation in key sub-regional bodies. Rebuilding these key strategic relationships will take time for the Council to realise any benefits and “punch at its weight” as the 34th largest council in England. **It will be important that this more outward looking approach is sustained.**

The insularity of the Council has also meant that its communications to external organisations has been weak, for example resulting in a lack of external clarity on the Council’s key strategic priorities. This is also reflected in a passive approach to communicating to local residents and businesses. This too has been recognised and the Council is investing in its central communications team and aims to be more proactive in managing the narrative on the Council, including greater communication of positive news stories.

When investing in the communications team, the Council should also use this as an opportunity to ensure more effective internal communications, including with back-bench members.

The Council has a number of key external partners for the delivery of services such as waste and recycling, children’s social care, and leisure. These relationships are covered in separate KLOEs.

The state of member oversight through scrutiny and audit

The role that scrutiny and audit should play in holding a council’s decision-makers to account makes these roles fundamentally important to the successful functioning of local democracy and good governance. Effective scrutiny helps secure the efficient delivery of public services and can drive improvements within the Council. Conversely, poor scrutiny can be indicative of wider governance, leadership and service failure.

The effectiveness of the Scrutiny Boards and the Audit and Risk Assurance Committee were viewed as needing improvement by those interviewed and, in particular, by senior officers.

The Labour Party has been in control of the Council since 1979 and for many years had not had an official opposition. The position changed at the May 2021 local elections when the Conservative Party gained nine seats (having previously held no seats). From a governance perspective this was welcomed by both the senior officers and senior members who we met during the course of our review.

However, whilst areas of effective activity were recognised, the long period of having no opposition has meant that the audit and scrutiny functions have not always effectively held key decision makers to account. This was a widely held view amongst officers we interviewed.

There is a need to ensure that members of scrutiny and audit committees are aware of their governance roles including how to interrogate reports and ask the right questions. This is recognised by the Council who are working with the LGA to develop and provide a member training programme for members with scrutiny and audit roles.

KLOE A1: Sandwell Children's Trust

The purpose of this KLOE was to consider actions undertaken by the Council to secure improvement in children's social care outcomes.

Background

Following an inadequate / requires improvement Ofsted inspection in June 2015, at its meeting on 19 October 2016, Cabinet was advised of the Government's Statutory Direction (under Section 479A of the Education Act 1996) to set up a new arrangement in the form of a children's trust to deliver children's social care services. As a result, Sandwell Children's Trust (SCT) started operating on 1 April 2018. Any alternative to the current arrangement must be agreed by the Secretary of State for Education.

A 10-year service delivery contract (SDC) between the Council and SCT commenced 1 April 2018, setting out the requirements for the provision of children's social care. The SDC obligation was to reach an Ofsted judgement of 'Requires Improvement' by 2020 and to secure an Ofsted judgement of 'Good' by 2022. However, due to the impact of COVID-19 and the cessation of full inspections by Ofsted in 2020, a full Ofsted inspection may not take place in 2021 but is more likely to be in early 2022.

The Ofsted Inspection carried out in November 2017 and reported in January 2018 noted that most of the recommendations from the Ofsted 2015 inspection had not been fully met and some services have declined in effectiveness.

Our Audit Findings Report for 2019/20 noted that we had completed a risk-based review of the Council's value for money arrangements and concluded that the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources except for its arrangements around children's services which have been rated as 'inadequate' by Ofsted.

We concluded that there were weaknesses in the Council's arrangements for delivering services for children in need of help and protection, children looked after and care leavers. These matters were considered evidence of weaknesses in proper arrangements for understanding and using appropriate and reliable financial and performance information to support informed decision making and performance management. This led to a qualified 'except for' value for money conclusion for 2019/20.

KEY FINDINGS

Governance arrangements

There is a robust governance framework in place for the Council and other stakeholders to monitor the performance of SCT.

The contract requires that the Director of Children's Services, together with Council senior officers from finance and legal services, and the Chief Executive of the Trust meet on at least a monthly basis to consider performance and operational matters at an Operational Partnership Board (OPB). The Council's Lead Member for Children's Services and the Chief Executive meet quarterly with the Chair of the Trust Board and the Chief Executive of the Trust, at a Strategic Partnership Board (SPB).

The contract also requires the Trust to provide a comprehensive annual review for consideration by the OPB and the SPB and then by the Cabinet. Progress against the performance indicators for the period 1 April to 31 March is set out in an Annual Review, together with information about financial, workforce, and other performance areas.

On behalf of the Council, the Trust has developed an Improvement Plan in response to the Ofsted inspection findings published in January 2018. This plan was presented to Cabinet in September 2018 and covered a three-year period. The Trust has undertaken a refresh of the Improvement Plan. The delivery of the improvement plan is overseen by an Improvement Board, which is independently chaired, with representatives from the Council, Trust and Department for Education attending.

DfE appoint the Chair of the SCT Board, carry out six-monthly monitoring visits, are invited to attend OPB and meet regularly with the Chair and CEO of the Trust. They also attend the Improvement Board and have provided approximately £7m of improvement funding to the Trust over the past three years, to address specific improvement areas.

The Trust is required to report to the Council's Scrutiny Board twice each year as part of the obligations set out in the SDC. At the meeting of 23 August 2021, reports in respect of the annual review, the improvement plan, the pandemic response and the adoption service were presented to the Children's Services and Education Scrutiny Board. The Council's Audit and Risk Assurance Committee and Cabinet also received reports on the Trust, and the Cabinet approves the Trust's business plan.

KLOE A1: Sandwell Children's Trust (cont'd)

The purpose of this KLOE was to consider actions undertaken by the Council to secure improvement in children's social care outcomes.

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Governance arrangements (cont'd)

In addition to the above, SCT activity also features in wider children's services governance arrangements, the Children's Safeguarding Partnership and the Children and Young People Commissioning Partnership.

In summary, there are comprehensive governance arrangements in place relating to SCT. Given the complexity of these governance arrangements we recommend a review to ensure that officers and members with roles on the various governance bodies are clear on their responsibilities, to avoid duplication and ensure effective communication between those holding governance roles and that there is a collective understanding of the performance of SCT and how risks and issues are being managed.

Contract management

The SDC includes a set of 15 Key Performance Indicators (KPIs) which are monitored by the Council. We have been advised that when the SDC initially went live that this KPIs were not agreed, rather they were agreed during the first quarter of the Trust's operation. They have not been revised subsequently.

An officer with formal responsibility for managing the SDC was not appointed until Spring 2021, previously this role was spread across a number of different officers.

As part of contract management arrangements there is provision to negotiate the Council's annual funding with SCT (the contract sum) which feeds into Council's annual budget setting process.

The SDC sets out the steps and timing of the negotiation of the contract sum, which includes reviews by OPB, SPB, and the Council's Cabinet and Scrutiny Board.

The following contract sums have been agreed:

- 2018/19: £58,229,695
- 2019/20: £64,043,000
- 2020/21: £65,828,000
- 2021/22: £68,028,000

A request for additional £500,000 has been made by SCT during this financial year, which the Cabinet has approved and is being funded via a COVID-19 reserve. This will form a contract variation to the 2021/22 contract sum.

The Council has sought to reduce the contract sum since the creation of the Trust, seeking improvement and transformation from SCT. This has not happened and has negatively impacted on relationships during some annual contract sum negotiations. This was particularly the case during 2020 when the Council and SCT were unable to agree the contract sum. As a result, DfE became involved and the then Children's Minister supported mediation. DfE funded specialist financial support to provide assurances to the Council that SCT's contract sum request was reasonable. This led to the Council approving the contract sum. Such an impasse has not happened subsequently.

SCT financial performance

SCT has a track record of annual overspends and not achieving planned savings targets. The overspend in 2020/21 was approximately £2m, however one-off government COVID-19 funding resulted in the final outturn being an underspend. The Council has worked with SCT to re-profile the Trust's underlying overspend over the three years of the Council's current Medium-Term Financial Plan (MTFP).

Children's social care has significant demand pressures nationally, which have been exacerbated by COVID-19, and SCT has seen increased costs such as for placements for looked after children.

SCT did not deliver £250k of their planned savings target in 2020/21. SCT has a savings target of £1.8m in 2021/22. We have been advised that £1.3m of the planned £1.8m savings are on target to be achieved, with plans in place to deliver the remaining £500k. The savings primarily relate to staffing and placement costs, with the latter sensitive to increased demand.

SCT has Service Level Agreements (SLAs) to buy back services from the Council for specified back-office services. These SLAs total £2.1m for 2021/22 and represent an income to the Council.

KLOE A1: Sandwell Children's Trust

The purpose of this KLOE was to consider actions undertaken by the Council to secure improvement in children's social care outcomes.

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Council management of financial risks

The Council's main source of monitoring the financial performance of SCT is via SCT reports from monthly meetings of OPB and quarterly meetings of SPB. SCT provides updates on forecast overspends and mitigations.

Given the financial pressures on SCT, the Council has set aside the following reserves and contingencies:

- High-cost placements reserve of £1m (£500k for 2022/23 and £500k for 2023/24) with SCT having to submit evidence should they claim for an additional contract sum.
- Earmarked COVID-19 reserve of £1.9m for 2020/21 which SCT claims against on a quarterly basis by demonstrating need. The additional £500k contract sum already mentioned was funded via this reserve.
- General contingency of £1.6m for 2021/22

Leadership and relationships

The CEO of SCT and the Council's Director of Children's Services (DCS) are key roles and their working relationship is critical to the effectiveness of SCT delivery. There had been stability in both roles until this year, with the Council's DCS leaving in August and a change to the SCT CEO in March. Since the DCS left the Council in August, an officer is acting up in the role of DCS, supported by an external interim. A new, permanent DCS is due to start in November 2021. The working relationship of the CEO of SCT and the Council's new permanent DCS will be critical going forward

This is particularly the case as the Council did not transfer all children's services to SCT, retaining direct provision of services such as education, SEND transport and children's centres. The Council is also responsible for other services such as housing and has a key role in supporting SCT in relation to early intervention and prevention, and in reducing demand for children's social care. This includes how the Council and SCT work with children and families and other local agencies such as the police. We note that the Children and Young People Strategic Partnership has not yet agreed an early help plan and associated performance framework. The role of the DCS will be critical in collaborating with partner organisations to reach agreement on this plan.

SCT workforce

There have been a number of changes to SCT senior management including the Finance Director role and a restructure which reduced the number of Directors from three to two. However, the key workforce issue for SCT relates to operational roles with significant recruitment and retention challenges with social workers. SCT has invested in a recruitment campaign called 12 reasons to work in Sandwell but this has not been effective in resolving recruitment and retention issues, which we note is an issue for the West Midlands and children's social care nationally. The workforce are also initiative weary, which reflects the actions resulting from repeated Ofsted reviews.

Nonetheless, the use of agency staff to cover vacant roles, and staff sickness levels, pose a significant risk to the continuity and quality of service delivery, along with increasing costs for the Trust, which in turn is likely to impact on Council budgets.

Risk management

The Council has SCT on its strategic risk register, and updates on this are provided to the Audit and Risk Assurance Committee. SCT is also included in the Children's Services departmental risk register.

SCT have adopted a risk management framework and maintain a risk register which is reviewed quarterly and is reported to the Trust's Audit Committee. SCT management report to OPB on key risks facing the trust such as those relating to financial, performance and quality risks. SCT management discuss key risks with Council management outside the monthly OPB meetings. However, SCT does not share its full risk register with the Council.

KLOE A1: Sandwell Children's Trust (cont'd)

The purpose of this KLOE was to consider actions undertaken by the Council to secure improvement in children's social care outcomes.

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Outcomes for children

Ofsted inspections were suspended during COVID-19. The most recent focused visit was undertaken by Ofsted in March 2021 which was reported in May 2021, which noted:

- Both the Council and SCT have risen to the challenge of the COVID-19 pandemic.
- The impact of the third lockdown and rising COVID-19 rates have had a significant impact on staffing, with increased staff turnover and sickness.
- The Trust continues to have serious weaknesses in some areas identified in previous inspections. Decisions that help to secure the living arrangements of children on a long-term basis are not timely, and placements are not always well matched. There is a lack of effective oversight and challenge to poor practice from team managers and independent reviewing officers. Support services to meet the mental health needs of care leavers are still not routinely in place.
- In some practice areas, not all managers have fully understood the full breadth of the issues, and this has impacted on the progress and pace of improvement. Many of the identified areas of weakness are longstanding and pre-date the pandemic. An understanding of practice deficits has not led to timely improvements and solutions for many children. The leadership team has plans in place to drive the required changes but has been slow to implement these successfully, and there is little evidence of impact.

During our review, in August 2021, Ofsted reviewed the fostering service which was rated Good. This was the first Good rating received by SCT and indicates positive progress is being made in relation to this service area. It also provides SCT with an opportunity of moving the narrative on its improvement trajectory, for example in relation to recruitment and retention issues.

Conclusion and recommendations

Whilst the recent Ofsted rating of fostering services demonstrates some positive progress, it is clear from the March 2021 Ofsted focus visit that some areas of significant improvement are still required. Staff turnover and quality of practice remain a risk to safeguarding children and the quality of their outcomes.

It is positive that Ofsted have reported the success of SCT and the Council's response to COVID-19, and we note that demand led pressures and recruitment and retention challenges are not unique to Sandwell.

However, during its time of operation SCT has struggled to move away from day-to-day firefighting and has not been able to invest in early intervention and prevention, or improve and transform to the extent required by the Council. Looked after children numbers and social worker caseloads, whilst both are reducing, remain high.

The statutory responsibility for children's social care sits with the Council via the role of the DCS. As such there is joint accountability for the successful delivery of services and outcomes for children. Relationships between the Council and SCT have on occasion been an "us and them" culture with a lack of collaborative approach and joint accountability.

The Council's senior leadership – both officer and member – should prioritise corporate effort and develop a clear strategy for working with SCT to ensure it remains on its improvement trajectory. This should include:

- **working with SCT to progress a multi-agency early intervention and prevention strategy.**
- **ensuring SCT has an appropriately resourced and skilled placements team in place to effectively manage the care market.**
- **conducting a review of KPIs to ensure they are effective for current circumstances.**
- **undertaking financial benchmarking in relation to children's social care, and take a realistic and pragmatic view on the level of funding required.**
- **reviewing the governance roles of officers and members in relation to SCT so that they are clear on their responsibilities, avoid duplication, ensure effective communication and that there is a collective understanding of the performance of SCT and how risks and issues are being managed.**

KLOE A2: Sandwell Leisure Trust

The purpose of this KLOE was to consider the Council's management of the contract with SLT and to understand the impact of recent industrial action.

Background

Sandwell Leisure Trust (SLT) was formed by the Council in 2004 due to underperformance of the in-house leisure service. SLT was contracted via a Management and Funding Agreement (MFA) for a 30-year period: 2004 to 2034, and SLT is currently in the 18th contract year (1 April 2021 – 30 March 2022). SLT manage all Council leisure facilities apart from one site, for which the Council has contracted with Places Leisure.

Funding for SLT was agreed for the first five years of the contract, which was extended in 2009 and 2011. Thereafter the annual management fee paid to SLT has been based on the approval of a rolling three-year business plan. The Council remains responsible for maintaining and investing in the leisure assets managed by SLT.

When SLT was created Council staff transferred to the Trust under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). A deed of variation was agreed in 2013 which permitted SLT to implement a separate single status agreement and move their staff from council terms and conditions of employment.

A deed of variation was agreed in 2016 that in the event of a new leisure facility being built in Smethwick to replace existing Smethwick facilities, SLT would be the operator. To that end SLT have been working with the Council as the assumed operator of the forthcoming Sandwell Aquatics Centre, which is being constructed as a venue for the 2022 Commonwealth Games.

OUR FINDINGS

Contract management

The MFA requires SLT to provide quarterly monitoring reports to the Council which is followed by a contract review meeting. The MFA sets out the KPIs for monitoring the contract. There have been attempts by the Council to update the KPIs during the delivery of the contract, for example to include outcomes such as contribution to the health outcomes in the borough, which has largely been unsuccessful. The key performance indicators are based on throughputs, such as the total number of visits, with a target to increase visits by 1% each year of the contract.

The contract with SLT stipulates an authorised officer from the Council should manage the contract and make decisions relating to the delivery of the contract. The long-standing officer in this role was seconded in January 2018 and a more junior officer was seconded to the authorised officer role. This has led to confusion within the Council and with SLT as to who is in the authorised officer role, due to more senior officers supporting the officer in the authorised role. This in turn has impacted on the agility of decision making by the Council and its effective working relationship with SLT.

SLT Business Plan

The MFA sets out that SLT should have at any one time a business plan agreed for a three-year period, which the Council agrees on a rolling annual basis. The business plan for 2021/22 has been agreed, but the Council has not yet agreed the business plan covering 2022/23 to 2023/24, which should have been approved by end of March 2021.

If the Council and SLT fail to agree a business plan the contract resolution approach is instigated. The Council is currently seeking external legal advice to clarify the resolution process. If resolution can't be reached either party can terminate the contract.

The current impasse has resulted from the Council wanting, over a number of years, to significantly reduce the management fee for the contract, in the context of ongoing funding reductions to the Council, and the Trust demonstrating progress towards achieving financial sustainability and less reliance on Council funding. The Council and SLT have not been able to agree the level of funding for 2022/23 and 2023/24.

As part of this process the Council has sought various clarifications on the draft business plan submitted by SLT and has engaged, via Sport England, a consultant to review the Trust's financial position. A feature of recent business plan discussions has been the Council seeking details and clarifications from SLT relating to its financial position, such as the Trust's financial and management accounts, and the Trust's approach membership data and marketing plans. Both the Council and SLT feel there have been delays in the responsiveness from the other party during this period.

On 2 August 2021 SLT sent the Council an early warning letter highlighting financial concerns and a £750k worse than expected financial position for 2021/22 and 2022/23. SLT suggested that the impact of any changes were likely to increase the management fee requested for 2021/22.

The Council management met SLT management on 11 August 2021 and the Council confirmed areas of outstanding information and clarification. The Trust advised that their audited 2020/21 accounts would be presented to the SLT Board on 14 September 2021, and thereafter be shared with the Council. SLT management also advised that by reprofiling their budgets the £750k was no longer being sought.

At the time of concluding this review the business plan and funding agreement for 2022/23 and 2023/24 had not been approved. Typically, the process for negotiating the 2024/25 business plan would have recently started, to conclude by the end of March 2022.

KLOE A2: Sandwell Leisure Trust (cont'd)

The purpose of this KLOE was to consider the Council's management of the contract with SLT and to understand the impact of recent industrial action.

Industrial relations

SLT, in line with the 2013 deed of variation with the Council, went through a process of withdrawal from the National Joint Council (NJC) staff pay and conditions, which are those used by the Council, and which had transferred with staff when they TUPEd to SLT from the Council in 2014.

This decision was taken in November 2020, with staff needing to agree to the new terms and conditions. Council management have reported they felt they were not involved in this decision, whilst SLT management have advised the decision was taken to reduce costs, an issue which formed part of business plan negotiations.

SLT management negotiated with trade unions and the Advisory, Conciliation and Arbitration Service (ACAS) were brought in by SLT to help mediate. The trade unions sought industrial action to reverse the decision, which has led to two episodes of strike action during 2021.

GMB have ceased industrial action, whilst Unison have continued. 16 Unison members have taken strike action out of a total SLT workforce of over 400, and the most recent Unison ballot for strike action was due to conclude on 13 October 2021.

We understand that all SLT staff have now agreed to the new terms and conditions, which SLT management have confirmed will not be reviewed until April 2022.

The strike action has seen one leisure facility close on one occasion, with some services impacted at other leisure facilities.

Conclusion and recommendation

The Council has sought over many years, via the annual business planning and funding agreement process, for SLT to become more commercially innovative in its operations, and to reduce its reliance on Council funding. This has not been successful, and relationships between the Council and SLT have now broken down, reflected in the significant delays in approving the 2022/23 to 2023/34 business plan and associated funding agreement.

The ultimate responsibility for the operation of leisure services sits with the Council as the commissioner of SLT and, as with SCT, the Council has at times appeared to lose sight of this joint responsibility and an "us and them" culture has been in evidence.

At the time of finalising our report the Council has triggered the contract escalation procedure and written to SLT management for the Leader of the Council and the CEO of SLT to meet and agree a definitive timescale for resolution.

The Senior Leadership - both officer and member - must take ownership of this issue, prioritise corporate effort and take urgent steps to either resolve the current position with SLT or consider the options for alternative provision should either party decide to terminate the current contract, to ensure the continuity of future leisure service provision and associated reputational impacts.



KLOE A3: Providence Place

The purpose of this KLOE was to consider the potential loss to the Council arising from the proposed sale of Providence Place.

Background

In 2007 the Council signed a 15-year Strategic Partnership Agreement with BT for the provision of various support services. As part of this arrangement BT agreed a pre-let from a company called Stofords, the long-leaseholders of 1 Providence Place (Providence Place) for a term of 15 years at a rent of £1.2m per annum. Following the demise of this Strategic Partner Agreement the Council decided to take an assignment of this lease, thereby becoming tenants and inheriting the lease obligations. Simultaneously the Council sub-let part ground, first and fourth floors to BT on flexible terms (with breaks) at a rent starting at £605k per annum (with uplifts).

In July 2014, Cabinet subsequently approved the purchase of the long leasehold interest in Providence Place at a cost of £23.558m. This purchase price was supported by an open-market valuation by DTZ of the long leasehold interest. The valuation reflected the guaranteed income stream.

In June 2019, the Department for Education (DfE) approved the provision of a new, 750 place secondary free school in West Bromwich, to be delivered in partnership with Shireland Academy and the City of Birmingham Symphony Orchestra (CBSO). It was proposed that the Council sell the freehold interest of Providence Place with vacant possession, along with a development plot to the DfE. DfE would invest up to £17m in converting the building into a school, with a provisional completion date of September 2023. The Council considered that the building of the Academy and the basing of the CBSO in the area would have significant economic and cultural benefits.

The Council undertook an assessment of its property needs, reviewing its office estate and space requirement for office workers. It was decided that the Council no longer required the capacity offered by Providence Place and on 22 July 2020, the Cabinet approved that Providence Place was surplus to the Council's office accommodation requirements.

A receipt of £8.46m was generated from the sale of Providence Place to DfE, which was significantly below the acquisition price of £23.558m in 2014. This is because the building is being sold with vacant possession, without the benefit of a secure income stream. The sale price is based on a valuation report by Lambert Smith Hampton dated 17th March 2020. It is possible that the Council could have achieved the acquisition price if it had sold with a long-term tenant. The Council is still committed to making the loan and interest payments related to the initial purchase. The total remaining loan and interest (for the period 2021 to 2055) are £31.69m.

As part of our 2019/20 financial statements audit we considered the actions taken by the Council in both 2014 and 2020. When viewed separately the actions do not appear unreasonable. The 2014 decision to purchase the asset with a long leasehold interest was based on external valuations at market value. Similarly, the sale to DfE was at the current market value based on there being no long leasehold in place.

However, when viewed together it is clear that the Council made a significant loss on the basis of these decisions. We estimated that the direct loss against the 2014 purchase price of Providence Place was c. £15m (Purchase price £23m, sale price £8.46m). We also noted that future loan and interest payments of £31m need to be made (against which only the capital receipt arising from the sale of £8.46m can be set). In effect the total loss to the Council is c£22.5m. This is a significant loss. We note that the Council has received rents from BT totalling £5.386m and it has also had beneficial occupation of part ground, second and third floors since 2014. However, it would also have incurred maintenance and running costs for the building.

Our 2019/20 audit findings report (AFR) considered the reasons for such a significant loss. Whilst difficult to determine we considered that:

- greater challenge should have been applied to the original purchase price, especially as the price paid appears to reflect a long leasehold period but break clauses existed in the leases.
- the original purchase was intended to support the Council's Office Accommodation Strategy. It was envisaged that by 2017, the Council's workforce would reduce by 20-30% and the premises could then be used to accommodate more staff from less efficient buildings, thereby rationalising the use of council assets. The later change in the estates strategy with Providence Place being considered to be surplus has significantly undermined the original basis on which it was purchased.

We noted that, as Providence Place was being sold at its current market value and the decision to purchase it was made in 2014 we do not consider that the sale impacts on our 2019/20 VfM conclusion. However, due to the significance of the loss we have raised this matter with the Chief Executive to ensure that future purchases or sales of land and property are clearly aligned with a long-term estate strategy. Our AFR recommended that management should ensure that all purchases and sales of assets are clearly aligned with the Council's accommodation strategy.

KLOE A3: Providence Place (cont'd)

The purpose of this KLOE was to consider the potential loss to the Council arising from the proposed sale of Providence Place.

Page 5 of 8 KLOE FINDINGS

The purchase and disposal of Providence Place went through the Council's governance and decision-making processes in place at these times, drawing on external property consultants and valuations advice.

Following the approach by DfE, and the Council determining there was no longer a use for Providence Place for office accommodation, an options appraisal was undertaken which was reported to Cabinet and Scrutiny. This options appraisal considered options in relation to Providence Place such as disposing of the site on the open market, retaining and leasing the property, and the Council funding the school instead of DfE.

The Council has a statutory duty to provide appropriate levels of school places, but the options appraisal did not consider alternative options for the location of the Academy outside of West Bromwich. Similarly, the options appraisal also did not represent a formal cost-benefit-analysis between alternate sites outside of West Bromwich. We note that other sites suggested by the DfE within West Bromwich would have impacted the highway network and / or led to financial loss by the Council.

We note that if an alternative site was approved, the Council could have continued to utilise the building or alternatively may have been able to lease the building on a long-term basis thereby reducing the loss incurred.

The Council's post pandemic workplace vision and strategy supported the Council's decision that it no longer had a use for Providence Place for office accommodation. Providence Place would then become solely a commercial property investment, and it is not clear how the decision taken to dispose of Providence Place formed part of the Council's property strategy including an asset disposal strategy.

British Telecom Lease

The Council agreed to dispose of Providence Place in August 2020 and contracts were exchanged with DfE provided that the Council agreed to the surrender of BT's lease by 30 June 2021 in order to vacate the building. BT held the lease until 2026 and had no contractual obligation to move. On 6 June 2021 Cabinet agreed to the terms of BT surrendering their lease at Providence Place.

These terms included the Council having no obligation to provide BT with alternative accommodation, the Council would pay BT a surrender premium equivalent to one year's rent of £446.4k + VAT, BT would be waived liability for dilapidation and decommissioning works and the Council would be liable for BT's legal costs for surrender. Contracts would be exchanged by the end of June 2021 and BT's surrender date be 31 December 2021 to satisfy the Council's obligations with DfE. The costs to the Council would be funded via a sinking fund for Providence Place to cover unforeseen costs.

Conclusions and recommendations

As stated as part of our 2019/20 financial statements audit we considered the action taken by the Council in both 2014 and 2020. Viewed separately the actions do not appear unreasonable. The 2014 decision to purchase the asset with a long leasehold interest was based on external valuations at market value. Similarly, the sale to DfE was at the current market value based on there being no long leasehold in place. However, when viewed together it is clear that the Council made a significant loss on the basis of these decisions.

Property transactions such as those relating to Providence Place are complex. **Where the Council considers similar transactions in future, those charged with making decisions must satisfy themselves that they fully understand the detail of the options being proposed. Council officers and their advisors have a responsibility to ensure that members making decisions do so having fully understood these complexities and risks.**

The Council should ensure that all future property or land acquisitions and disposals are clearly aligned with relevant Council property related strategies.

KLOE A4: SEND Transport

The purpose of this KLOE was to consider the circumstances relating to the recent procurement of SEND Transport and the Council's current approach to concluding the procurement.

Background

The Council's Special Education Needs and Disabilities Passenger Transport (SEND Transport) contract expired at the end of August 2021. Currently 19 operators deliver 122 contracts which are in place to meet the Council's statutory duty under Section 508B and Schedule 35B of the Education Act 1996, whereby local authorities are under a statutory duty to provide free school transport to eligible children.

The Council's budget for the provision of SEND Transport was significantly under pressure with a forecast spend of £6.1m in 2020/21 against a budget of £2.5m. This was caused by a combination of factors, in particular increasing demand.

The Council undertook a procurement exercise, pursuant to its Procurement and Contract Procurement Procedure Rules in relation to a new SEND Transport Contract for 2021-25 (the new Contract) to award a new contract – at a potential total cost of £22m over four years. The Council sought to achieve greater economies of scale and value for money alongside addressing new and emerging issues within the sector including the risk of modern-day slavery, and improving the overall delivery of the service.

In August 2020, the Council's Cabinet approved the establishing of a new Dynamic Purchasing System (DPS) for the new Contract. A DPS was used for the existing SEND Transport contract. Following stage one of the new DPS, a closed bidder tender process was undertaken as stage 2 in March and April 2021. An evaluation of the proposals took place and a Cabinet Report was prepared setting out the conclusion of the evaluation, and the recommended awarding passenger transport related contracts via the new DPS effective as from 1 September 2021.

The Council's Cabinet, at its meeting on 16 June 2021, considered the award of four lots as the outcome of the procurement, which would have provided a £300k saving on the previous contract as well as improving service quality. The Cabinet deferred the matter following various concerns being raised over the process which had been raised following the publication of Cabinet papers prior to the meeting taking place.

An internal audit fact finding exercise regarding the proposed award of the SEND Transport Contracts for 2021-25 was then undertaken.

The Council took external legal advice on the options available, and an emergency Cabinet meeting took place on 21 July 2021 which agreed to continue to use the existing contracts with providers for the continued provision of SEND transport until 23rd February 2022, in order that the Council meets its statutory duties.

KEY FINDINGS

Internal Audit review

Internal Audit undertook a review, reporting in June 2021, which examined the background to and decision making relating to the 2021-25 contracts, compliance with the Council's procurement and contract rules, the approach adopted to supplier inclusion to DPS and the associated tender, how the outcome of the tender evaluation was reported to Members, and considered if any inappropriate or fraudulent activity had taken place. This report noted:

- Some of the concerns raised related to the identity of the owner of the two companies initially selected as the successful bidders, and the fact he was a former employee of the Council and the son of a former Deputy Leader, who was investigated into a series of land sales involving the Council (known as the Wragge report). As neither individual had any known current role or association with the Council they did not form part of the scope of the review.
- Many of the concerns were raised by current suppliers of this service to the Council that have not been successful in the latest procurement exercise, so there would be an element of potential disappointment and disgruntlement behind parts of them. However, each of the concerns were dealt with objectively, and in certain cases they were found not to be fully accurate in their interpretation. For example, a number of officers from both procurement and the service area were involved in the assessment process.

The internal audit report concluded:

- The procurement was undertaken with the correct intentions.
- Some concerns and issues raised have an element of substance.
- A number of issues regarding the quality of certain information provided by bidders in support of their applications
- A number of key Council processes were not followed. In particular the need for officers involved in the exercise to formally declare if they have any potential conflict of interests, the completion of a Starting a Procurement form which captures key information from the outset, and to respond to bidder's applications within agreed timescales. However, while internal procedures within service areas had not always been followed, none of these were in themselves a direct breach of the Council's Procurement and Contract Procedure Rules.

KLOE A4: SEND Transport (cont'd)

The purpose of this KLOE was to consider the circumstances relating to the recent procurement of SEND Transport and the Council's current approach to concluding the procurement.

KEY FINDINGS (cont'd)

- Sufficient documented consideration does not appear to have been given to both financial modelling and the risks, particularly around resilience, associated with the potential placing of all four large contracts with just two companies, who in themselves come under the ownership of one individual.
- None of the officers interviewed indicated that they had been placed under any pressure by any other officer or elected member as part of the procurement exercise.
- While the significant reduction in lots would see a subsequent reduction in the number of companies the Council would be contracting with, from the evidence available to them, Internal Audit found nothing to suggest that the reduction of competition was undertaken with the sole aim of benefitting two particular companies. Similarly, they came across no evidence to suggest that any inappropriate or fraudulent activity had taken place.

The Internal Audit report concluded that the issues identified in the review in all likelihood will necessitate a need to revisit the procurement exercise. In particular the way in which use was made of the DPS including restricting the number of lots available, how initial decision making was considered, agreed and recorded, and how information and the lack of detail thereof, was relayed back to the Cabinet in order for them, and later Scrutiny, to make an informed decision, on what is in effect a £20m contract award.

Other reviews

The Council's Corporate and Budget Scrutiny Board and the Children's Services and Education Board have agreed to jointly examine existing and proposed arrangements for SEND transport provision. The Council's Audit and Risk Assurance Committee Chair is undertaking a fact-finding exercise into the original procurement exercise. Both activities had not been concluded during the course of our review.

The Council sought to commission an independent review of the original procurement. This review planned to assess the compliance and probity of the original procurement, including re-running the evaluation stage. This did not proceed due there being only one bidder, and the cost being deemed not best value.

Financial management

Since 2018 the overall cost of providing travel assistance including parent mileage, travel passes and more recently the offer of personal travel budgets has increased by 45% from £3m in 2018/19 to a projected cost of £6.4m for 2021/22. Over the same period SEND pupils requiring travel assistance has increased from 680 to 850 with the average cost per pupil increasing from £5.1k pa to £7.6k pa. This situation is not unique to the Council.

The pressure on the SEND Transport budget has been managed over recent years by using carried forward underspends in the Education Directorate budget or using one off contributions from reserves. These were fully utilised by the end of March 2021 and the Council agreed additional funding for 2021/22 with the budget increased to £5.6m. A projected budget pressure of £800k remains, which excludes the impact of continuing with the existing DPS framework from September 2021 to February 2022.

The Council's approach to managing the overspends prior to 2021/22 mean that the base budget for SEND Transport did not reflect the true cost of providing the service. This led to some of the criticisms in relation to the value of the planned procurement award.

The extension of the original DPS contract by six months has seen an increase in forecast costs for the service

Delegation and communication

Cabinet approved the procurement approach at its meeting in August 2020, delegating the detailed design, including lot structure, to the Travel Assistance Service team, working with the procurement and legal teams, with the procurement team managing the overall procurement process

A key change to the existing DPS framework, which focused on costs, was to introduce a greater focus on quality in the new DPS framework, in relation to children's safeguarding, and employment practices.

KLOE A4: SEND Transport (cont'd)

The purpose of this KLOE was to consider the circumstances relating to the recent procurement of SEND Transport and the Council's current approach to concluding the procurement.

Delegation and communication (cont'd)

Whilst the teams involved in developing the new contract design were aware of the planned service quality benefits, such as improved safety standards, reliability and quality of the service, more could have been done to ensure key decision makers were aware of the reasons for the change and the planned benefits when the new procurement approach was discussed and agreed in August 2020, and prior to the planned approval in June 2021, noting the significant changes to members of the Cabinet between these two dates.

A comparison between providers used on the current contract with those who were being proposed to be awarded contracts via the new DBS framework may have also helped managed a more effective contract award discussion.

The publication of the proposed award

The Council chose to include the recommendations for the award of the new DPS contracts on the public part of the agenda papers for the Cabinet meeting on 16 June 2021, including the results of the evaluation. This was the direct cause of challenges being made to members of Cabinet prior to the meeting taking place. It is unusual for such potentially commercially sensitive information being made public in advance of a decision being made on the award of a major contract.

The outcome of the June Cabinet meeting has significantly impacted on the Council's reputation, including the matter being raised in Parliament, and has further impacted on the relationship between officers and members including levels of trust. The pausing of the procurement has also increased the level of expenditure on the services placing further pressure on the Council's budget, and creates risks for the Council such as accusations of suppliers canvassing members during the intervening period.

Conclusion of the procurement

The procurement of the contract was initially paused, pending the outcome of the various reviews being undertaken. However, in order to not have to further extend the current DPS contract, work has been undertaken, including obtaining external legal advice, to review the structuring of the lots, and to consider whether the new DPS framework will be used. A report is planned to be presented to Cabinet on 3 November 2021 to agree how to proceed.

Conclusions and recommendations

The focus of service quality in the new DPS framework represents important and positive progress for the Council in managing a major contract of this type. However, weaknesses have been identified by Internal Audit in some aspects of the procurement approach, although these did not represent a breach of the Council's Procurement and Contract Procedure Rules.

The manner of the pausing of the procurement has damaged the Council's reputation, put further strain on officer and member relationships, and created uncertainty and risks over how the conclusion of the procurement will be viewed and opened the Council up to potential legal challenges.

The Council already uses a DPS for commissioning travel assistance services, so has familiarity with the approach, as do providers. Whilst not the only procurement option, DPS is considered an appropriate procurement approach for a public sector organisation procuring services of this type. Operators can bid to be appointed to lots on the framework, and if unsuccessful continue to try do so by meeting the Council's service standards. When the Council requires a service, operators on the DPS framework are asked to tender for the work.

This was a major and complex procurement. An Invitation to Tender was advertised on 12 March 2021, with a closing date of 2 April 2021, for the contract to go live on 1 September 2021. This time frame was inadequate for such a large and complex contract.

The Council's senior leadership – both officers and members – must place priority on agreeing the outcome of the SEND Transport procurement exercise to ensure a further contract extension is not required. This should include:

- **Not losing the significant progress made on the contract specification's focus on service quality.**
- **Greater support, involvement, dialogue and oversight with the officer teams with responsibility for progressing the procurement.**
- **Ensuring the contract provides the Council with effective management and oversight of the personal transport market.**

KLOE A4: SEND Transport (cont'd)

The purpose of this KLOE was to consider the circumstances relating to the recent procurement of SEND Transport and the Council's current approach to concluding the procurement.

Recommendations (cont'd)

For the conclusion of the SEND Transport procurement and for all future major procurements, the Council should ensure that:

- **Record keeping and declarations of interest are undertaken in line with Council policies and procedures.**
- **Decision making does not create real or perceived risks in relation to inappropriate procurement decisions.**
- **Procurement timescales provide adequate time for both suppliers to submit high quality bids, and the Council to undertake appropriate evaluation, scrutiny and decision making. This timescale should include appropriate time in advance of the procurement for the council to undertake the necessary strategic thinking and planning required, and mitigate the risk of not making an award in the planned timescale**



KLOE A5: Sandwell Land and Property

The purpose of this KLOE was to consider the background to the establishment of the company, actions undertaken by the Council to ensure the company complies with legislation, and delays to winding down the company.

Background

Sandwell Land and Property (SLaP) was incorporated on 14 January 2011 as a limited company. SLaP was established by the Council as a vehicle for protecting the freehold of the Council's schools and related sites. SLaP is a non trading company and has no employees.

The Council is the sole shareholder of the company. SLaP is the freeholder of 99 education assets and leases them to the Council for a nominal sum of £1 per year in the form of ground rent, with the Council responsible for the maintenance of the assets as a condition of the lease.

Our 2019/20 Audit Findings Report noted that we have had extensive discussions with officers around the accounting for SLaP property and around the history and purpose of the company.

We agreed with management's view that the company should be wound up as soon as possible and that Council representatives should discuss with the Directors of the company the ongoing purpose of the company and whether it could continue in its current form. We requested additional assurances around the security of schools' assets should the company be wound up before a decision is made on the future of the company, with the company expected to be wound up during 2021/22.

KEY FINDINGS

Reason for creating the company

At the time of establishing SLaP, the Council understood that new legislation relating to academy schools created a risk that schools converting to academy status could take over the freehold of the Council's education assets. On taking external legal advice after establishing SLaP it was confirmed the freehold of education assets would not pass to academies.

Given the cost and additional complexity of managing an arm's length company arrangement, it is unclear why the Council has not sought to take education assets back in house sooner.

KEY FINDINGS

Compliance with legislation

The company and its Directors are governed by Company Acts law. There is evidence that the Directors of the company were not familiar with their legal responsibilities in relation to proper record keeping and failing to meet statutory deadlines for example submitting company accounts.

A number of Council members and officers have been appointed to company Director roles during the period of the company's operation, with one Director in place at the time of this review.

SLaP has never formally appointed a company secretary. A former Council Chief Executive, when a Director of the company, undertook the company secretary role informally. When they left their Director role in January 2019 it has been unclear who has subsequently delivered this role.

The administration of the company's business has been undertaken by officers of the Council, such as legal and finance, supporting members in company director roles, including an understanding of their company roles and obligations. We have not been able to confirm if formal guidance and training has ever been provided to company Directors. This has created a risk that Directors have not fully understood their legal responsibilities, including the distinction between the Council as shareholder and leaseholder, and SLaP as freeholder of the education assets.

The company was created without secretary of state consent, the Council has subsequently sought counsel advice that broadly indicated that if no government challenge had arisen, it was not likely to occur.

The company's accounts have been qualified in relation to asset valuations and ownership. We note that shares in the company were not issued in accordance with the relevant legislation.

Council's governance arrangements

SLaP is a risk on the Education Service risk register, but has not had a profile with the Council's senior leadership, and nor has there been a senior individual, since the former Chief Executive left the Council, with effective understanding and organisational oversight of the company.

KLOE A5: Sandwell Land and Property (cont'd)

The purpose of this KLOE was to consider the background to the establishment of the company, actions undertaken by the Council to ensure the company complies with legislation, and delays to winding down the company.

Current position

The Council has appointed external legal advisors to advise on the winding up of the company. The legal advisors are advising both the Council as shareholder and leaseholder, and the company in the form of the company director.

In October 2021 the Cabinet acting as shareholder of the company approved instruction to the SLaP director to pursue voluntary liquidation. An insolvency practitioner has been engaged to administer the winding up of the company. The insolvency practitioner has appointed a tax advisor to advise on any tax implications and has advised the Council that due to the nature of the company and the company's assets, they are able to transfer the assets to the Council on the basis of their indemnity as liquidator, ensuring they are not responsible for any liabilities identified during the winding up process.

The Council's legal team is reviewing the legal title and beneficial interests of each asset to ensure the Council will have legal title when transferred from SLaP, and whether beneficial interests sit with the Council or, for example if this should be transferred to another body such as a governing body of a school. Should such examples be identified, the beneficial interests should have been transferred prior to the asset being transferred to SLaP.

The winding up process had not concluded at the time of our review.

Conclusions and recommendation

The Council has incurred additional costs to set up, administer and wind up SLaP when the purpose of establishing the company proved to be unnecessary.

There has been significant weaknesses in the understanding of roles and responsibilities, between those acting on behalf of the Council and those acting on behalf of the company. There has been a lack of consistent senior leadership oversight of the company, highlighted by delays in progressing its winding up. There are a number of instances where the relevant legislation has not been followed, such as the issue of shares.

The Council should ensure that when considering establishing an arm's length company in the future there is a clear purpose for doing so and that those officers / members of the Council in company director roles are clear of their role and responsibilities in relation to that company.

Where arms length companies already exist the Council should gain assurances that company directors fully understand their company roles and responsibilities, that the company administration is properly resourced and appropriate training is provided to company directors. The purpose of the company should be revisited on a regular basis to determine whether the company continues to be of benefit to the Council.



KLOE A6: MADE Festival

The purpose of this KLOE was to consider the governance arrangements and decision making relating to the Council hosting this festival.

Background

The Council was approached by the organisers of the MADE music festival, for the potential to use Sandwell Valley, a Council owned site, as the venue for the festival, to be held in August 2020. MADE festival was established in 2014 with aims of celebrating West Midlands contemporary music, creative arts and street food.

The Council agreed to host the event, recognising its alignment to the Council's ambition to strengthen Sandwell Valley's identity as a 'destination gateway' into the Sandwell / West Midlands region, and as part of the wider proposals for establishing Sandwell Valley as future major festival site. The event would generate income for the Council of £18,000-£20,000 for hosting the festival.

Due to the subsequent outbreak of COVID-19 the festival was postponed in 2020, to take place on 31 July and 1 August 2021. The ongoing pandemic during 2021 and uncertainty regarding the timing of changes to government guidelines led to a late decision not to allow the festival to take place on the rescheduled dates. This led to a breakdown in relationship with the festival promoter, who considered legal action against the Council, a situation which was resolved with the festival ultimately taking place on 18 and 19 September 2021.

KEY FINDINGS

The original decision to host the festival was made by the then Leader of the Council on 15 January 2020. The Council's events team managed the planning for the event, including liaising with other relevant statutory bodies such as the police, via the Council's Statutory Advisory Group (SAG). SAG also had a role to ensure the Council's statutory responsibilities were met in relation to issues such as safety, traffic management and licencing permissions.

In the months and weeks prior to the rescheduled 2021 event taking place SAG received updates on all events due to take place in the borough, those hosted by the Council and those hosted by other bodies. During this period there remained uncertainty over the timing and nature of the government's four stage road map for easing COVID-19 lockdown restrictions, and because of this there were delays in formally approving that the MADE festival could take place as planned, with government delaying until 19 July when all legal limits on social contact in England would be removed.

The Council's Strategic Incident Management Team (SIMT) which was set up to consider various COVID-19 related activities, considered the viability of the rescheduled 2021 event. This included infection rates and vaccine take up in the borough, and the risks associated with the high level of visitor numbers expected to attend the event. SIMT comprised the majority of Directors on the Council's Leadership Team and relevant Heads of Service.

SIMT raised concerns about the viability of holding the event on 31 July and 1 August which were shared with event organisers and promoter at a meeting on 23 June 2021.

The event promoter advised the Council that should restrictions lift on 19 July 2021 and the event was not permitted to go ahead it would have serious consequences on the future sustainability of the event.

On 30 June at a further meeting the Council advised the organisers that the Council was not able to grant permission for the event to proceed as scheduled, until the Council had seen and interpreted the revised government regulations and guidance after 19 July 2021 and assess the COVID-19 safety of the event. The Council advised the organisers that these timescales meant it would be unwise for them to advance their current plans and a later date should be considered for the event.

The Council received a COVID-19 risk assessment from the organisers on 6 July which was reviewed by the Director of Public Health and discussed with the portfolio holder for Strong and Resilient Communities. Both raised concerns about holding the event on the planned days. The organisers requested the opportunity to submit a revised proposal for the event to take place on 18 and 19 September 2021.

On 13 July the Council became aware that tickets were being advertised by the promoter for the event on the planned event days and queried with the organisers why the event was being promoted. The Council then received a letter from the promoter's solicitors seeking Council justification for the decision to postpone, believing the Council had approved the event booking. The Council sought counsel advice, as the event booking form had a disclaimer in relation to COVID-19 and, in its view, the organisers had not provided all relevant documentation, for example, in relation to road closures.

The organisers also undertook negotiations with an alternative site outside of the borough which proved unsuccessful. The promoter advised the Council that the financial impact of not holding the event as planned could result in bankruptcy and he would consider taking legal action against the Council seeking recovery of costs.

The Council met the organisers on 22 July to discuss alternate September dates and the promoter announced the postponement of the event the following day.

KLOE A6: MADE Festival (cont'd)

The purpose of this KLOE was to consider the governance arrangements and decision making relating to the Council hosting this festival.

KEY FINDINGS (cont'd)

SA met on 26 July to consider the alternate September dates and confirmed with the organisers on 29 July approval for the new dates, subject to satisfactory finalisation of all relevant plans and compliance with terms and conditions of booking.

The event took place on 18 and 19 September 2021.

Conclusions and recommendations

There was uncertainty on the timing and detail of government regulations relating to the staged removal of lockdown restrictions being faced by all organisations and individuals during this period. However, the Council demonstrated a lack of decisiveness and clarity of decision making with the organisers of the event, with the governance around this decision making unclear.

The strategic reason for originally making the decision to host what was planned to be an annual event was its alignment to the Council's ambition to strengthen Sandwell Valley's identity as a 'destination gateway' into the Sandwell / West Midlands region, and as part of the wider proposals for establishing Sandwell Valley as future major festival site. We note that the Council's relationship with the organisers has been negatively impacted by how the decision making process was managed. There is a risk that the organisers may not seek the borough as a venue for future events.

As part of the planned review of the scheme of delegation the Council should ensure that there is clarity of decision making on hosting events, and that the governance arrangements relating to such decisions are effective and clearly communicated.



KLOE A7: Waste service

The purpose of this KLOE was to consider the performance of the waste service, the Council's management of the contract with Serco, and understand the impact of recent industrial relations issues.

Background

The Council chose to outsource its waste and recycling service and in November 2010, following a procurement exercise, the Council confirmed the appointment of a consortium led by Serco to deliver a 25 year, £650m integrated waste and recycling services contract. Council staff were transferred to Serco under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

Serco are responsible for the collection of household food and garden waste and recycling, street cleansing, the associated vehicle fleet, and the household recycling centre (HRC).

During the course of COVID-19 the Council has become increasingly concerned about the performance of a number of aspects relating to the delivery of the contract.

Service delivery has also been impacted by industrial action from some of the Serco workforce.

KEY FINDINGS

Contract management

The contract includes 34 Key Output Targets (KOTs) which are the basis for contract performance management. The contract is self-monitoring and Serco provide the Council with monthly performance data. Penalty points are accrued for failure to meet KOTs and these are reviewed each month by the Council, with financial penalties based on penalty points accrued each month. Failure to regularly meet KOTs over a twelve-month period can trigger a contractual default. There have been no defaults during the contract to date.

There had been formal contract monitoring meetings every six months between the Council and Serco in the form of a Waste Management Board. The Council Leader and relevant portfolio holder attend these board meetings and the Board is the formal decision making body. The Board meetings were suspended as a result of the onset of COVID-19 but have been subsequently re-introduced on a three-monthly basis.

The KOT in relation to recycling rates sets out a sliding scale of annual improved rates, with 60% being the target for 2021 and the actual rate being 32%. This is calculated on the tonnage of recycling against refuse collected. Serco have failed to meet these annual targets and may incur financial penalties of up to £1.2m per year. The reasons for under achievement of the target are considered to be household behaviour and weekly collections, the latter forming part of the original contract specification. The Council has provided Serco with a letter of comfort reducing this target and reducing the annual financial penalty.

The Serco contract was the first major outsourcing of its type undertaken by the Council. There is a perception that the approach to managing the contract did not adequately change from the way these services were managed when the Council operated a direct labour organisation model. Over the past ten years of the contract there have been a limited number of contract variations and requests made for additional services were not effectively specified.

The KOTs are considered well defined, but they are generally based on annual quantity rather than frequency and service quality. The Council is intending to engage an external consultant to review the KOTs to determine whether these contract specifications can be amended.

The vehicle workshop is operated by the Council and the Council maintains the vehicles through a separate maintenance contract with Serco. The contract terms meant that Serco were to replace fleet vehicles after 8 years of the contract (five years for smaller vehicles) which did not happen. This was identified during 2018 and discussions were held between the Council and Serco on whether the Council would borrow to fund the capital expenditure. The Council took external legal advice which confirmed such an action would represent state aid. A Fleet Board was introduced in May 2021 for Serco and the Council to progress a fleet replacement programme and Serco have committed to replace 18 refuse collection vehicles with delivery due in December 2021, as well as investing in mixed domestic recycling trucks. Serco have also hired newer sweeper vehicles, pending their replacement.

Financial management

Serco submit a monthly bill in line with the contract payment mechanism.

In recent years the Council's budgets for waste management has underspent and an underspend is forecast for 2021/22. The underspend is a result of financial penalties incurred by Serco, and income the Council receives from recycle sales. The prices for the latter are dependent on market fluctuations. The underspend is used to maintain a reserve, currently £3.5m, which is used to manage fluctuations in disposal market rates and contract fees.

KLOE A7: Waste service (cont'd)

The purpose of this KLOE was to consider the performance of the waste service, the Council's management of the contract with Serco, and understand the impact of recent industrial relations issues.

Service performance

COVID-19 impacted on service delivery – which was common across the sector – as the workforce were impacted by absences, for example due to self-isolation via shielding or because of other COVID-19 regulations, as well as social distancing measures introduced for those who were at work. Garden and food waste collection were suspended during the first lockdown and the HRC was closed. Serco is still not operating a full service in particular food waste collection.

The pandemic has impacted on both waste collection and street cleansing, with street cleansing staff backfilling waste collection roles. Vehicle reliability has also contributed to service performance.

The pandemic shone a light on working practices and performance at Serco, contributing to service performance issues. During 2021 Council management have taken action to work with Serco to ensure necessary improvements are introduced. We understand, that as a result Serco's performance management of poor performing crews has improved, which has led to suspension of some staff and others leaving. This has contributed to industrial relations issues.

In early October the 100% in-day completion of waste collection rounds was achieved for the first time in approximately 9 months.

Serco have developed a waste and recycling recovery plan, and a recovery plan for street cleansing. At the time of this review they were being appraised by Council officers and were to be approved by the Waste Management Board.

Industrial relations

Council staff were TUPE'd to Serco on the council's terms and conditions for the first ten years of the contract. Industrial relations issues arose in May 2021 when trade unions (Unite, Unison and GMB) raised issues with Serco management in relation to staff grievances, salary benchmarking, health and safety concerns and staff complaints relating to bullying.

We understand that Serco management have investigated the complaints and have concluded that the staff complaints related to management seeking to improve working practices and did not represent bullying. Serco management have also investigated staff grievances and health safety concerns and believe these to be resolved. Unite and Unison agree, but GMB believe they remain unresolved.

The Advisory, Conciliation and Arbitration Service (ACAS) are involved in arbitration with GMB. At the time of this review strike action was planned and GMB introduced a 2-month overtime ban for their members. 120 of the 300 workforce are GMB members. Serco's senior management continue to engage GMB to try to bring resolution to the dispute.

Leadership and staff continuity

There have been changes to the senior officers at the Council with the relevant Executive Director and Director leaving in the past twelve months. An interim Director has been in role since May 2021 with a permanent Director due to start in November 2021. Until the interim Director was in role there was inadequate senior officer involvement in relation to the contract at time when this was needed to manage Serco's contract performance during the pandemic. The interim Director has brought focus to the situation including engaging with senior management of Serco.

The Council's contract manager has been in role for seven years. There had been similar stability in this role at Serco until there were changes in early 2020. More generally there have been a high number of management changes at Serco over the past year including the regional manager, regional managing director, operations manager and the senior contract manager. These changes have led to a lack of continuity in relationships with the Council and impacted on effective partnership working. In August 2021 a new senior contract manager and operations manager started but both left in September. The Serco managing director has introduced a new structure responding to concerns raised by the Council, and has instigated a programme of staff engagement. Serco are also taking steps to better manage poor performing staff, which is also leading to some further staff changes.

As noted elsewhere in this report, the Council's Leadership Team has not received effective corporate monitoring information on key council service indicators, which includes the Serco contract. This has been recognised and changes are being made to address the situation.

KLOE A7: Waste service (cont'd)

The purpose of this KLOE was to consider the performance of the waste service, the Council's management of the contract with Serco, and understand the impact of recent industrial relations issues.

Key findings

The performance issues associated with the Serco contract have seen an increase in complaints from residents, and increased enquiries to the Council's contact centre. Fly tipping has increased in the borough and the closure of, and then waiting time delays at, the household recycling centre are considered a contributory factor.

There is a need to review enforcement of public realm issues so the Council is clearer if the ownership sits with Serco or Council services such as parks, housing and grounds maintenance.

On 22 July 2021 the Council's Economy Skills Transport and Environment Scrutiny Board agreed to carry out a review of Waste Services and the Cleanliness of the Borough. The working group undertaking the review had not reported at the time of producing this report

Conclusions and recommendations

Serco have not brought the innovation and investment expected by the Council, and the culture of the workforce has impacted on Serco's ability to deliver the contract. Whilst there are issues relating to Serco management, it is only recently that Council management have taken a robust approach to managing poor contract performance, which has led to some performance improvement. Serco remains on an improvement journey.

The Council should prioritise corporate effort to ensure that the recovery plans are approved and appropriate senior management oversight is given to monitoring their effective delivery.

The Council should ensure robust contract management arrangements are in place, and review the Key Output Targets (KOTs) and work with Serco to ensure they are line with Council expectations and the data is available to allow effective monitoring of contract outcomes.

The Council should ensure that the investments specified in the contract with Serco are made, such as a new vehicle fleet.



KLOE A9: Lion Farm

The purpose of this KLOE was to consider the Council's governance arrangements and decision making in relation to the Lion Farm development.

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Background

Following approval of the Asset Management Land Disposal Cabinet Committee (AMLDC) at its meeting on 19 December 2012, the Council entered into an option agreement with a local developer in respect of the proposed development of Lion Farm Playing Fields in Oldbury (Lion Farm). The proposed development related to a premium designer outlet centre, which could support significant economic, environmental and social benefits to the borough and wider region. The minutes of the AMLDC were received by Cabinet on 9 January 2013 and full Council on 5 March 2013.

An option agreement is a legally binding agreement that gives a potential developer a period within which to investigate the development of a site and the owner of the site agrees to sell the land to the developer at a future point. Any costs incurred by the developer during the option period are at the developer's risk.

The option agreement was dated 21 May 2013 and the developer paid the Council an option fee of £245k plus a contribution to the Council's legal costs. The option agreement gave the developer the option to acquire the freehold of the Lion Farm site should planning permission be granted.

The agreement gave the developer 12 months to undertake pre-development activity with an option to extend for a further 12 months. The agreement also provided for a secondary option agreement to be entered into by the Council and the developer.

After the initial 12-month period in 2014 the Council approved the request to extend the agreement by a further 12 months. In 2015, before the second 12-month period had concluded the Council confirmed that the developer had complied with their obligations and the parties began discussing the secondary option agreement.

In 2017 the developer was made aware of a rival premium designer outlet scheme in Cannock that had received full planning permission. The developer approached the Council for approval to progress the development. On 15 November 2017 the Cabinet approved variation to the existing option agreement with conditions including resident consultation, re-provision of current football pitches, undertake an economic impact assessment, submit a full planning application, and the site should be developed as a premier retail/leisure development which will attract high-end outlets.

In 2018 the Council sought counsel advice on whether the options agreement was legal with the QC confirming in August 2018 that the options agreement was a legally binding decision.

Governance relating to the original decision

A review by the Council in 2018 identified governance weaknesses in relation to the original decision to grant the option agreement and made the following recommendations:

- Enhanced member training to improve awareness on declaration of interests.
- The need to ensure resolutions are enacted in a timely way – the original AMLDC decision requested a follow up report on progress which was not progressed until 2017 with a report to Cabinet.
- A clearer record of the decision-making process to support recommendations being made to members
- A new protocol for the disposal of Council owned land and buildings is developed.

External review

The Council engaged a consultancy firm to review the governance and decision making in relation to Lion Farm and three unrelated property transactions. They reported in January 2020. The report was not made available to us until we commenced this review.

We have reviewed the findings of the report but under the terms of its agreement with the Council we are unable to quote from this report. We are considering the powers available to us under the Local Audit and Accountability Act 2014 to require the release of the report. However, to ensure the timely release of our report we have set out our overall conclusions below.

Current position

The Council's procurement regulations do not apply to property transactions, and so there is no legal requirement to publicly advertise the granting of an option to purchase a piece of land.

The principal senior officers and senior members involved in the initial agreement are no longer Council employees or a member of the Council. We note that there were weaknesses in record keeping, which means the current senior officers do not have access to all the information relating to the original decision.

KLOE A9: Lion Farm (cont'd)

The purpose of this KLOE was to consider the Council's governance arrangements and decision making in relation to the Lion Farm development.

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Current position (cont'd)

The secondary options agreement has not concluded and the developer has not yet submitted a planning application.

As a result of the 2013 options agreement, the asset will be valued following planning approval, before its disposal.

Conclusions and recommendations

The original sale of the option to develop Lion Farm with a limit of 12 months to put a development forward appears reasonable. Subsequent decisions to extend the secondary option negotiations without an end date were ill-judged. It has meant that the Council has little recourse with the developer.

There has been a lack of recent engagement with the developer and the situation has been allowed to drift with the senior leadership of the Council not placing priority on seeking to agree resolution and a way forward. We understand that the Interim Chief Executive has recently re-started dialogue with the developer and is placing priority on resolving the impasse, and an options appraisal is being prepared for the Cabinet to consider.

The Council must ensure that the recent re-engagement with the developer results in agreeing a clear way forward, including an action plan and timescale so there is clarity on the responsibilities for the Council and developer in order to progress the finalisation of the secondary option agreement, or to be clear on the legal process for both parties extricating themselves from the agreement and the associated terms.

The Council must ensure that it has taken all necessary steps to ensure that arrangements are in place so that issues identified in the external review are appropriately mitigated and managed.

The Council should review its procurement regulations and consider updating them to include land sales, including options agreements, to ensure that best value can be achieved.



KLOE A10: Introduction of new ERP System

The purpose of this KLOE was to consider the Council's management of the introduction of Oracle Fusion and understanding implementation delays and their impact.

Background

The main Enterprise and Resource Planning (ERP) business system currently used by the Council is Oracle E-Business Suite (EBS), which provides a range of key functions that support various service areas, including Finance, Human Resources, Payroll, and Procurement. The Council's EBS is also used by maintained schools in the borough, Sandwell Children's Trust and the West Midlands Fire Service. It has been in place since 2003.

The current version of EBS used by the Council will become unsupported from 31 December 2021. Remaining on unsupported software is considered an unacceptable risk to the Council due to the loss of support patches from Oracle. The Council agreed to replace EBS in 2019. This decision followed an options appraisal, which concluded that a new cloud-based ERP system would be the preferred option.

The Council decided that Oracle Corporation UK Ltd were the only suitable available provider – their Oracle Fusion product. An exemption from conducting a formal tender process, to allow negotiation with Oracle for purchase of the appropriate licences, was considered permissible under the provision of the Public Contracts Regulation 2015. The Council published a voluntary ex-ante notice to inform the market of its intention to conclude these negotiations with Oracle and meet its obligations for compliance with the 2015 Regulation.

The Council also agreed to engage an implementation partner on the basis that the Council did not have capacity or relevant expertise to transition to the new system. The Crown Commercial Services framework was used to identify suitable implementation providers and it was determined that only Inoapps could meet all requirements for implementation partner services. The Council contracted with Inoapps for this role for £1.2m. Inoapps had provided managed services to the Council since July 2016 and were a platinum Oracle partner. The appointments of Oracle and Inoapps were approved by Cabinet on 9 October 2019.

The contract with Oracle was for five years, with an option to extend to seven years at £700k per annum. The overall cost of the project, for the duration of the five-year contract with Oracle, including implementation partner costs, was estimated to be £5.64m.

There have been repeated delays to the implementation with changes to the go live date for the new system, which will not now go live before EBS becomes unsupported at the end of 2021.

KEY FINDINGS

Business case for change

An options appraisal and financial appraisal were used to make the decision on the future of the Council's ERP system. Whilst these would form part of a business case, no outline or full business case for change was developed and approved. We would have expected a business case to have been developed for a project of such strategic importance and cost. Failure to do so has impacted on the implementation stage of the project.

Transformation potential

The introduction of a new ERP system is typically used to support wider organisational transformation, improvement, efficiencies and savings. Indeed, one of the reasons for replacing EBS was long-term user dissatisfaction with reference to inefficiencies, inadequate reporting functionality and prolonged processes to access necessary data, with inefficient "work around" solutions being applied.

The lack of a formal business case has meant that benefits relating to the transformation potential of the new system have not been clear and have not been at the forefront of the implementation. This has been compounded by a lack of corporate ownership of the project and engagement by services, with the project seen as Finance or HR related, and not an enabler for organisational transformation and improvement.

Instead a "lift and shift" approach has been adopted minimising the opportunities for change and improvement and the use of the functionality of the new system. Once the new system has gone live there is an intention to undertake "development sprints" to identify transformation opportunities. However, the system will have already been implemented by this time, limiting the potential for such improvements without incurring additional costs in enhancements to the system. The Council has also used funding set aside for these sprints to fund cost overruns during the implementation stage.

KLOE A10: Introduction of new ERP System (cont'd)

The purpose of this KLOE was to consider the Council's management of the introduction of Oracle Fusion and understanding implementation delays and their impact.

Project finances

The options appraisal set out the total costs as follows.

Description	Costs 2019/20 to 2023/24 £000
EXPENDITURE	
Implementaiton Costs	
Implementaton Suppprt	1,206
Development sprints	600
Internal project team	386
Ongoing Costs	
SaaS subscriptions	3,240
Managed service support partner	70
Archiving system	140
Total costs	5,642
FUNDING	
Earmarked reserve	2,625
Redirection of budgets for current system costs	2,458
Resources revenue budget	682
Total funding	5,765
Contingency	123

The earmarked reserve of £2.625m was to be used to cover implementation costs and included £600k for post go live activity (development sprints) and £363k as contingency, in addition to the £123k contingency identified via the original funding proposal.

An additional £605k was added to the reserve from COVID-19 emergency funding to fund additional costs incurred due to delays.

A breakdown of the planned allocation of the earmarked reserve is set out below.

Description	£
Oracle Subscriptions	438,000
Inoapps Implementation Contract	1,224,150
Development Sprints (4 x £150k)	600,000
Project Team/Contingency	362,850
Total funded by earmarked reserve	2,625,000
Covid Emergency Funding	605,000
Total Funding	3,230,000

The development sprint, project team / contingency and COVID-19 emergency funding are currently over committed by £7.8k. Additional costs have been incurred in relation to extension to EBS licences, use of additional support due to the delays to going live, and contract variations with Inoapps.

Governance Arrangements

There is a programme board which includes officers from the Council and representatives from Inoapps, and a programme team including representatives from both organisations. The Council has established a programme management office (PMO).

The Board reporting includes risk and issues logs and highlight reports. During the pandemic and when renegotiating the contract position with Inoapps and the subsequent focus securing clarity from Inoapps on their position, these have not always received appropriate focus.

Due to changes in the Council's senior officers there has not been stability with those attending the project board. This includes the chair of the Board, which was originally the then Executive Director of Resources, followed by the then Chief Executive, and is currently chaired by the Director for Strategy and Change.

The contract includes a statement of works which defines key project roles. Whilst the Council has a defined programme lead and programme manger for the project, the changes to senior officers involved in the project have created confusion over who is in the Senior Responsible Officer role, both within the Council and within Inoapps. It is a position which remains unclear.

KLOE A10: Introduction of new ERP System (cont'd)

The purpose of this KLOE was to consider the Council's management of the introduction of Oracle Fusion and understanding implementation delays and their impact.

Governance arrangements (cont'd)

The Cabinet approved the decision to progress the new ERP system and appoint Oracle and Inoapps. There have been limited subsequent updates to Cabinet, with the portfolio holder receiving updates via director briefings.

Contract management

The programme manager and PMO, supported by the programme lead, are responsible for managing the contract with Inoapps. Where a contract variation is proposed by Inoapps the PMO discusses with relevant Council stakeholders and is then passed to the Programme Board for approval. The programme lead then completes the change request which becomes an addendum to the original contract.

The impact of COVID-19 led to a review of the implementation timetable during Summer 2020, given its impact on for example system testing and training activity. At the same time Inoapps identified the need for significant contract variations, believing they had under-scoped the resources requisite to implement the project. The original contract was awarded on a time and materials basis. The Council, in negotiating revised contract terms with Inoapps moved to fixed price terms with payment based on Inoapps meeting specified milestones, which was agreed in November 2020.

The role of Oracle

Inoapps are a platinum implementation partner to Oracle, and Oracle are the provider of the new system being implemented. Having purchased Oracle Fusion the Council has not been able to effectively escalate the implementation issues with Oracle, in order for Oracle to support a resolution.

Organisational involvement

During the majority of the implementation stage of Oracle Fusion there has been ineffective engagement from across directorates and services. This has started to change, with greater Director ownership, but as already noted, there remains a need for greater senior leadership oversight.

The current position

Since the fixed price contract was agreed, with Inoapps taking a greater commercial risk on implementation, and having under-scoped their original bid, there has been increasing tensions between the Council and their implementation partner and frustrations from the Council at the level of support being provided by Inoapps.

This has led to an "us and them" culture rather than a joint implementation focus. At the time of this review relationships between the Council and Inoapps had broken down, further impacting on the progress of the implementation stage.

The go live date for the new system was deferred from October 2019 to April 2019, and subsequently deferred to October 2020. There is currently no go live date pending the Council agreeing a way forward with Inoapps.

Because the go live date will not take place prior to 31 December 2021 when EBS, the current system, becomes unsupported, the Council has approached Oracle, who also provide the EBS, to negotiate temporary support from January 2022. Oracle are seeking a 12-month extension to EBS which the Council would like to reduce due to the impact on unplanned costs, but the lack of a firm go live date is not helpful to these negotiations.

We understand that a report is being prepared for Cabinet on 24 November which will set out the Council's options and include a cost benefit analysis of these options.

Conclusions and recommendations

The risk to the Council of having no ERP system available from the 1 January 2022 is significant.

The Council must prioritise corporate effort to:

- ensure that temporary support is agreed with Oracle for EBS continuity.
- have an honest and frank discussion with Inoapps and urgently agree a clear resolution on the way forward.
- review governance arrangements so that good practice (such as Managing Successful Programmes) is in place and embedded, including clarity on the SRO role and approach to risk management.
- review the resourcing and scope of the implementation to ensure that it is realistic, given current circumstances, focuses on outcomes as well as costs, and there is organisation wide engagement and ownership of the programme.
- confirm a realistic and achievable go live date.
- ensure for future major projects a full business case is developed and approved.

KLOE B1: Chief Officers

The purpose of this KLOE was to consider the Council's compliance with JNC guidance in relation to the recent departure of certain chief officers.

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Background

The Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities is the national negotiating body for the pay and conditions of service of chief executives in England and Wales.

The JNC sets out the national conditions of service for chief officers of local authorities, which include model procedures in relation to performance management, capability, disciplinary and redundancy.

There is a different negotiating body for pay and conditions for other local government workers, the National Joint Council (NJC) for Local Government Services.

KEY FINDINGS

The Council's former Executive Director of Resources received a complaint in relation to certain actions that were believed to be outside Council policies and procedures. The actions related to matters over 5 years old and appear to have been precipitated by a change in control of the labour group. The then Chief Executive, after undertaking a fact-finding exercise and reviewing the position, invoked the model JNC disciplinary procedure. The Executive Director was suspended in March 2020 and the Council engaged the LGA to undertake an independent investigation. Prior to the conclusion of this investigation the Council finalised its senior management review which created a new structure for the Council's leadership team, resulting in the deletion of all Executive Director roles and the creation of new Director roles. The Executive Director chose not to apply for a new Director role, which led to the officer being made redundant by the Council before the investigation by the LGA was completed.

The Council's former Chief Executive departed the Council very quickly in July 2021 as a result of the breakdown in their working relationship with the new Leader of the Council. A decision was made by the two individuals concerned that the Chief Executive would leave the Council by mutual agreement, before the JNC model procedure could be invoked.

Following the decision being made the Council took external legal advice on employment law and sought advice from the LGA and various options were retrospectively considered, including the Chief Executive remaining in post, the Chief Executive claiming constructive dismissal, early retirement and mutual agreement, with the latter being considered the best value for money option.

The prior to previous Chief Executive also left before the JNC model procedure was invoked. The context was a Standards investigation, and the officer chose to resign rather than progressing to the formal procedure

Conclusions and recommendations

The Chief Executive and Leader are key roles in any Council, and their working relationship is critical to the effective running of the organisation. There are many examples in the local government sector where Chief Executives have left councils by mutual consent and not followed model procedures, for example, when there is a change in Leader.

However, given the context at the Council, the departure of the two previous Chief Executives in a similar manner will have contributed to the lack of trust and uncertainty in the organisation which is highlighted elsewhere in this report. This has been exacerbated by the departure of the Executive Director of Finance through a restructure

We also note that the speed of the decision for the former Chief Executive to leave, and the lack of other senior officer involvement (such as from the Monitoring Officer and Director of HR) and not taking legal advice prior to the decision being made created a risk that each party may have had a different interpretation of the outcome of the discussion and the decision being made.

The Council needs to consider how it can restore trust between officers and members. **The Council should ensure that at the very least, appropriate internal and external advice is sought should the departure of a chief officer by mutual consent is agreed.**

KLOE B2: Senior leadership

The purpose of this KLOE was to consider the background to senior leadership changes and the impact of interim officers in place.

Background

The Council has been through a period of significant change to its leadership, both in terms of senior officers and senior members. Following the local elections in May 2021 a new Leader was elected, who appointed a new Cabinet with effect from June 2021. Many of these Cabinet members had not previously held a Cabinet role, and some were fairly new to the role of councillor.

An interim Chief Executive has been in role since August 2021 and there has been significant changes to chief officers over the past year, with vacancies being filled by either external interims, or Council officers in acting up roles. These changes were driven in large part by a senior management review which concluded in October 2020, although we note that some chief officer departures were caused by unrelated circumstances. The changes are summarised in the table below.

Posts Prior to Senior Management Review	Leaving Date	Posts following Senior Management Review	Interim Status	Interim Start Date	Permanent status	Permanent start date
Chief Executive	Jul-21	Chief Executive	External interim	Aug-21	Vacant	n/a
Deputy Chief Executive	n/a	Deputy Chief Executive	Vacant	n/a	Vacant	n/a
Executive Director - Adult Social Care, Health & Wellbeing	Jul-19					
Director - Adult Social Care	Dec-20	Director - Adult Social Care	External interim	Apr-21	In role	July 2021
Director - Public Health	n/a	Director - Public Health	n/a	n/a	No change	n/a
Director - Prevention & Protection	n/a					
Executive Director - Resources	Sep-20					
Director - Law & Governance / Monitoring Officer	n/a	Director - Law & Governance / Monitoring Officer	n/a	n/a	No change	n/a
Director - Finance	n/a	Director - Finance	Acting up	Mar-20	In role	Aug 2021
Director - Business Strategy and Change	n/a	Director - Business Strategy & Change	n/a	n/a	Internal appointment	Dec 2020
Executive Director - Neighbourhoods	Dec-20					
Director - Homes &	Mar-21					
Director - Housing	n/a	Director - Housing	External interim	Apr-21	In role	July 2021
Director - Borough Economy	n/a	Director - Borough Economy	External interim	Apr-21	Appointed	Nov 2021
Director - Regeneration & Growth	Mar-20	Director - Regeneration & Growth	Acting up	Mar-20	In role	Sept 2021
Executive Director - Children's Services	Aug-21					
Director - Education & Skills	Apr-21					
Director - Children's Services	n/a	Director - Children's Services	Acting up, supported by external interim	Aug-21	Appointed	Nov 2021

Post created
Post deleted

Key findings

Other than the Chief Executive there are currently ten chief officer roles, of these four are recent external appointments, and two other external appointments have been made with these officers starting in November 2021. Three officers remain from the previous leadership team, two in the same role and one appointed to one of the new roles created by the review.

Two roles remain vacant: the Chief Executive and the Deputy Chief Executive, with the recruitment of the former recently initiated. The Council has decided to not recruit the Deputy Chief Executive and to review the need for this role.

In addition there is a Director of HR, which is not a permanent role and is being held by an external interim.

The impact of this recent period of change has been instability and uncertainty for the organisation. Whilst external interims are recognised positively for the experience they bring from working with other councils and having a “fresh pair of eyes” on some of the service challenges being faced, the wider organisation considers the use of interims as maintaining a holding pattern before permanent chief officers join. The Council will reach the position of having all roles filled by a permanent officers during November 2021, other than the two vacancies noted above.

The leadership of senior members and senior officers is critical to good governance and decision making, and more generally for the ability for the Council to deliver its services effectively and to progress its medium-to-long-term priorities.

All key stakeholders met during the course of this review recognised that the changes to senior officer and members has led to some immediate and positive changes. However, it was further recognised that the Council is at the start of a necessary improvement journey, and for these “green shoots” to deliver the widespread changes required, the Council’s leadership needs be relentless in its focus in delivering and embedding sustainable change. We note that these 'green shoots' only occurred on appointment of the current interim chief executive and we do not consider that they are embedded in the Council.

Critical to this sustainable change will be the appointment of the right permanent Chief Executive, and the Council must ensure an effective recruitment process, including maximising the chances of attracting a pool of appropriate candidates. Should the appointment of a permanent Chief Executive not be successful the Council should seek to retain the current interim Chief Executive and move this to a full time contract.

KLOE B3: Complaints

The purpose of this KLOE was to consider the appropriateness of complaints made against senior officers and the responses to these complaints.

Background

The Council has arrangements in place setting out how to make a complaint that an elected member has failed to comply with the Council's Code of Conduct. This is in line with the Localism Act 2011 (the Act). The Council's Monitoring Officer, or in their absence or where there is a conflict of interest, the Deputy Monitoring Officer, administers the system for dealing with complaints. The arrangements set out the stages of a complaint should be dealt with: no further action, local resolution or requires investigation.

The Act requires the Council to appoint at least one Independent Person whose views must be sought before it takes a decision on whether an investigation should proceed. The Council has agreed to there being three Independent Persons, who attend the Standards Committee as observers.

There are separate arrangements in place for complaints against senior officers which follow national JNC model procedures, with the Council's Chief Executive (unless conflicted) deciding if the thresholds are met to instigate an investigation.

There are separate procedures for whistleblowing complaints, which do not form part of the scope of this review.

KEY FINDINGS

The Council has had a history of complaints against members, many of which were not found to be circumstances that were in breach of the Code of Conduct. These complaints have been from other members, officers and members of the public.

We note that the Monitoring Officer has been subject to a number of complaints from members which have not met the threshold for investigation, and there is a perception that at least some of these complaints have been spurious and reflect a blame culture. We note that no complaint has been upheld against the monitoring officer. Similarly, in the case of other complaints against officers, rather than complaints relating to breaches of Council policies and procedures, they are based on the dislike of an individual or of an individual's response or actions during meetings.

This forms part of a wider culture and a deterioration in trust and respect between members, and between members and officers. This is arguably also reflected in a culture of written communications in relation to member enquiries. For example, in many instances officers want to have a written record of their response due to the culture of the organisation.

Again, due to the organisational culture, there is a perception that historically for some officer complaints, investigations have been undertaken due to concern of the consequences of deciding no further action was required.

The level complaints at the Council has been described as a "mini industry" which takes up valuable time and resource, should the complaints be spurious.

At its most recent meeting of the Standards Committee on 11 June 2021 an update was provided on live member complaints. There were twelve complaints, which had been received between July 2019 and May 2021, all alleging breaches of the Member Code of Conduct. Investigations had been invoked for all 12 and of these 7 had concluded there had been no breach, 2 had recommended local resolution, 2 could not be progressed (the member was no longer a councillor or the complainant did not engage in the process) with the outcome of one complaint outstanding.

There are signs that the new political administration has moved away from this culture, but this is not yet evident across the wider councillor group.

The Council's senior leadership – both officer and member – must act to change the culture and organisational ethos in relation to complaints, and to restore balance and proportionality.

KLOE B5: Standards Committee

The purpose of this KLOE was to consider the appropriateness of the work undertaken by the Standards Committee.

Background

In 2018, the Committee on Standards in Public Life conducted a review of local government ethical standards and invited the submission of comments and recommendations from local authorities and representative bodies. The Committee published its final report in January 2019, which included a recommendation that the Local Government Association (LGA) should draft a Model Code of Conduct.

The LGA Model Code of Conduct was drafted in consultation with representative bodies of councillors and officers of the local government. The final Code was published in December 2020. The LGA published a supplementary guidance document to support the Code in April 2021.

During the 2020-21 municipal year, the Council's Ethical Standards and Member Development Committee (the Standards Committee) undertook a wide-ranging review of the Members Code of Conduct and associated arrangements. This included the creation of an Ethical Standards Working Group which was established to guide improvement in the Council's Ethical Framework. Engagement with members included five engagement sessions in December 2020. These sessions covered:

- A review of the Member Code of Conduct, and members were supportive of the adoption of the LGA Code of Conduct, subject to an amendment to the interests of family members and close associates.
- The Council's revised social media policy which included ensuring that issues with social media were addressed and appropriate support provided to members.
- Members Interests to ensure that members were confident and clear in understanding disclosure of interests, their obligations, and how to deal with issues if they emerge. Members suggested that greater clarity around the issue of lobbying should be provided. Separately and in line with the recommendations within the LGA Model Code of Conduct, the Council's Gift and Hospitality arrangements were revised, and the limit was lowered from £100 to £50.
- Review of the arrangements for dealing with complaints under the Code of Conduct – these were amended to include an assessment criteria and indicative timescales for monitoring and clarity purposes, including reporting on the progress of the complaint in the case of delays.
- Duty to promote and maintain high standards of conduct, which focused on raising awareness of the role and work of the councillor and promoting high standards, particularly on the specifics relevant to individuals in their respective wards, towns and across the borough

For those members unable to attend these sessions a questionnaire was sent to ensure that all members could contribute. The feedback from the sessions was collated and presented to members at three further sessions held in February 2021.

KEY FINDINGS

March 2021 Standards Committee

At its meeting on 12 March 2021 the Standards Committee recommended the approval of :

- The revised Member Code of Conduct, and that these would be reviewed on an annual basis, alternating between a desk top review and a more detailed review.
- The revised arrangements for dealing with complaints under the Code
- The revised social media policy and that the Monitoring Officer be authorised to make any revisions/updates to the guidance which accompanies the social media policy, in consultation with the Chair of Standards Committee.
- The revised gifts and hospitality guidance
- The protocol for meetings to take place on a regular basis between senior officers, political group leaders and chief whips to talk about standards issues.
- The retention policy for Members' Register of Interests be set for as long as a person remains a Councillor, plus three months which represents the relevant limitation period for disclosure of information.
- A review of the recruitment process for Independent Persons be undertaken, in consultation with the Standards Working Group, and a further report submitted to a future meeting of the Standards Committee.
- a further report be submitted to the Ethical Standards and Member Development Committee/Standards Working Group in respect of DBS Basic Checks for elected Members.
- That a review of the composition of the Ethical Standards and Member Development Committee and operation be undertaken in the new municipal year

These were subsequently approved by full Council with effect from the 2021/22 municipal year

KLOE B5: Standards Committee

The purpose of this KLOE was to consider the appropriateness of actions taken by the Standards Committee.

KEY FINDINGS (Cont'd)

The Standards Committee also agreed that the member development programme be updated to include training on:

- the Code of Conduct;
- members' interests;
- gifts and hospitality;
- lobbying;
- arrangements for dealing with complaints;
- use of social media;
- promoting high standards, and
- that the induction programme for new members to be updated to include the same training, and to incorporate in member Personal Development Plans (PDPs) for any issues on an individual basis.

Progress on actions

The new Code and associated guidance and arrangements have been in place since the start of the 2021/22 municipal year. The Monitoring Officer has not yet needed to update the social media policy.

The training on the Code of Conduct, lobbying, and gifts and hospitality has been completed. A working group of the Standards Committee is updating the member development programme and engaging members on their development needs, including those members who chair committees and are hold appointments to outside bodies.

The Standards Committee working group has completed its review of the recruitment of Independent Persons who attend the Standards Committee as observers. There are currently three Independent Person roles, with one currently vacant.

Changes to how complaints were reported were introduced at the 11 June 2021 meeting of the Standards Committee, to provide assurance that complaints are being dealt with in a timely way and to provide the Committee with updates on progress. Importantly, these updates are reported on the basis of anonymity, and allows the Committee to identify trends and issues based on the nature of complaints raised

A Standards Committee working group has been established to consider the need for DBS checks for members, which has not yet reported to its parent committee

Reopening of old complaints

At its meeting on 11 June 2021 a member of the Standards Committee put forward a resolution to review all previous cases of complaints, to ensure appropriate processes had been followed and to identify any lessons learned. This was not approved due to there being unclear reasons on justifiable cause, and no advice having been sought on the implications of reopening cases which had concluded in line with the Council's policies and procedures.

Conclusions and recommendations

The unsuccessful resolution to reopen closed complaints is an example of the challenge the Council has in moving on from the past, and as highlighted in relation to KLOE B4, in changing the culture and organisational ethos in relation to complaints, to restore balance and proportionality.

More generally, the recent actions being led by the Standards Committee are good practice and are important given the recent history of the Council. More critical than approving the updated Code and related arrangements will be member compliance, and the **member training and development programme must play a key role in ensuring members fully understand the expectations and standards relating to their role**. It will take time for the wider organisation to believe that change is happening and embedded, from observing consistency in member behaviour in line with the Code, and that are all respectful of those they work with and of the Council as a civic institution.

No meetings have yet taken place between senior officers, political group leaders and chief whips. **These meetings should take place to ensure that these stakeholders are able to discuss emerging issues and trends, recognise good behaviours and discuss how to manage behaviours not in line with the Code.**

KLOE B6: Audit Committee

The purpose of this KLOE was to consider the actions undertaken by the Audit Committee during 2021 in relation to the review into the Wragge report.

Background

In Autumn 2014 allegations about the then Deputy Leader were made on social media, which led to police involvement, a standards complaint being made against the Deputy Leader, which in turn led to an internal audit investigation and senior officers commissioning an independent investigation by Wragge and Co Solicitors. During the course of this investigation a complaint was made in relation to the solicitor conducting the review, which led to the Council engaging a QC to review the investigation.

The report from Wragge and Co (the Wragge report) was eventually finalised in April 2016. Following publication further standards complaints, investigation and legal action took place, including a judicial review on behalf of the (by then) former Deputy Leader. A further internal review was undertaken at the request of the then Leader into the circumstances surrounding the Wragge report and issues which subsequently emerged, which reported in June 2020 (the Cox report).

On the 18 March 2021 the Audit and Risk Assurance Committee (the Audit Committee) met to discuss the Cox report, based on a report from Audit and Governance Panel, which had been established by the Audit Committee Chair with the objective to provide a safe space to consider this long-standing governance matter and to make recommendations to the Audit Committee with a view to determine if the matter had been addressed sufficiently to enable closure, or whether there were further steps or actions necessary to enable the matter to be concluded.

The Audit and Governance Panel report recognised:

- that over recent years the Council has dealt with and continues to deal with a number of governance concerns and issues. Whilst some are historic in nature, a number have had a tendency to resurface periodically sometimes due to concerns over how they may have been addressed previously.
- in order to address these issues effectively and enable the council to move on and focus on its ambitious objectives as detailed within its corporate plan, considerable time and resources have been expended to examine the identified governance issues and related concerns.
- a number of matters have reached a point whereby the Council has to either been able to identify and address shortcomings, or despite its endeavours, it is unlikely that the council will be able to fully understand the history, chronology or be able to restore the council to its previous position. This can be for various reasons, such as key individuals no longer employed by the council.

- the Council needs to ensure that its conducts itself legally and consistently with recognised good governance principles and practices. The Council is required to consider serious allegations in respect of its conduct or behaviours which could give rise to action against it, reputational harm, or lost confidence. The Council is obliged to consider relevant arrangements in relation to which their legality or whether their ongoing continuance could expose the Council to harm or claims. However, the consideration of such allegations needs to be proportionate and in the public interest.

KEY FINDINGS

The meeting of the Audit Committee on 18 March 2021 lasted almost six hours and adjourned before considering the matter in its entirety. The meeting was contentious with members being concerned about the late provision of papers and a lack of consensus on decisions (with the Audit Committee Chair taking the casting vote on a number of decisions). Due to the length of the meeting a decision on the final matter under discussion about the Wragge report was deferred. Following the committee meeting a complaint was raised against the monitoring officer. This has not yet been resolved.

Due to the pre-election period relating to the May local elections, the Audit Committee did not reconvene until 24 May 2021, where discussions were able to conclude.

The Chair and a number of other members of the Audit Committee changed in June 2021 for the new municipal year. The Audit Committee met on 24 June of 2021 and the minutes of the March and May meetings were presented for approval. However, members of the Committee did not approve the minutes as a correct record and requested that they be submitted to a future meeting for further consideration, with a potential for a further review to be undertaken.

At the next meeting of the Audit Committee on 16 September 2021 the minutes of the March and May meetings were approved with the central action to arrange for appropriate apologies to be made where this had been agreed as appropriate to individuals involved in the original Wragge review, and that the Monitoring Officer update the Committee when these apologies have been made.

KLOE B6: Audit Committee

The purpose of this KLOE was to consider the actions undertaken by the Audit Committee during 2021 in relation to the review into the Wragge report.

Conclusions and recommendations

The Wragge and Cox reports concerned significant governance related issues and, as the Audit and Governance Panel stated, the Council needs to ensure that it conducts itself legally and consistently with recognised good governance principles and practices.

However, we note that:

- The matters relate to events in 2014.
- The matters have been subject to significant scrutiny since 2014 including a judicial review.
- The review in 2020 and the Audit Panel and Committee in 2021 took place when there were significant service issues within the Council and used a significant amount of member and officer capacity.
- The matters continue to divide opinions and have resulted in a further lengthy process to agree a resolution.

Now that the Audit and Risk Assurance Committee has agreed the actions to bring this long-standing matter to resolution, it will be important that – as the Audit and Governance Panel recognised - the Council manages its position so that the matter does not resurface, so that it can move on and focus on its corporate objectives.



KLOE B7: Financial reporting

The purpose of this KLOE was to consider the Council's response to recommendations raised in our 2019/20 audit findings report.

Background

Our 2019/20 Audit Findings Report (AFR) highlighted a number of concerns about the Council's financial reporting in relation to the 2019/20 financial statements, including late submission of the draft accounts, incorrect working papers, the basis for provisions, a material error between cash and creditors, a material error on the cashflow forecast, and the basis for some asset valuations in particular in relation to leisure centres and the Public sixth form centre, and the impact of this on the Council's group accounts.

Our 2019/20 AFR noted that at that time we did not consider that these were sufficient to warrant a qualification of the VfM conclusion. However, should these matters reoccur in relation to the 2020/21 financial statements audit, we will issue a qualified VfM conclusion on financial reporting and consider the use of our wider reporting powers.

KEY FINDINGS

Management created an AFR action plan in response to the recommendations made as part of our 2019/20 audit and an associated project team to take forward these actions. As some of the key recommendation related to asset valuations, interim resource has been allocated to the asset management and valuations teams to progress associated actions.

We have reviewed this action plan which includes an owner and finance lead relating to each recommendation. The plan also sets out the actions required, delivery timescale and updates on progress.

In total there were 22 recommendations of which 13 were high priority and 9 medium priority. The latest version of the action plan reviewed confirms that ten associated actions had been completed (five each for high and medium priority) with the remainder in progress, with some of these having an inter dependency with the introduction of the new Oracle Fusion ERP system. As such, the delays in implementing the Council's new ERP system have an impact on successfully completing some actions

Four of the recommendations did not include required actions in the action plan, and 5 had no target date for completion

The Council does not currently have a corporate asset management database, instead relying on spreadsheets. The Council is taking steps to procure an asset management system, with a report planned to the December Cabinet. This system will take 12 to 18 months to procure and implement.

Acting up arrangements due to the vacant Director of Finance role until August 2021 has contributed to capacity constraints in delivering financial reporting responsibilities.

RELATED FINDINGS

Whilst the focus of this KLOE concerned the Council's annual financial statements, we identified the following in relation to other aspects of financial planning and reporting in the Council:

- There is not a comprehensive understanding across services of the make up and profile of individual budgets.
- There has not been a culture of undertaking financial benchmarking to help an understanding of unit costs.
- Budget management has been based on service bottom line rather than individual budgets.
- The Leadership Team has not received regular budget monitoring reports.
- Director and service engagement in the annual budget setting process has been limited

The above has been recognised and changes introduced by the new Director of Finance and interim Chief Executive, such as the introduction of financial benchmarking, "star chambers" for budget setting, and more regular budget monitoring by the Leadership Team.

Recommendations

Management should ensure that the AFR action plan sets out actions and completion dates in relation to all recommendations. It should also identify where the new ERP system implementation and the planned asset management system could cause delays or impacts on planned actions.

Management should ensure that the changes in relation to budget setting and budget management recently introduced are sustained, and take steps to manage any weaknesses not yet addressed.

Management should ensure the Finance team has appropriate skills and capacity to manage the Council's financial reporting responsibilities.

Appendices

Appendix A: Improvement recommendations

This appendix summarises our improvement recommendations by KLOE.

Page #	Improvement recommendations	Page #
	KLOE B4: Officer and member relationships	
1.	Embedding the changes that have been made by the Leadership Team and those that are planned will be critical if the Council is to realise its strategic ambition and provide effective governance.	15
2.	Enhancement of the induction programme to new members of Cabinet, including on local government finance and their governance roles is recommended.	15
3.	The Council should ensure that corporate KPIs are agreed so that the implementation of the Corporate Plan can be effectively monitored.	16
4.	The forward plan of the Cabinet should be shared with the Audit Committee and Scrutiny Board to help structure their agenda planning.	16
5.	The Leadership Team should agree key medium-term financial objectives and principles. There should be effective ownership of the principles that underpin the budget setting process, for example the Council's approach to reserves, contingency and Minimum Revenue Provision (MRP).	16
6.	Senior officers and senior members must lead by example to ensure that the "tone from the top" consistently reflects these values and behaviours. This is critical in ensuring that the wider organisation recognises that changes have been made and that all people are confident in adopting these values and behaviours. This should build on recently introduced staff briefings to include a programme of staff engagement including "pulse" checks to benchmark and monitor progress on the organisation's wellbeing.	17
7.	The Council should ensure that the review of the member development programme is appropriate. In particular, thought should be given to how members with special responsibility roles are developed and supported. This should include succession planning for these roles.	17
8.	Further work is required to establish a formal performance management framework and agree a set of key corporate indicators for the Leadership Team to collectively manage, receive appropriate management information to monitor progress, and set out clear lines of accountability, responsibility, and delegated authority.	17
9.	The recent introduction of financial benchmarking will need to be sustained to create a culture of curiosity in services in how nearest statistical neighbours are performing, to support savings identification and to drive improvements	17

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page #	Improvement recommendations	Page #
	KLOE B4: Officer and member relationships (cont'd)	
10.	The Council should continue its more outward looking approach is sustained and develop key local and sub-regional relationships.	18
11.	When investing in the communications team, the Council should also use this as an opportunity to ensure more effective internal communications, including with back-bench members.	18
12.	There is a need to ensure that members of scrutiny and audit committees are aware of their governance roles including how to interrogate reports and ask the right questions.	18
	KLOE A1: Sandwell Children's Trust	
13.	The Council's senior leadership – both officer and member – should prioritise corporate effort and develop a clear strategy for working with SCT to ensure it remains on its improvement trajectory. This should include: <ul style="list-style-type: none"> • working with SCT to progress a multi-agency early intervention and prevention strategy. • ensuring SCT has an appropriately resourced and skilled placements team in place to effectively manage the care market. • conducting a review of KPIs to ensure they are effective for current circumstances. • undertaking financial benchmarking in relation to children's social care, and take a realistic and pragmatic view on the level of funding required. • reviewing the governance roles of officers and members in relation to SCT so that they are clear on their responsibilities, avoid duplication, ensure effective communication and that there is a collective understanding of the performance of SCT and how risks and issues are being managed. 	22
	KLOE A2: Sandwell Leisure Trust	
14.	The Senior Leadership - both officer and member - must take ownership of this issue, prioritise corporate effort and take urgent steps to either resolve the current position with SLT or consider the options for alternative provision should either party decide to terminate the current contract, to ensure the continuity of future leisure service provision and associated reputational impacts.	24
	KLOE A3: Providence Place	
15.	Where the Council considers similar transactions in future, those charged with making decisions must satisfy themselves that they fully understand the detail of the options being proposed. Council officers and their advisors have a responsibility to ensure that members making decisions do so having fully understood these complexities and risks.	26
16.	The Council should ensure that all future property or land acquisitions and disposals are clearly aligned with relevant Council property related strategies.	26

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page # 33

	Improvement recommendations	Page #
	KLOE A4: SEND Transport	
17.	The Council's senior leadership – both officers and members – must place priority on agreeing the outcome of the SEND Transport procurement exercise to ensure a further contract extension is not required. This should include: <ul style="list-style-type: none"> • Not losing the significant progress made on the contract specification's focus on service quality. • Greater support, involvement, dialogue and oversight with the officer teams with responsibility for progressing the procurement. • Ensuring the contract provides the Council with effective management and oversight of the personal transport market. 	29
18.	For the conclusion of the SEND Transport procurement and for all future major procurements, the Council should ensure that: <ul style="list-style-type: none"> • Record keeping and declarations of interest are undertaken in line with Council policies and procedures. • Decision making does not create real or perceived risks in relation to inappropriate procurement decisions. • Procurement timescales provide adequate time for both suppliers to submit high quality bids, and the Council to undertake appropriate evaluation, scrutiny and decision making. This timescale should include appropriate time in advance of the procurement for the council to undertake the necessary strategic thinking and planning required, and mitigate the risk of not making an award in the planned timescale 	30
	KLOE A5: Sandwell Land and Property	
19.	The Council should ensure that when considering establishing an arm's length company in the future there is a clear purpose for doing so and that those officers / members of the Council in company director roles are clear of their role and responsibilities in relation to that company.	32
20.	Where arms length companies already exist the Council should gain assurances that company directors fully understand their company roles and responsibilities, that the company administration is properly resourced and appropriate training is provided to company directors. The purpose of the company should be revisited on a regular basis to determine whether the company continues to be of benefit to the Council.	32
	KLOE A6: MADE Festival	
21.	As part of the planned review of the scheme of delegation the Council should ensure that there is clarity of decision making on hosting events, and that the governance arrangements relating to such decisions are effective and clearly communicated.	33

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page #	Improvement recommendations	Page #
	KLOE A7: Waste Service	
22.	The Council should prioritise corporate effort to ensure that the recovery plans are approved and appropriate senior management oversight is given to monitoring their effective delivery.	36
23.	The Council should ensure robust contract management arrangements are in place, and review the Key Output Targets (KOTs) and work with Serco to ensure they are line with Council expectations and the data is available to allow effective monitoring of contract outcomes.	36
24.	The Council should ensure that the investments specified in the contract with Serco are made, such as a new vehicle fleet.	36
	KLOE A9: Lion Farm	
25.	The Council must ensure that the recent re-engagement with the developer results in agreeing a clear way forward, including an action plan and timescale so there is clarity on the responsibilities for the Council and developer in order to progress the finalisation of the secondary option agreement, or to be clear on the legal process for both parties extricating themselves from the agreement and the associated terms.	39
26.	The Council must ensure that it has taken all necessary steps to ensure that arrangements are in place so that all the issues identified in the external review are appropriately mitigated and managed.	39
27.	The Council should review its procurement regulations and consider updating them to include land sales, including options agreements, to ensure that best value can be achieved.	39
	KLOE A10: Introduction of new ERP System	
28.	<p>The Council must prioritise corporate effort to:</p> <ul style="list-style-type: none"> • ensure that temporary support is agreed with Oracle for EBS continuity. • have an honest and frank discussion with Inoapps and urgently agree a clear resolution on the way forward. • review governance arrangements so that good practice (such as Managing Successful Programmes) is in place and embedded, including clarity on the SRO role and approach to risk management. • review the resourcing and scope of the implementation to ensure that it is realistic, given current circumstances, focuses on outcomes as well as costs, and there is organisation wide engagement and ownership of the programme. • confirm a realistic and achievable go live date. • ensure for future major projects a full business case is developed and approved. 	42

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page #	Improvement recommendations	Page #
29.	KLOE B1: Chief Officers The Council should ensure that at the very least, appropriate internal and external advice is sought should the departure of a chief officer by mutual consent is agreed..	43
30.	KLOE B2: Senior Leadership Critical to this sustainable change will be the appointment of the right permanent Chief Executive, and the Council must ensure an effective recruitment process, including maximising the chances of attracting a pool of appropriate candidates. Should the appointment of a permanent Chief Executive not be successful the Council should seek to retain the current interim Chief Executive and move this to a full time contract.	44
31.	KLOE B3: Complaints The Council's senior leadership – both officer and member – must act to change the culture and organisational ethos in relation to complaints, and to restore balance and proportionality.	45
32.	KLOE B5: Standards Committee Member training and development programme must play a key role in ensuring members fully understand the expectations and standards relating to their role	47
33.	Meetings between senior officers, political group leaders and chief whips should take place to ensure that these stakeholders are able to discuss emerging issues and trends, recognise good behaviours and discuss how to manage behaviours not in line with the Code	47

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page #	Improvement recommendations	Page #
33	KLOE B6: Audit Committee	
34.	Now that the Audit and Risk Assurance Committee has agreed the actions to bring this long-standing matter to resolution, it will be important that – as the Audit and Governance Panel recognised - the Council manages its position so that the matter does not resurface, so that it can move on and focus on its corporate objectives.	49
	KLOE B7: Financial Reporting	
35.	Management should ensure that the AFR action plan sets out actions and completion dates in relation to all recommendations. It should also identify where the new ERP system implementation and the planned asset management system could cause delays or impacts on planned actions	50
36.	Management should ensure that the changes in relation to budget setting and budget management recently introduced are sustained, and take steps to manage any weaknesses not yet addressed.	50
37.	Management should ensure the Finance team has appropriate skills and capacity to manage the Council's financial reporting responsibilities.	50

Appendix B: The scope of the auditor's work on value for money arrangements

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Revised approach to value for money work for 2020/21

- On 1 April 2020, the National Audit Office introduced a new Code of Audit Practice which comes into effect from audit year 2020/21. The Code introduced a revised approach to the audit of value for money.
- There are three main changes arising from the NAO's new approach:
 - A new set of key criteria, covering financial sustainability, governance and improvements in economy, efficiency and effectiveness
 - More extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria
 - Auditors undertaking sufficient analysis on the local authority's value for money arrangements to arrive at far more sophisticated judgements on performance, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.
- The Code requires auditors to consider whether the body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. When reporting on these arrangements, the Code requires auditors to structure their commentary on arrangements under the three specified reporting criteria.



Improving economy, efficiency and effectiveness

Arrangements for improving the way the body delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



Financial Sustainability

Arrangements for ensuring the body can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years)



Governance

Arrangements for ensuring that the body makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the body makes decisions based on appropriate information

Potential types of recommendations

A range of different recommendations could be made following the completion of work on the body's arrangements to secure economy, efficiency and effectiveness in its use of resources, which are as follows:



Statutory recommendation

Written recommendations to the body under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the body to discuss and respond publicly to the report.



Key recommendation

The Code of Audit Practice requires that where auditors identify significant weaknesses in arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the body. We have defined these recommendations as 'key recommendations'.



Improvement recommendation

These recommendations, if implemented should improve the arrangements in place at the body, but are not made as a result of identifying significant weaknesses in the body's arrangements



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Report to Cabinet

12 January 2022

Subject:	School Funding Formula 2022/23
Cabinet Member:	Cabinet Member for Children and Education, Cllr Simms
Director:	Director of Finance, Simone Hines Director of Children and Education, Michael Jarrett
Key Decision:	Yes The implications are borough-wide
Contact Officer:	Rosemarie Kerr, Principal Accountant rose_kerr@sandwell.gov.uk

1 Recommendations

1.1 That approval be given to:

In respect of the 2022/2023 schools funding formula for Sandwell schools, consider the outcome of the consultation proposals following review by the Schools Forum, as shown in Appendix 1 as follows:

- (a) The funding formula option 1; a primary: secondary ratio of 1:1.29 be adopted.
- (b) A minimum funding guarantee of at least 0.5% and up to 2.0% be set.
- (c) The pupil number growth fund be set at £1.3m as recommended by Schools Forum.



- 1.2 In respect of the proposal to top slice the dedicated schools grant (DSG) to create a growth fund for 2022/23 of £1.300m to be ring fenced for the purposes of supporting growth in pre-16 pupil numbers to meet basic need, additional classes need to meet infant class size regulation and to meet the costs necessary new schools, including the lead-in costs, post start up costs and any diseconomy of scale costs.
- 1.3 In respect of the de-delegated budgets for Sandwell maintained schools consider the outcome of the consultation proposals as agreed by the Schools Forum for 2022/23, as shown in section 4.34 and Appendix 2.
- 1.4 In respect of the education functions budgets for Sandwell maintained schools consider the outcome of the consultation proposals as agreed by the Schools Forum for 2022/23, as shown in section 4.40 and Appendix 3.
- 1.5 Approve, in respect of the central schools services block and the line by line expenditure outlined in section 4.48 to 4.52 and as agreed by the Schools Forum for 2022/23, as shown in Appendix 4.
- 1.6 Approve the provisional 2022/2023 schools funding formula values as outlined below

Item	Primary	Secondary
Primary: Secondary Ratio	1	1.29
Basic Entitlement	£3,512	£4,977
Free School Meals	To be checked by the DfE and confirmed with DCS and S151 Officer	
Free School Meals – Ever 6		
IDACI Band E	£77	£350
IDACI Band D	£485	£676
IDACI Band C	£551	£771
IDACI Band B	£602	£855
IDACI Band A	£630	£900
Prior Attainment	£1,225	£1,776
English as an Additional Language (EAL)	£846	£1,227



(2 years)		
Lump Sum	£129,057	£129,057
Split Site	£129,057	£129,057
Rates	Actual	Actual
Private Finance Initiative (PFI)	Actual	Actual
Minimum Funding Guarantee (MFG)	To be checked by the DfE and confirmed with DCS and S151 Officer	

- 1.7 That the Director of Children and Education Services, in conjunction with the Section 151 Officer, be authorised to approve the 2022/2023 schools funding formula following confirmation of the funding allocation from the Department for Education

2 Reasons for Recommendations

- 2.1 The Schools Revenue Funding 2022/2023 – Operational Guide requires the Council to engage in open and transparent consultation with maintained schools and academies in their area, as well as with their schools forum about any changes to the local funding formula, including the principles adopted and any movement of funds between blocks.
- 2.2 The Council is responsible for making the final decisions on the formula and for ensuring there is sufficient time to gain political approval before the schools funding model (Authority Proforma Tool – APT) deadline in January 2022.



3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <p>Our children benefit from the best start in life and a high quality education throughout their schools careers with outstanding support from their teachers and families.</p> <p>The budget consultation with schools and other stakeholders provides the basis on which the majority of resources are directly allocated to individual schools. The strategies and proposed direction of these resources contribute significantly towards raising attainment in schools and therefore supports children benefitting from a high-quality education throughout their school careers with outstanding support from their teachers and families.</p>
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4 Context and Key Issues

- 4.1 In August 2019, the government announced that funding for schools and high needs would increase by £2.6 billion for 2020/21, £4.8 billion for 2021/22, and £7.1 billion for 2022/23, compared to 2019/20. This funding includes additional funding for children with special educational needs and disabilities. The government has published the provisional dedicated schools grant (DSG) allocations for 2022/23, which is the final year of the three year funding increase.
- 4.2 The DSG consists of 4 blocks; schools, high needs, early years and the central schools services block. Each of the blocks of the dedicated schools grant has been determined by a separate national funding formula (NFF).
- 4.3 Schools block funding is based on notional allocations for each school, which is aggregated to arrive at the schools block funding for each local authority.
- 4.1 The Schools Revenue Budget 2022/23 Consultation was issued to schools on 10th November 2021 after approval at the Schools Forum meeting on 8th November 2021; with a deadline of noon 1st December 2021 to respond.



4.2 A summary of responses to this consultation can be found in Appendix (1), (2), (3), (4) and (5).

Consultation with the following stakeholders was held:

- Joint Executive Group – 11th November 2021
- Primary/Secondary Partnership – 15th November 2021
- Joint Union Panel - 16th November 2021
- Association Sandwell Governing Bodies – 24th November 2021

4.3 A total of 53 responses were received (compared with 70 last year), with 43 out of 94 (46%) primary schools/academies, and 10 out of 20 (50%) secondary schools/academies responding.

4.4 The authority has received two responses from individual unions (refer to section 4.58 to 4.63 for further detail.)

4.5 Consultation Proposals

The consultation on the formula funding for schools for 2022/23 includes proposals on the following:

4.6 The funding formula to use for allocating schools budgets;

- Option 1 – Stepped change in the Primary: Secondary ratio – Local Authority Formula with a ratio of 1:1.29 in year 3.
- Option 2 – Secondary Schools receive 1% more above the overall increase in funding.
- Option 3 – National Funding Formula Factor Values
- Pupil Number Growth Contingency Fund of either Option 1 £1.850m or Option 2 £1.300m.
- Minimum funding guarantee and capping of gains.
- De-delegation proposals.



- Education Functions.
- Central Schools Services Block.

4.7 Funding Options – General Assumptions

4.8 The authority modelled 3 options for calculating schools revenue budget for 2022/23. There were some general adjustments which applied to all options which were as follows:

- Q3 Langley opened in September 2016 with a PAN of 240 for each year group. The PAN has increased to 300 from September 2021. (however, for modelling purposes the pupils numbers are the same as 2021/22 to allow for comparison)
- The Shireland Technology Primary opened in September 2019 with a PAN of 60 for Reception.
- The West Bromwich Collegiate Academy opened in September 2019 with a PAN of 150 for each year group.
- The amalgamation of Warley Infants and Bleakhouse Junior Schools into Bleakhouse Primary School on 1st September 2020. The guidance states that where schools have amalgamated during the financial year, they retain the equivalent of 85% of the predecessor schools' lump sums for the following financial year (2021/22).

For example, assuming a lump sum of £100,000, the additional payment would be £70,000 ($(£100,000 \times 2) \times 85\% - £100,000$).

Local authorities may apply to provide a second year of protection. Applications must specify the level of protection sought, although the expectation from the DfE is that the additional protection would not exceed 70% of the combined lump sums. They have stated they will consider applications on a case-by-case basis.

At its meeting on 8th November 2021; Forum members agreed that an application could be submitted for Bleakhouse Primary School requesting a second year of the lump sum protection equivalent to 70% of the predecessor schools lump sum for the financial year 2022/23.

The ESFA has approved the application request.



4.9 The funding formula options were as follows:

Option 1: Stepped increase to the 2022/23 Local authority model - Increase of the Primary: Secondary Ratio to 1:1.29 (3rd Year)

4.10 This model uses the same factors as previous years, except for the two factors mentioned below. In Sandwell's local school funding formulae, the 2021/22 rate for Basic Entitlement/AWPU is significantly above the National Funding Formula (NFF) rate. The recommendation was therefore; to keep these rates the same for 2022/23 and instead introduce for the first time, factor value rates for Free School Meals (FSM) and Free School Meals Ever 6 (FSM6) in order to reflect the change of moving to a primary secondary ratio of 1:1.29.

The DfE have issued guidance on the "Schools block funding formulae 2021/22" This guidance provides a summary of the local funding formulae submitted by each LA to the Education and Skills Funding Agency (ESFA) in January 2021. As part of this analysis, local authorities' schools block funding formulae have been used to calculate the relative differences in per-pupil funding allocated to secondary pupils compared to primary pupils. A ratio of 1 : 1.24, for instance, indicates that secondary-age pupils in a local authority receive, on average, 24% more funding per head than primary-age pupils.

The overall ratio nationally across all local authorities is 1 : 1.296, a slight decrease from the 2020/21 formulae where it was 1 : 1.298.

The following table is a comparison of the primary : secondary ratio for our statistical neighbours for the financial years 2017/18 to 2021/22. Sandwell's ratio for 2021/22 was agreed at 1:1.27 whereas before it had remained unchanged at 1 : 1.23 for several years; before increasing to 1:1.25 in 2020/21.



Statistical Neighbour Comparison of Primary: Secondary Ratio 2017/18 - 2021/22									
Rank (1 = closest)	Local Authority	Closeness in ranking	ID	Primary: Secondary Ratio 2017/18	Primary: Secondary Ratio 2018/19	Primary: Secondary Ratio 2019/20	Primary: Secondary Ratio 2020/21	Primary: Secondary Ratio 2021/22	Change in ratio from 2020/21 to 2021/22
1	Wolverhampton	Very Close	336	1.34	1.34	1.34	1.36	1.36	0.01
2	Walsall	Very Close	335	1.25	1.24	1.24	1.24	1.25	0.01
3	Derby	Close	831	1.30	1.35	1.36	1.30	1.30	0.00
4	Birmingham	Close	330	1.30	1.31	1.33	1.32	1.31	0.00
5	Coventry	Close	331	1.31	1.32	1.31	1.32	1.32	0.00
6	Peterborough	Close	874	1.36	1.33	1.33	1.34	1.34	0.00
7	Nottingham	Close	892	1.35	1.35	1.34	1.34	1.35	0.01
8	Stoke -on Trent	Close	861	1.27	1.29	1.29	1.29	1.30	0.01
9	Luton	Close	821	1.32	1.32	1.34	1.35	1.36	0.01
10	Blackburn with Darwen	Close	889	1.39	1.35	1.34	1.34	1.30	-0.04
	Sandwell		333	1.23	1.23	1.23	1.25	1.27	0.02
	Dudley		332	1.22	1.33	1.32	1.33	1.33	0.00

Option 2: Secondary Schools receive 1% more above the overall increase in funding.

4.11 This model gives secondary schools 1% more of the additional funding than primary pupils (The 1% is calculated on the basis of funding to primary and secondary schools prior to applying Minimum Funding Guarantee (MFG) and Minimum Per Pupil Funding levels (MPPF). The model uses the same factors as previous years, except for the FSM6 which was introduced for the first time in order to reflect the change of secondary schools receiving 1% more above the overall increase in funding.

Option 3: National Funding Formula Factor Values

4.12 This model used the factor values used in the National Funding Formula, without applying the Area Cost Adjustment. In order to fund the Pupil Number Growth fund and the MFG to be set at 0.5% to keep in line with the modelling of the other options, the English as an additional language factor had to be changed from those eligible pupils recorded on the census as having entered state education in England during the last three years, whose first language is not English, to those pupils entering during the last two years to remain within the provision allocations funding envelope announced.

4.13 Most respondents voted for Option 1. The responses for each option is shown below.



- Option 1 – 42 Agreed, 11 against
- Option 2 - 1 Agreed, 52 against
- Option 3 – 0 Agreed, 53 against

4.14 The following responses reflect some of the comments received:

- “I have not indicated an option as my preference is to request a standstill as I do not believe any more money should be moved from primary sector to secondary sector as no evidence /research as been provided to support. Further consultation is needed through schools forum.”
- “Without discussing and agreeing an educational rationale, it should not be possible to make any of the changes to school funding mechanisms as proposed”

4.15 The comments above are a small reflection of the comments received in relation to the options for the authority funding formula. Appendix 5 provides further detail on the comments made about the funding formula as well as detailing comments on each question in the consultation and general comments overall.

4.16 The comments received were almost exclusively received from the primary sector whilst the secondary sector responded to the specific consultation questions to the affirmative or otherwise without making any specific or general comments.

4.17 Schools Forum voted for option 1 in line with the responses received from the schools

4.18 Pupil Number Growth Fund

Local authorities may topslice the DSG to create a growth fund. The growth fund is ring-fenced so that it is only used for the purposes of supporting growth in pre-16 pupil numbers to meet basic need, to support additional classes needed to meet the infant class size regulation and to meet the costs of necessary new schools. These will include the lead-in costs, post start-up costs and any diseconomy of scale costs.



- 4.19 Local authorities are responsible for funding these growth needs for all schools in their area, for new and existing maintained schools and academies.
- Local authorities must fund all schools on the same criteria.
 - Where growth occurs in academies that are funded by ESFA on estimates, the ESFA will use the pupil number adjustment process to ensure the academy is only funded for the growth once.
- 4.20 The Authority has estimated the costs for authority led expansions of schools to cater for the increase in birth rates, pre-opening and diseconomy of scale costs for West Bromwich Collegiate Academy and it has also estimated mid- year admissions costs.
- 4.21 For the last 4-5 years the pupil number growth fund has been set at £2.269m, however since 2019/20 the level of recoupment that the LA has been able to retain has increased to an average of £0.544m per year compared to levels of £0.178m per year prior to 2019/20. This has therefore increased the total Pupil number growth funding in the last few years.
- 4.22 In 2021/22 the Pupil number growth fund was reduced from the levels set in previous years of £2.269m to £1.091m as a result of accrued balances built up over the last few years.
- 4.23 The government have stated in their consultation document “Fair School Funding for all: completing our reforms to the National Funding Formula” that they are planning to change growth funding and the basis on which they fund new and growing schools.

4.24 DFE Growth fund – Current formulaic method

Growth funding is within local authorities’ schools block NFF allocations. Since 2019/20, growth funding has been allocated to local authorities using a formulaic method based on lagged growth data. The change in the method of funding to local authorities has not changed the way in which authorities can allocate funding locally.

- 4.25 For each local authority, the growth factor will allocate:

- £1,485 for each primary “growth” pupil,



- £2,220 for each secondary “growth” pupil
- £70,800 for each brand new school that opened in the previous year (that is, any school not appearing on the October 2020 census but appearing on the October 2021 census).

4.26 The authority currently funds schools as follows:

- LA agreed PAN Increase/Bulge Class at 100% of Basic Entitlement/AWPU; which for 2021/22 is £3,512 for primary pupils and £4,977 for secondary pupils.
- Mid Year Admissions at 50% of Basic entitlement/AWPU for 2021/22.
- New/Growing schools – ESFA rates for leadership and resources.

4.27 Given the disparity between the Growth funding rates received by the authority and the Pupil number growth rates used to pay schools; and because of the government’s plans to change the basis of funding; the authority is proposing two options for setting the allocation:

4.28 Option 1 – Continue with the current criteria as set out in section 4.25. above. An estimation of the Pupil Number Growth amount required is £1.850m.

4.29 Option 2 – To fund schools for LA agreed PAN/Bulge increase and New/growing schools only. The funding for mid year admissions would cease. An estimation of the Pupil Number Growth amount required is £1.300m.

4.30 Option 2 was put forward for schools to consider working towards aligning the authority’s Pupil growth fund with the government’s direction of travel; particularly in relation to the growth values.

4.31 The majority of respondents agreed option 2 with a Pupil Number growth fund set at £1,300,000.

- Option 1 – 21 Agreed, 32 against
- Option 2 - 35 Agreed, 18 against

4.32 Schools Forum voted of option 2.



4.33 De-delegations

There were 5 de-delegation proposals and the details are set out in the table below.

De-delegation Budget Proposals 2022/23				
Ref	Service	Total Budget	Primary Phase Cost	Secondary Phase Cost
		£	£	£
1	Health & Safety Licenses	5,990	4,970	1,020
2	Evolve Annual Licence	6,300	5,200	1,100
3	Union Facilities Time	213,000	177,000	36,000
4	School Improvement Service	100,000	83,000	17,000
5	School in financial difficulty	88,000	73,000	15,000
	Total De-delegation proposals	413,290	343,170	70,120

4.34 The Schools Forum voted in line with the responses received for both primary and secondary school blocks for all the proposals with the exception of the union facilities for secondary schools.

Proposal	Schools response		Forum vote	
	Primary	Secondary	Primary	Secondary
Health & Safety Licences	35 For	3 For	5	1
Evolve Annual Licence	40 For	3 For	5	1
Union Facilities	27 For	2 Against	1	1
School Improvement Service	39 For	3 For	5	1
Schools in financial difficulties	28 For	3 For	5	1



4.35 Education Functions Proposals for maintained schools

Local authorities can fund services previously funded from the general funding rate of the ESG (for maintained schools only) from maintained school budget shares, with the agreement of maintained school members of the Schools Forum.

4.36 The relevant maintained schools members of the Schools Forum (primary and secondary), should agree the amount the local authority will retain.

4.37 Sandwell, in line with guidance, intend to set a single rate per 5 to 16 year old pupil for all mainstream maintained schools, both primary and secondary. The rate of £14.97 per pupil is based on October 2020 census data, this will be updated to be based on October 2021 census data.

4.38 If the local authority and Schools Forum are unable to reach a consensus on the amount to be retained by the local authority, the matter can be referred to the Secretary of State.

4.39 There are 3 education function proposals and the details are set out in the table below.

Education Functions Budget Proposals 2022/23		
Service	Total Budget	Amount per pupil
	£	£
Education Benefits Team	175,000	5.55
Children's Clothing Support Allowance	33,000	1.05
Safeguarding & Attendance	264,000	8.37
Total Education Functions	472,000	14.97

4.40 The maintained school forum members voted in favour for the Education functions lines as shown in the table below together with the maintained schools responses.
(Refer to appendix 3).



School Forum vote and School responses

Ref	Service	Maintained Schools Response		Forum Vote	
		Yes	No	Yes	No
1	Education Benefits Team	42	3	Majority	0
2	Children's Clothing Support Allowance	38	7	Majority	0
3	Safeguarding & Attendance	40	5	Unanimous	0

4.41 Attendance and Safeguarding Team

At the 8 November 2021 meeting of Schools' Forum, members expressed an interest in better understanding the services provided by the Attendance and Safeguarding team and the appropriateness of the funding approved by the Forum. The request for additional information was made at a stage in the current consultation process that would not allow time for wider consideration and enable the Forum to make an informed decision about future funding.

4.42 It was suggested that the Children's Directorate undertake a review of the team, with the assistance of the Forum, seeking to assess the value added by the team compared to the funding made available from DSG. The review to be completed in the first half of 2022 and reported to Schools Forum no later than the meeting scheduled for 20 June 2022, with the objectives of the review agreed in advance with the Chair of the School Forum.

4.43 Minimum Funding Guarantee

4.43 Local authorities continue to have the ability to set a pre-16 minimum funding guarantee (MFG) in their local formulae, to protect schools from excessive year-on-year changes and to allow changes in pupil characteristics (for example reducing levels of deprivation in a school) to flow through.

4.44 The DfE have stated there continue to have greater flexibility for the MFG in 2022/23; local authorities are able to set an MFG between plus 0.5% and plus 2.00% per pupil. Setting the MFG between these rates gives the authority the flexibility to make local decisions about the distribution of funding and enables the authority to manage any changes



in pupil characteristics when characteristics data is updated in December.

4.45 The respondents have unanimously voted for an MFG of at least 0.5% and up to 2.00% if modelling proved this was achievable within the funding given (53 agreed, 0 against).

4.46 The majority of respondents agreed with the scaling and capping of the MFG if it proves necessary to ensure the MFG is within the funding envelope. (40 agreed, 13 against).

4.47 Schools forum voted in line with the school responses received, voting for an MFG of at least 0.5% and up to 2% with capping and scaling if it proves necessary. (MFG: 12 agreed, 0 against; Scaling and capping 13 agreed, 0 against)

4.48 Central School Service Block

The Central Schools Service Block (CSSB) continues to provide funding for local authorities to carry out central functions on behalf of maintained schools, and academies, comprising two distinct elements:

- Ongoing responsibilities; such as admissions and schools forum costs.
- Historic commitments; in this case pensions administration.

4.49 Funding for historic commitments is based on the actual cost of the commitment. The DfE have stated they expect these commitments to reduce and cease over time and there will be no protection for historic commitments in the CSSB.

4.50 For 2022/23 the DfE have reduced Historic commitment funding by 20%; this has resulted in a cut for Sandwell from £0.182m to £0.146m.

4.51 Schools Forum approval is required each year to confirm the amounts on each line for central school services the detail of which is included in the table below. In the event that Schools Forum does not agree with the authority CSSB proposal as detailed below, the authority can ask the DfE to adjudicate.



Central School Services Budget Proposals 2022/23	
Service	Total Budget
	£
Statutory & Regulatory, Education Welfare and Asset Management	1,662,000
Schools Forum	3,000
Admission Service	452,600
Pensions Administration	145,900
Total Central School Services	2,263,500

4.52 The School Forum Members voted unanimously for the Central Schools Service Budget proposals as shown in the table below together with the school responses.

Central School Services Budget Proposals 2022/23				
Service	All Schools Response		Forum Vote	
	Yes	No	Yes	No
Statutory & Regulatory, Education Welfare and Asset Management	49	4	13	0
Schools Forum	52	1	13	0
Admission Service	49	4	13	0
Pensions Administration	50	3	13	0

4.53 Consultation Response/Schools Forum Vote

The Schools Forum met on 13th December 2021 to consider the outcome of the consultation with schools.

4.54 Cabinet should be aware that the recommendations from the Schools Forum resulted from lengthy discussions on the formula funding options. Representatives of the Primary sector asked that their views be included in the cabinet report which are included in appendix 5.

4.55 This report now presents an analysis of responses received from schools and other stakeholders and recommends the proposals to be taken forward with effect from 1 April 2022.



4.56 Appendices 1- 4 provides a summary of the responses received from schools.

4.57 The overall results of the consultation responses are recorded below. School Forum members voted all the proposals in line with the school responses received.

Proposal	Schools	Forum vote
1. Please indicate the option you prefer to use for calculating school funding for 2022/23		
a) Option 1: LA formula with a stepped increase in the primary: secondary ratio of 1:1.29 (3rd year)	42	12 For 0 Against 1 Abstain
b) Option 2: Secondary Schools receive 1% more above the overall increase in funding.	1	0 For
c) Option 3 – National Funding Formula factor values.	0	0 For
2. Do you agree that we should set the Pupil Number Growth fund for 2022/23 at:		
a). Option 1: Current Pupil Number Growth formula with an estimated cost of £1.850m	21	0 For
b). Option 2: Current Pupil Number Growth formula with an estimated cost of £1.300m	35	12 For 0 Against 0 Abstain
4. Which of the De-delegated budget proposals do you agree with (see Appendix 2)	Refer to Section 4.34	
5. Which of the Education Function budget proposals do you agree with (see Appendix 3)	Refer to Section 3.40	
6. Please indicate whether you agree with: a). MFG of at least +0.5% and up to 2.00% if modelling proves this achievable within the funding given	53	12 For
b) The application of scaling and capping if it proves necessary to be able to	40	13 For



implement an MFG as outlined in a). and to remain within the available funding		
7. Do you agree for the authority to provide for the responsibilities it holds for all schools from the “Central School Services Block” funding. The provisional 2022/23 allocation is £2.264m.	Refer to Appendix 4	13 For

4.58 Trade Union Response

The authority has consulted with the Joint Union Panel and received responses from the National Education Union (NEU) and the National Association of Head Teachers (NAHT).

4.59 The NEU response commented:

“Sandwell is NOT what you call an ‘average’ area. In 2018, according to a report on childcare, it was reported that more than 20,000 children were living in poverty in Sandwell, which is one in every four children. It is for you to decide if you think things have improved since then. According to The English Indices of Deprivation 2019, which is an official measure of deprivation, Sandwell is one of the most deprived areas in the country. On most measures, Sandwell is the most deprived local authority within the Black Country.

The DfE acknowledged the essential role of LAs during the pandemic to support education, however, such praise will be short lived. The consultation document mentions significant financial challenges ahead such as the increasing outsourcing of services, once provided by the council. This is a further step towards a fragmented, privatised system in which, sadly, competition and profit will come before pupils.”

4.60 The NEU stated in relation to question 1:

“Whilst Sandwell NEU recognises the historic primary/secondary ratio as being favourable to primary schools, there is a reason for this. As stated above, Sandwell is not an ‘average’ LA, regarding poverty and deprivation. Sandwell NEU would have preferred a standstill option.”

4.61 The NAHT agreed with the proposal to change the Pupil Number Growth criteria and they agreed with all the other proposals for the MFG and capping and scaling, de-delegations, Education functions and the Central Schools Services Block.



4.62 The NAHT did not respond specifically to question 1 in the consultation but stated that “A number of members have been in touch to express disappointment that there was no standstill option presented this year given the significant increases in their ongoing expenditure.”

4.63 The NAHT agreed with the proposal to change the Pupil Number Growth criteria and they agreed with all the other proposals for the MFG and capping and scaling, de-delegations, Education functions and the Central Schools Services Block.

4.64 Proposed schools funding formula 2022/23

The following table details the formula factors and unit values which will be used as the basis for 2022/23 Schools Funding Formula in line with schools forum recommendation. The free schools meals and free school meals ever 6 values together with the MFG will be determined once the DSG allocations and the schools funding model otherwise known as the Authority Proforma Tool (APT) model has been published.

Item	Primary	Secondary
Primary: Secondary Ratio	1	1.29
Basic Entitlement	£3,512	£4,977
Free School Meals	To be checked by the DfE and confirmed with DCS and S151 Officer	
Free School Meals – Ever 6		
IDACI Band E	£77	£350
IDACI Band D	£485	£676
IDACI Band C	£551	£771
IDACI Band B	£602	£855
IDACI Band A	£630	£900
Prior Attainment	£1,225	£1,776
English as an Additional Language (EAL) (2 years)	£846	£1,227
Lump Sum	£129,057	£129,057
Split Site	£129,057	£129,057
Rates	Actual	Actual



Private Finance Initiative (PFI)	Actual	Actual
Minimum Funding Guarantee (MFG)	To be checked by the DfE and confirmed with DCS and S151 Officer	
MFG Ceiling		

5 Alternative Options

- 5.1 The alternative options considered are set out under paragraphs 4.9 to 4.12 for the local authority funding formula and paragraphs 4.18 to 4.29 for the value of the Pupil Number Growth Fund.

6 Implications

Resources:	The Education and Skills Funding Agency (ESFA) announced the DSG allocations for 2022/23 in December 2021. The table below details the allocations by block.																																					
	<table border="1"> <thead> <tr> <th>DSG Block</th> <th>Allocation prior to Adjustments</th> <th>Adjustments</th> <th>Allocation after adjustments</th> </tr> <tr> <td></td> <th>£m</th> <th>£m</th> <th>£m</th> </tr> </thead> <tbody> <tr> <td>Schools</td> <td>308.463</td> <td>(2.961)</td> <td>305.502</td> </tr> <tr> <td>Central School Services</td> <td>2.283</td> <td>0.000</td> <td>2.283</td> </tr> <tr> <td>High Needs</td> <td>61.267</td> <td>(3.130)</td> <td>58.137</td> </tr> <tr> <td>Early Years</td> <td>23.387</td> <td>0.000</td> <td>23.387</td> </tr> <tr> <td>Total</td> <td>395.400</td> <td>(6.091)</td> <td>389.309</td> </tr> </tbody> </table>	DSG Block	Allocation prior to Adjustments	Adjustments	Allocation after adjustments		£m	£m	£m	Schools	308.463	(2.961)	305.502	Central School Services	2.283	0.000	2.283	High Needs	61.267	(3.130)	58.137	Early Years	23.387	0.000	23.387	Total	395.400	(6.091)	389.309	<p>The Schools Block funding that will be distributed through the main funding formula is £304.202m. This has been calculated as follows:</p> <table border="1"> <thead> <tr> <td></td> <th>£m</th> </tr> </thead> <tbody> <tr> <td>Schools Block DSG</td> <td>305.502</td> </tr> <tr> <td>Less Pupil Number Growth Contingency</td> <td>(1.300)</td> </tr> <tr> <td>Schools Block DSG Available to Distribute</td> <td>304.202</td> </tr> </tbody> </table>			£m	Schools Block DSG	305.502	Less Pupil Number Growth Contingency	(1.300)	Schools Block DSG Available to Distribute
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The government have also announced additional funding for schools in the form of a supplementary grant for 2022/23 with an indicative amount of £9m for Sandwell, final allocations will be confirmed in Spring 2022.

Also, following the Autumn 2021 spending review, the High Needs Block (HNB) will receive additional funding of £2.3m on top of the allocation specified in the table above. This extra funding recognises the additional costs that local authorities and schools will face in the coming year, which were not foreseen when the original HNB allocations were calculated, including the Health and Social Care Levy.

This report will affect the funding received by individual schools in 2022/23.

The DfE has given greater flexibility for the Minimum Funding Guarantee (MFG) in 2022/23; with local authorities being able to set an MFG between +0.5% and +2.00% per pupil.

The main risks regarding school funding are that:

- (a) There are significant financial challenges in the education sector at present, and the Covid-19 pandemic has only added to it. It is clear that schools feel that despite the recent funding announcements, the proposed schools funding arrangements will not fully offset the effects over the last 10 years of inflation, national pay awards and the apprenticeship levy to name a few.
- (b) The Council will have no powers with which to mitigate the risk as detailed above. The planning for managing this risk sits with individual school governing bodies, as they have delegated authority over school budgets.

The local authority closely monitors school budgets through receipt of termly monitoring reports and can offer some minimal support to schools in financial difficulty. Schools



	Forum will also review the school funding formula on an annual basis.
Legal and Governance:	The Authority currently must adhere to the Schools and Early Years Finance (England) Regulations 2021. The regulations are due to be updated for 2022.
Risk:	The Corporate Risk Management Strategy (CRMS) has been complied with – to identify and assess the significant risks associated with this decision. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. As set out in paragraph 4.1, school’s will see an increase in their funding from 2022/23. The recommendation by School Forum members to adopt option 1 will see schools moving as a further step towards a primary: secondary ratio more in line with the national average under the national funding formula. The increase in funding from both these aspects will in part help to mitigate against some of the impact of years of real terms cuts as identified in the directorate risks “Impact of reductions to funding.” Also based on the information provided, it is the officers’ opinion that for the significant risks that have been identified, arrangements are in place to manage and mitigate these effectively.
Equality:	<p>The DfE have undertaken an equalities impact assessment of the national funding formula for schools and high needs. The analysis is also based on the assumption that local authorities will fund their schools in accordance with the national funding formula. In practice 2022/23, local authorities will retain the discretion to distribute funds in accordance with locally set formula. The allocation at authority level is based on the national funding formula and as such is supposed to create a fairer and consistent distribution of funding that is more closely aligned to need and to provide support for all children irrespective of their background, ability, need or where in the country they live.</p> <p>The authority’s formula targets funds to support pupil groups that have been identified as needing additional support. It does not target funding by reference to particular protected characteristics under the Equality Act 2010, but instead targets funding to those groups which the evidence demonstrates face barriers to their educational achievement.</p>



Health and Wellbeing:	The proposals in this report have no impact on health and wellbeing.
Social Value	Sandwell is committed to providing a first-class education for all children, irrespective of their backgrounds, and to level up opportunity so that all children can realise their potential, preparing them for a fulfilling and successful adult life.

7. Appendices

- Appendix 1 - School Consultation Response Summary
- Appendix 2 - De-delegated Budget Proposals Response
- Appendix 3 - Education Functions Budget Proposals Response
- Appendix 4 - Central Schools Services Block Proposals Response

8. Background Papers

Schools Revenue Funding 2022/23 – Operational Guide



Consultation Response Summary

Question	Primary		Secondary		Total	
	Yes	No	Yes	No	Yes	No
1. Please indicate the option you prefer to use for calculating school funding for 2022/23						
a) Option 1: LA formula with a stepped increase in the primary: secondary ratio of 1:1.29 (3rd year)	33	10	9	1	42	11
b) Option 2: Secondary Schools receive 1% funding than primaries above the overall increase in funding.	0	43	1	9	1	52
c) Option 3 – National Funding Formula factor values.	0	43	0	10	0	53
2. Do you agree that we should set the pupil Number Growth Fund for 2022/23 at:						
Option 1: Current Pupil Number Growth formula with an estimated cost of £1.850m	16	27	5	5	21	32
Option 2: Current Pupil Number Growth formula with an estimated cost of £1.300m	29	14	6	4	35	18
4. Which of the De-delegated budget proposals do you agree with (see Appendix 2)	See Appendix (2)					
5. Which of the Education Function budget proposals do you agree with (see Appendix 3)	See Appendix (3)					
6. Please indicate whether you agree with:	43	0	10	0	53	0



a). MFG of 0.05% and up to 2% if modelling proves this achievable with the funding given.						
b) If an MFG where with scaling and capping in order for the MFG to be within the funding envelope.	36	7	4	6	40	13
7. Do you agree for the authority to provide for the responsibilities it holds for all schools from the “Central School Services Block” funding. The provisional 2022/23 allocation is £2,263,500.	See Appendix (4)					



De-delegated Budgets Consultation Responses

Ref	Name	Lead Officer	Primary		Secondary	
			Yes	No	Yes	No
1	Health & Safety Licences & Subscriptions	Group Head – Learning Improvement	35	7	3	0
2	Evolve Annual Licence	Residential Manager	40	2	3	0
3	Union Facilities Time	Group Head – Learning Improvement	27	15	1	2
4	School Improvement Services	Group Head – Learning Improvement	39	3	3	0
5	Schools in financial difficulties	Group Head – Learning Improvement	28	14	3	0



Education Functions Budgets Consultation Responses

Ref	Name	Lead Officer	Maintained Schools	
			Yes	No
1	Education Functions	Group Head: Education Support	42	3
2	Children’s Clothing Allowance Support	Group Head: Education Support	38	7
3	Safeguarding and Attendance	Attendance & Prosecution Manager	40	5



Central Schools Services Block Budgets Consultation Responses

Service	£m	Yes	No
Provisional Allocation 2022/23	2.264		
Expenditure Items:			
Statutory & Regulatory, Education Welfare and Asset Management	1.662	49	4
Schools Forum	0.003	52	1
Admissions Service	0.453	49	4
Historical Commitment – Pensions Administration.	0.146	50	3
Total Central Schools Services Block	2.264		



MAIN THEMES/COMMENTS ON SCHOOL FUNDING 2022/23 CONSULTATION

Question 1: Please indicate the option you prefer to use for calculating school funding for 2022/23 (Please only mark one option).

- *Purpose of National Funding Formula is to reduce the historical inequalities between different geographical locations and not close the gap between secondary and primary funding per pupil to my knowledge. No clear rationale provided, from an educational perspective, to move funds from Primary to Secondary. Should be a 4th option "Standstill (Status Quo)" position - especially noting current climate and considering requests made at Schools Forum both last year and this year. This should be revisited at Cabinet due to changes in the educational landscape since they last discussed this in 2019. Furthermore, when reviewing the minutes of the Cabinet meeting in February 2019, it states in the resolution that primary and secondary schools should "work together to consider the educational journey or children of staged movement towards the NFF". To my knowledge no education rationale has ever been discussed. Without discussing and agreeing an educational rationale, it should not be possible to make any of the changes to school funding mechanisms as proposed.
- Without discussing and agreeing an educational rationale, it should not be possible to make any of the changes to school funding mechanisms as proposed
- A request to include a standstill option was made at Schools Forum last year and again this year. The request was denied on both occasions. The Cabinet Member for Children and Education has been contacted to ask for her reasoning behind endorsing the original directive from Councillor Simon Hackett, the Cabinet Member during the 2019/20 consultation The Local Authority regularly refers back to this directive from Councillor Hackett as the justification for only offering options that move money from the primary sector to the secondary sector. No reasons relating to the educational needs and outcomes of children have ever been discussed in this process but the Council minutes from the Cabinet meeting 20th February 2019 are clear that this should have been the case: To ensure full and proper



consultation on this matter, the Schools Forum would be tasked to develop an options paper which demonstrated the impact of movement toward the NFF on children's educational journey. This process would be in consultation with all schools and academies. Without discussing and agreeing an educational rationale, it should not be possible to make any of the changes to school funding mechanisms as propose

- I have not indicated an option as my preference is to request a standstill as I do not believe any more money should be moved from primary sector to secondary sector as no evidence /research as been provided to support. Further consultation is needed through schools forum.

Question 2: Do you agree that we should set the Pupil Number Growth fund for 2022/23 at a) Option 1 £1.850m or b) Option 2 £1.300m.

- This option would fund schools for significant increase in the number on role between census. Budgets are normally set within the allocations received. For most schools this would be additional funding they have managed without. Mid-year admissions wouldn't be funded but all schools would benefit from additional £1.3m

Question 3: De-delegations: Health and Safety Licences

- Risk of duplicating options which are already available to most schools through subscriptions such as The Key. If this is de-delegated then more effort needs to be made to promote the services available as we don't use half of what is listed in the impact report as we never knew we had access to it.
- Schools should be made aware of what services are available.

Question 3: De-delegations: Evolve

- This is a useful tool but were no savings made over the past year, given that trips didn't happen, to reduce the amount for this year? Also, I do not believe it is fair that primaries have to fund the majority of the costs. If the request is for the licence fee only then surely this should simply be split evenly between all the schools it is available too rather than based on the proportion of how often schools use the site?



Question 3: De-delegations: Union Facilities Time

- Costings aimed at primary schools only - would like further details of the benefits primary's receive compared to secondary
- Seems very high and no evidence of impact
- Time too generous, no consideration to austerity and reducing budgets. Primary is subsidising Secondary's, along with Consultation Q1 it appears majority of funds being directed to secondary schools. Also, I find it flabbergasting that union time would be funded at more than twice the level of what we are investing into the school improvement team (which should be our priority)

Question 3: De-delegations: School Improvement Team

- This is vital to all schools
- School Improvement roles need to be reviewed. Are all roles necessary? The core role of advisors in supporting, challenging and intervening in school is very important and valued in Sandwell
- We value the support of our SIA, however we do not feel we have £1394.80 worth of support based on 440 pupils on role

Question 3: De-delegations: Schools in financial difficulties

- This penalises schools that make cost savings on their budgets and that generate their own income. Schools with deficit budgets should be made more accountable and the staff that manage the budgets should be trained and qualified to understand budgets and how to manage public money.
- For schools to manage own finances. In effect of sponsored conversion LA needs to put in measures to manage any potential overspend; having a provision available may result in LA being pressured to utilise such a fund in order to push a conversion through. May result in unintended consequences and inequitable use of reserves.

Question 4: Education Functions: Education Benefits Team

- This service can be purchased by schools at lower cost. Schools can identify their own families in need of FSM/PP we already do the leg work at the start of the school year by asking families to complete the forms. Schools no longer receive alerts of new entitlements from LA and have to check the lists themselves increasing the admin burden.



- As in previous years, it would have been useful to see how much money is forecast to be spent in the current year

Question 4: Education Functions: Clothing Support Allowance

- Schools that employ Family support workers can identify their own families in need and provide assistance where needed.
- As in previous years, it would have been useful to see how much money is forecast to be spent in the current year

Question 4: Education Functions: Safeguarding & Attendance

- Would be helpful to separate these please in order to see financial commitments.
- Can costs of Safeguarding and Attendance Services be split. More responsibilities relating to Attendance Services are being passed back to schools
- As in previous years, it would have been useful to see how much money is forecast to be spent in the current year
- Not in the way it is currently structured. If this was separated as different services then it would be a different response. I find it hard to believe that the A&P team require as much money as they do when you compare it to the other services which come under this area, e.g. safeguarding , CME etc (who provide a much higher quality of service and have a much greater need). I also think information needs to be shared about the impact of A&P, e.g. how many PNs were issued, how much income was generated and where does this get used?

Question 5: An MFG of between +0.5% and 2% if modelling proves this is achievable within the funding given; and

- Primary schools will lose significant funding, both in real terms and because of consultation proposals. Protection, even in the short term, is essential in the current climate.

Question 5: The application of scaling and capping if it proves necessary to be able to implement an MFG as outlined in a). And to remain within then available funding

- Depends on what the MGG is



Question 6: Do you agree for the authority to provide for the responsibilities it holds for all schools from the "Central School Services Block" funding? The provisional 2022/23 allocation is £2,263,500 (This figure will be adjusted in December to reflect the October 2021 census pupil numbers).

For all 4 sections: (1) Statutory & Regulatory, Education Welfare & Asset Management £1,662,000, (2) Schools forum £3,000; Admission Services £452,600; Historical Commitment – Pensions administration £145,900

Specific response Statutory & Regulatory.....

- Separating these would be helpful to consider costs.
- Increase of £140,000 from 2020/21 to 2021/22 and increase of £220,600 from 2021/22 to 2022/23. This is not reflective of budget increase in schools funding
- The details provided in the service block proposal are not detailed enough to fully understand the purpose of this money, i.e. it refers to certain functions and services where de-delegation decisions are taken separately such as attendance. Also, I am concerned that schools do not/have not had the same quality of input as they had when Chris Ward was in post so I would like to understand more about the statutory responsibility of the Directors role in relation to schools (i.e. are school contributions propping up a social care system)?
- Yes and no - if Academies as wellm the Asset Manangement element shoud be split out from planning for Ed Services etc
- Unfair for PFI schools, as the Asset Management does not take into account PFI school.
- As in previous years, it would have been useful to see how much money is forecast to be spent in the current year

Specific response: Admissions Service

- Would like an option where LA manages admissions at the beginning of the year, with schools managing in year admissions. Can this be explored further so schools have more choice than just yes or no next year?



- Whilst we have voted yes to the Admissions service this year we have not been happy with the service levels nor with the information provided as part of this consultation. We will be investigating whether we would be better served by opting out and providing this service in house next year should the service not improve substantially.
- If academies as well? There is a separate SLA bought into.
- Impact and deployment is missing from paperwork

General Comments

- No reasons relating to the educational needs and outcomes of children have ever been discussed. Without discussing and agreeing an educational rationale, it should not be possible to make any of the changes to school funding mechanisms as proposed
- Question 1 - A request to include a standstill option was made at Schools Forum last year and again this year. The request was denied on both occasions. We believe that this remains the most appropriate course of action in the current climate of uncertainty relating to finances of schools and finances generally. We're very disappointed to see that there is still no educational rationale provided to explain any movement of funds from the primary sector to the secondary sector. We firmly believe that any discussion around relative funding levels must take into account the Sandwell context. This was the reason for setting the primary:secondary ratio at its original level and it remains as vital to the overall progress of Sandwell pupils as it was when the ratio was originally discussed and agreed. seven years ago, the primary sector has suffered a far greater burden of the costs related to non-teaching staff. To move funding from the primary sector to the secondary sector would not recognize these additional expenditure burdens. All schools, primary and secondary, have faced additional costs relating to National Insurance and pension increases. This has had a much more profound impact on primary schools because of the workforce distribution. Primary schools employ nearly four times as many Education Support Staff as secondary schools (176,200 compared to 47,800). For an average two-form entry school in Sandwell this equates to over £20,000 per year in additional costs. This amount is similar to the impact of moving money from the primary sector to the secondary sector to match national funding ratios. Question 7 - There appears to be a contradiction in this area of the consultation: the consultation document states that "a number of the services that are covered by funding are subject to a limitation of no



new commitments or increase in expenditure from 2021/22. This limit no longer applies to the Admissions Service or the servicing of schools forums", however the Statutory and Regulatory, Education Welfare and Asset Management request has increased from £1,441,400 in last year's consultation to £1,662,000 in the current consultation. An increase of £220,600 or 15.30%.

It would be difficult to support such an increase without understanding why it has happened and whether it is legitimate given the narrative in the consultation document replicated above.

- We are extremely disappointed to hear that despite being told last year that a standstill option would be considered by cabinet, it hasn't. The answer given to Primary schools is that by raising the ratio in favour of secondary funding you are doing Primary schools a favour and preparing us for the national funding formula. This is not appreciated, this stance suggests that we are incapable of budgeting appropriately for ourselves. We are in a situation where the youngest children (primary aged, in particular current KS1) have been most negatively impacted by covid in terms of their learning progression. During closures they were less able to make progress during home learning due to lack of independence and support at home. They have missed out on valuable basic skills that underpin learning. A year of standstill would have supported Primary schools, enabling them to utilise those funds to better focus on closing those gaps. Instead, Primary schools face further cuts and a greater challenge in terms of learning recovery. In time this will negatively impact on the Secondary sector because children will begin to arrive less ready to cope with the KS3 curriculum.
- It is important that comments collated from this year's consultation are considered carefully, even if de-delegated decisions are taken, ahead of designing the consultation for next year. Finally, there appears to be a contradiction in the final area of the consultation: The consultation document states that "a number of the services that are covered by funding are subject to a limitation of no new commitments or increase in expenditure from 2021/2022. This limit no longer applies to the Admissions Service or the servicing of schools forums", however, the Statutory and Regulatory, Education Welfare and Asset Management request has increased from £1,441,400 in last year's consultation to £1,662,000 in the current consultation, an increase of £220,600 or 15.30%
- There appears to be a contradiction in the "Central Services Block" section of the consultation: The consultation document states that "a



number of the services that are covered by funding are subject to a limitation of no new commitments or increase in expenditure from 2021/22. This limit no longer applies to the Admissions Service or the servicing of schools forums", however, the Statutory and Regulatory, Education Welfare and Asset Management request has increased from £1,441,400 in last years consultation to £1,662,000 in the current consultation. An increase of £220,600 or 15.30%

- It is disappointing that again Primary schools have no voice in Sandwell's funding consultation options. The only rationale offered for the movement of funds from the primary to secondary sector appears to be to bring the authority more in line with other authorities. Primary schools have not been given reasoning that links to the educational needs of the children in Sandwell for this change. Is there clear evidence that secondary school children are disadvantaged by the current funding formula? There is certainly research showing that the youngest pupils have been most effected by the covid pandemic yet indicative figures show increases to our budget will not even cover national insurance rises and teacher pay increases that the DfE have promised will be in our budgets. Following last years consultation Chris Ward told Primary Heads that our voices had been heard at Cabinet and that there would be different conversations for this year it is sad for our children that this has not been the case.



Report to Cabinet

12 January 2022

Subject:	Recommendations of the Scrutiny Review of Elective Home Education
Cabinet Member:	Cabinet Member for Children and Education, Councillor Karen Simms
Director:	Michael Jarrett Director of Children and Education
Key Decision:	No
Contact Officer:	Senior Democratic Services Officer Matt Powis matt_powis@sandwell.gov.uk Democratic Services Officer Connor Robinson Connor_robinson@sandwell.gov.uk

1 Recommendations

1.1 That, the Cabinet consider the following recommendations from the Children's Services and Education Scrutiny Board in respect of the Elective Home Education Working Group:

- (a) The Elective Home Education (EHE) resource pack be reviewed and edited to make it more accessible to parents;
- (b) The EHE website be refreshed to provide information, guides and links to other information and links to EHE forums for advice and support;
- (c) To identify resource and support within the Council to facilitate the refresh;



- (d) That additional spaces and facilities be identified for EHE groups to meet and carry out activities, and that competitive rates for use of those facilities be negotiated for EHE group use;
- (e) That the Council develop a mechanism for resources to be shared for EHE, such as a hub for books or other educational material to be kept;
- (f) That youth social networks, such as 'Just Youth', be promoted on the EHE website for users to find out what's on in Sandwell for young people and to encourage engagement;
- (g) To raise awareness of the Special Educational Needs (SEN) and Education and Health Care Plans (EHCP) support available and access for children;
- (h) That the Cabinet Member for Children and Education and the Director of Children's Services, on behalf of the Council, be requested to write to the Secretary of State for Education, Nadhim Zahawi and to the Parliamentary Select Committee Inquiry of Home Education, to register this Council's findings from the EHE review which highlights the need for regulation and resources for Elective Home Education; and to endorse a letter from the Association of EHE Professionals which asks whether consideration is being given to strengthening the legislation to provide further safeguards for children who are EHE.

1.2 That, in connection with 1.1 above, a further report be submitted to the Children's Services and Education Scrutiny Board, within 2 months' time, on the decision of Cabinet.

2 Reasons for Recommendations

2.1 The Children's Services and Education Scrutiny Board requested regular update reports relating to the work of the Elective Home Education Scrutiny Working Group. A progress update was presented to the Children's Services and Education Scrutiny Board on 11 January 2021. Since then, the Elective Home Education Scrutiny Working Group has carried out a review of the current arrangements and support for EHE in Sandwell.



- 2.2 The findings and recommendations are based on evidence gathered in Sandwell between October 2020 and February 2021, relating to the Sandwell EHE offer and a report dated 21 June 2021 was prepared.
- 2.3 The findings reflect wider national concerns that the Association Directors of Children's Services (ADCS) and Association of Elective Home Education Professionals (AEHEP) have made to the Government relating to the need to strengthen the legislation, to provide further safeguards for children who are EHE and the need to provide funding to local authorities work with EHE children through Designated School Grant (DSG).
- 2.4 The Cabinet is requested to consider the recommendations and determine what action it wishes to take. In accordance with the Localism Act 2011, the Cabinet is requested to respond to the recommendations of the scrutiny board within two months, setting out any approved recommendations and how they will be implemented. Progress against these recommendations will be monitored by the Children and Education Scrutiny Board.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people Every child and young person whether educated in a school setting or at home deserves to have access to high quality support and resources to support their education. The report seeks to develop current practices and enhance the offer provided.</p>
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4 Context and Key Issues

- 4.1 An update report was previously submitted to the CSE Scrutiny Board on 11 January 2021.
- 4.2 Appendix 3 to this report (ADCS notifications October 2020) the ADCS continues to raise EHE issues and concerns with the Government contributing to the ongoing conversation both locally and nationally, recent press releases have highlighted the continued considerations around EHE. There continues to be concerns around those with SEND becoming EHE with a continued increase for those with an Education Health and Care Plan. There is also a concern following the ADCS



survey finding that 9% of pupils presently EHE being known to Children's Social Care.

The ADCS had raised a number of points with government which it regarded as needing greater consideration:

- No definition of a 'suitable education'. School Attendance Order (SAO) processes are slow, expensive and a blunt instrument and may not be necessary if there was a definition of, and framework against, which to judge a 'suitable education'
- Potential confusion amongst parents/carers about access to a school's remote education offer and EHE
- Lack of oversight of vulnerable children – LA has no power nor a right to see the child being home educated
- Most common reason cited (pre Covid-19) by parents for requesting EHE is dissatisfaction with school.

A response to the 2021 ADCS survey was submitted during the October (2021) half term break. National data based on the latest submissions from local authorities is not due to be published until late November / early December 2021.

The latest ADCS survey confirms that the government is considering a statutory duty on LAs to provide support to EHE families including an annual visit. The DFE is aware that LAs may require additional staff / resources.

4.3 The Elective Home Education Working Group

4.4 The rising numbers of EHE over the last 5 academic years in Sandwell prompted the Cabinet Member for Best Start in Life to ask the Scrutiny Board to take a closer look at the situation. The Elective Home Education (EHE) Working Group formed in November 2020.



- 4.5 The review aimed to gather evidence to understand about education outside the school system and the 'have, needs and wants' for EHE support in Sandwell:
- To understand the current numbers and consider whether support for Elective Home Education in Sandwell is sufficient.
 - To capture parents and young people's perspective on education at home.
 - To consider the attainment levels, and further education and employment trends for children educated at home.
 - To raise awareness of the limitations placed on the LA and bring findings to the attention of the Secretary of State for Education.
- 4.6 The Membership of the Working Group was Councillors Preece (Chair), Z Hussain, McVittie, Millar and Shackleton.
- 4.7 Evidence gathering took place between December 2020 and March 2021 provides a snap shot of the EHE picture nationally and in Sandwell:
- 08.10.2020 – Discussion and scope
 - 09.11.2020 – Research, data, EHE case studies, draft surveys
 - 25.11.2020 - Focus group with Parents, children and EHE advisory teachers
 - 02.12.2020 – Survey feedback, focus group feedback, detailed data analysis and costs
 - 27.01.2020 – Update report, emerging themes and findings
 - 10.03.2020 – Comparator data, alternative provision/ safeguarding case study and findings summary
- 4.8 The Working Group had reported progress to Scrutiny Board on three occasions and the DfE Senior case lead attending two of the Board meetings. It was important to monitor the National picture and emerging information during the review.
- 4.9 The Evidence Base as confirmed by Governance
See Appendix 1
- 4.10 Nationally concerns were raised about the rising numbers in EHE. This was highlighted in the Association of Directors of Childrens Services



(ADCS) Elective Home Education Survey 2020 which captured the number and characteristics of children and young people who were known to be home educated.

The survey also aimed to understand the reasons behind a family's decision to electively home educate, how LAs across the country were supporting these families, and how any available resources were being deployed in this area.

Sandwell's increase in EHE was higher than the 38% National average. As at 30th October 2020, Sandwell had received 220 new EHE referrals (including 90 citing Covid as the primary reason) representing an increase of 49% in comparison with the previous academic year.

- 4.11 The Working Group requested a Sandwell survey to find out more about why families were choosing EHE as an alternative to school and why there was a rise in numbers. The survey was distributed to all home educating families registered in Sandwell, which represented 561 young people as at October 2020.
- 4.12 Parents and children were invited to fill in separate surveys. The survey response rate was low, however analysis of the feedback from 15 adult surveys and 19 children surveys completed was very positive about EHE support in Sandwell and provided some useful comments.
- 4.13 The working group reviewed evidence that Ofsted had reprimanded a council after discovering potential off-rolling of children in care, the number of pupils educated at home had increased by more than 20 per cent. Ofsted analysis had found that nine of the ten children's services visits conducted since September mentioned a rise in the number of children being home-educated, Ofsted recognised many councils had effective processes in place to track such changes.
- 4.14 The Working Group welcomed that Sandwell processes were working very well and since September 2020, Ofsted has been carrying out assurance visits to local authorities to consider if they are making the best decisions for children in care during the pandemic. There had been eleven satisfactory visits to Sandwell schools by mid-November.
- 4.15 The working group gathered and considered evidence including case studies, analysis from EHE surveys, feedback from a focus group with



parents, children and EHE advisory teachers, the cost of home education in Sandwell and how EHE was funded.

4.16 The Focus Group with parents, children and advisory EHE teachers was held virtually. From the evidence gathered the working group has identified that Sandwell EHE support was 'strong' and that parents value the commitment and passion of the advisory teachers.

4.17 Key messages raised by the focus group in relation to wants and needs:

- The cost of home education – consider funding for EHE support (Note: Parents are responsible for direct costs)
- Issues about EHCP, identifying issues earlier and access to support if the child was not in a school setting;
- Free spaces to use for EHE group activities, mutual spaces;
- Resource library / bank for EHE parents to share their books and educational materials;
- Safeguarding: parents protecting their own child from school bullies and safeguarding children who were not in school.

4.18 There were several matters highlighted for consideration by the Scrutiny Board which may improve the Council Offer and that could be investigated quite quickly as actions.

- That additional spaces and facilities be identified for EHE groups to meet and carry out activities, and that competitive rates for use of those facilities be negotiated for EHE group use;
- That the Council develop a mechanism for resources to be shared for EHE, such as a hub for books or other educational material to be kept;
- That youth social networks, such as 'Just Youth', be promoted on the EHE website for users to find out what's on in Sandwell for young people and to encourage engagement;
- To raise awareness of the SEN and EHCP support available and access for children.

4.19 The DfE Senior Case Lead for this area provided an update on the Education Committee Inquiry. The parliamentary policy team had indicated it would welcome Sandwell Council's EHE Working Group evidence to help inform the national picture, especially as the views of children, families, and advisory teachers were being gathered and there



may be opportunity for representatives from Sandwell to re-engage with Westminster and the All Party Parliamentary process as previously attended by the Service Manager in his capacity as a member of the Association of EHE Professionals.

4.20 The Working Group had planned a second focus group with head teachers and teachers to further explore the support and advice in schools for pupils and parents and to establish if bullying was an issue, what measures were taken to prevent and protect against bullying. The timing of the review impacted on the capacity of the teaching staff who were providing remote learning during school closures. This activity can be carried out post Covid and when more is known from the parliamentary Inquiry of Home Education.

4.21 Evidence Summary

A table of evidence is included as appendix 1 to the report
The table contains a summary of the information and data gathered during the review.

1. EHE Notification Trends
2. New EHE by area since April 2020
3. EHE wards/ towns
4. EHE Summary - Additional HMI information since April 2020
5. Active EHE in the period
6. EHE Equality characteristics
7. Survey Parents and children
8. DfE
9. LA Comparison data
10. Association of Directors of Children's Services and Education
11. Estimated cost of EHE in Sandwell
12. Funding streams
13. Safeguarding
14. Off rolling / backdoor exclusions
15. SEND / EHCP
16. EHE Support
17. Parent School discussions
18. Bullying
19. College
20. Case Studies



4.22 Consultation

The working group have conducted two surveys to consult with Parents and children who are educated at home.

4.23 Alternative Options

The purpose of the review is to consider current support for Elective Home Education and if it meets the needs of young people and parents, findings will inform if the Council should consider alternative options.



4.24 Conclusions

The Working Group agreed that an initial response report should be prepared for submission to the Children's Services and Education Scrutiny Board on 21 June 2021. The report would summarise the process and findings of the work group in order to make recommendations to Cabinet. However, the CSE Scrutiny Board meeting did not take place.

4.25 The report would focus on the improvements the Council could consider making quite quickly and highlight the need to pause the review to allow time for the numbers of EHE children to stabilise post Covid. There was also a need to wait for the government's response to the Select Committee Inquiry on Home Education later this year.

4.26 The EHE Working Group has identified areas where the Council can start to consider making improvements to its current working practices to better support EHE families in Sandwell. These identified areas have been included in the EHE team's delivery plan for the 2021/22 academic year. After only 1 term of the current academic year, it is too soon to report on the progress made to date.

4.27 The EHE Working Group consider that the current regulations are insufficient, in respect of EHE children's welfare and safety, and in terms of checking progress on educational attainment. It is recognised that many EHE families are happy with their independence from regulation, however the Council has a duty to safeguard children and the working group feel strongly that Government must strengthen regulation to safeguard all children.

4.28 The Association of EHE Professionals (AEHEP) has recently written a letter to Government asking whether consideration is being given to strengthening the legislation to provide further safeguards for children who are EHE (Appendix 2).

The working group welcome the letter and highlight that it reflects their findings highlighting the need for regulation and resources for EHE.

The working group agreed to ask Cabinet to send a letter to the Secretary of State for Education, Gavin Williamson and the Home Education Inquiry select committee to endorse the comments of the



letter and indicate that the findings of the EHE Working Group reflect the AEHEP comments at a local level.

4.29 It was agreed that the Scrutiny Board would consider the Cabinet response, the EHE Trends and the outcomes of the parliamentary Education Committee Inquiry on Home Education in Autumn 2021.

4.30 Please see appendix 4 for summary update report - November 2021.

5 Implications

Resources:	There continues to be increasing demands on the EHE service due to increasing numbers of children being educated at home.
Legal and Governance:	There is a statutory requirement to ensure that all children in Sandwell receive efficient full-time education appropriate to their age, aptitude and special educational needs
Risk:	Scrutiny will consider risk implications, including any safeguarding measures
Equality:	Scrutiny will consider implications for equality (all aspects and characteristics) including how the Equality Duty is being met
Health and Wellbeing:	Good education and attainment levels increase the wellbeing of children and young people and contributes to them having the best possible start in life.
Social Value	Sandwell is more likely to enhance the future employability of children who have been electively home educated by ensuring that sufficient resources are in place to adequately support the EHE community in fulfilling their responsibility to provide a suitable education for all EHE children and young people.



6. Appendices

Appendix 1 – summary of evidence table (prepared by Governance)

Appendix 2 – AEHEP letter to Government re EHE

Appendix 3 – ADCS Notifications (November 2020)

Appendix 4 - Summary update report - November 2021.

Appendix 5 - Strengthening Home Education: Government Response to the Committee's Third Report

7. Background Papers

Children's Services and Education Scrutiny Board [20 July 2020](#)

Children's Services and Education Scrutiny Board [16 November 2020](#)

Children's Services and Education Scrutiny Board [11 January 2021](#)

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