

Agenda Cabinet

**Wednesday, 21 December 2022 at 11.30 am
at Council Chamber - Sandwell Council House, Oldbury**

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 Additional Items of Business

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

4 Improvement Plan Progress - Grant Thornton Follow-up Report (Pages 5 - 144)

To receive Grant Thornton's Value for Money Governance Review Report and the Follow Up Review Report.

**Kim Bromley-Derry CBE DL
Managing Director Commissioner**



Sandwell Council House
Freeth Street
Oldbury
West Midlands

Distribution

Councillor Carmichael (Chair)
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Report to Cabinet

21 December 2022

Subject:	Improvement Plan Progress – Grant Thornton Follow-up Report
Cabinet Member:	Leader of the Council Cllr Kerrie Carmichael
Director:	Managing Director Kim Bromley-Derry
Key Decision:	No
Contact Officer:	Strategic Lead – Service Improvement Kate Ashley Kate1_ashley@sandwell.gov.uk Senior Lead Officer – Service Improvement Rebecca Jenkins Rebecca_jenkins@sandwell.gov.uk

1. Recommendations

- 1.1. That Cabinet receive and consider Grant Thornton’s Value for Money Governance Review Report and the Follow Up Review Report.
- 1.2. That Cabinet consider the council’s response to the recommendations in Grant Thornton’s reports which will be incorporated into the refresh of the Improvement Plan in 2023.

2. Reasons for Recommendations

- 2.1 Grant Thornton conducted a Value for Money Review of the council’s governance arrangements in Autumn 2021. Their report was received by Cabinet on 15 December 2021 and Council on 18 January 2022. At the time of publication, Grant Thornton had yet to conclude one of the key









lines of enquiry. This line of enquiry has now been concluded, and therefore Grant Thornton have reissued the original report to include their findings and additional recommendations.

- 2.2 The Improvement Plan incorporates all recommendations from the Grant Thornton Governance Review, the LGA Corporate Peer Challenge and the CIPFA Financial Management Review, as well as the Statutory Directions from the Secretary of State for Levelling Up, Housing and Communities. As part of the council's assurance framework for the Improvement Plan, the LGA, Grant Thornton and CIPFA conducted follow-up reviews in Autumn 2022 to evaluate the council's progress on implementing the specific recommendations from those individual reviews.
- 2.3 The LGA Corporate Peer Challenge review has previously been reported to Cabinet on 7 December 2022. Grant Thornton's follow-up review in Autumn 2022 examined the council's progress in addressing the recommendations set out in their report of December 2021. The council is currently awaiting the report from CIPFA's return visit.
- 2.4 As the Improvement Plan addresses the recommendations of all three external reviews, the council will incorporate the findings from the three follow-up visits into a refresh of the Improvement Plan. New recommendations will be incorporated into the Plan in a co-ordinated manner to enable the council to continue on its improvement journey. The refreshed Improvement Plan will be considered by Cabinet in Spring 2023.

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

- 3.1 Sandwell Council's Improvement Plan focuses on the governance arrangements of the council and areas of improvement across the organisation. The underpinning objective of the Improvement Plan is to ensure that the council is able to deliver on the aims and priorities as set out in the Corporate Plan. The deliverables set out in this Improvement Plan will achieve long-term sustainable improvements in how the council operates and is able to make effective decisions focused on improving outcomes for residents and experiences of service users. 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 Grant Thornton’s Value for Money Governance Review was conducted in the Autumn of 2021. The scope of the review covered seventeen key lines of enquiry, split into two categories:

- Services and Management; and
- Meetings, Complaints and Relationships.

4.1.2 In their original report, Grant Thornton made a series of 45 recommendations, made up of:

- 3 Statutory Recommendations
- 5 Key Recommendations
- 37 Improvement Recommendations

4.1.3 These recommendations, along with those from the LGA Corporate Peer Challenge and CIPFA’s Financial Management Review, were incorporated into the council’s single overarching Improvement Plan.

4.1.4 At the time of publishing the original report in late November 2021, Grant Thornton had not completed their investigation into the line of enquiry relating to the ‘Governance and Legal Support to Director of Public Health’. This line of enquiry was concluded in Autumn 2022, and Grant



Thornton have reissued their full report to include their findings, conclusions and recommendations for the council.

4.1.5 Grant Thornton have conducted a follow-up review in Autumn 2022 to understand how the council has improved its governance arrangements that were the focus of their 2021 review. Particular focus was on progress made against the recommendations that had been incorporated into the council's Improvement Plan. Grant Thornton also considered how the council uses community engagement to inform its strategic planning and decision-making processes. The follow-up review did not include that key line of enquiry referred to in paragraph 4.1.2 as it had not concluded at the time.

4.2 Key Findings and recommendations

4.2.1 In the reissued full report (Appendix 1), Grant Thornton set out their findings, conclusions and recommendations with regards to the 'governance and legal support to the Director of Public Health'. These have not made an impact on the overarching findings of the original report or on the statutory recommendations made to the council in December 2021. Grant Thornton have made four additional improvement recommendations to the council in response to their findings on this matter.

4.2.2 The follow-up review (Appendix 2) found that the council had continued to build on the initial improvements recognised by Grant Thornton in their original report, and has made significant progress on a number of their recommendations:

- Statutory Recommendation 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.:
 - The Council has greater corporate grip over improvement, performance and decision making
 - Cabinet is demonstrating a commitment to making tough decisions
 - Skills and capacity gaps in relation to key priorities have been recognised and steps taken to manage them



- Evidence of greater senior officer involvement in key service challenges
- Statutory Recommendation 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.:
 - Clear evidence that the council is making better procurement and commercial decisions
 - Significant progress made on the ERP systems replacement
 - Review of key elements of the Constitution completed
 - Evidence of improved corporate ownership and working relationships between the council and key partners, along with focus on service quality and improved outcomes.
- Statutory Recommendation 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:
 - Greater stability at political and senior officer level, with positive working relationships between Cabinet and Leadership Team
 - Mature engagement between Leader, Cabinet, Committees and senior officers leading to good planning and work programming across committees, and commitment to the council's improvement journey
 - Evidence of improved focus and engagement with regional and national bodies

4.2.3 Grant Thornton recognise that challenges remain for the council on its improvement journey, and that building on the foundations laid over the last 12 months will be vital. The refresh of the Improvement Plan to incorporate the findings of this review and the results of the organisational culture values and behaviours work will be key to ensuring sustainable improvement.



4.2.4 A further four Key Recommendations have been identified from the Follow-up Review. Along with the new Improvement Recommendations from the reissued original report, these will be incorporated into the refresh of the Improvement Plan and will provide further direction for the next stage of the council's improvement journey.

4.3 Risk Management

4.1.1 The Improvement Plan Risk Register underpins the council's strategic risk relating to the council's Improvement Plan (59a 02/22) and is currently rated as an overall Amber risk. The risk register is reported monthly to Leadership Team and quarterly to Cabinet and Audit & Risk Assurance Committee.

4.1.2 Within the Improvement Plan Risk Register, a number of risks identified GT's follow up report as part of the assurance as to the likelihood of those risks materialising. The Risk Register will be reviewed as part of the regular programme management of the Improvement Plan, and the impact of the follow-up report on risk scores will be reported to Cabinet as part of the next quarterly update.

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. The council must also provide a management response that sets out how it intends to act upon the recommendations made in the report. There are no alternative options to consider.

6 Implications

Resources:	Resources to deliver the Improvement Plan have been allocated from within existing commitments in the majority of cases. Where one-off funding is required to deliver improvements, this will either be funded from the Improvement and Capacity Fund or from earmarked reserves created from 2021/22 underspend position. Allocation of this funding was
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	<p>approved by Council with the Improvement Plan on 7 June 2022.</p> <p>Where funding is required for longer-term change, this will be incorporated into the Medium-Term Financial Strategy.</p> <p>There are no land or building implications associated with the Improvement Plan as a whole.</p>
<p>Legal and Governance:</p>	<p>The Governance Review was conducted under Sections 20 and 21 of the Local Audit and Accountability Act 2014, and the council is legally required to demonstrate that action is being or will be taken to address issues raised in the report.</p> <p>On 22 March 2022, The Secretary of State for Levelling Up, Housing and Communities issued Directions under Section 15(5) and (6) of the Local Government Act 1999 (the 1999 Act) in order to ensure that the council can comply with the requirements of Part 1 of the 1999 Act. Failure to comply with these Directions may lead to further intervention measures for the council.</p> <p>The delivery of the Improvement Plan and achievement of the desired outcomes will meet the remainder of the Directions.</p> <p>Ultimately, the changes made through the Improvement Plan will enable the council to effectively deliver its strategic priorities and ensure it is delivering value for money for Sandwell.</p>
<p>Risk:</p>	<p>If the Council fails to take appropriate action to meet the requirements set out in the government Direction, or the Commissioners appointed by the Secretary of State do not have sufficient confidence that appropriate actions are being taken to implement and sustain the required improvements, then the council risks not having appropriate arrangements in place to comply with its best value duty under Part 1 of the 1999 Act. This could lead to further government intervention, increased costs and damage to reputation.</p>



	A risk register will be maintained for the duration of the Improvement Plan which will underpin the council's strategic risk relating to the council's Improvement Plan (59a 02/22). This is reported monthly to Leadership Team, quarterly to Cabinet, and will be regularly reported to Audit and Risk Assurance Committee.
Equality:	The successful delivery of the Improvement Plan will require the development and review of many of the council's policies and procedures. These changes will build in consideration of the impact on equalities throughout the development and will include an Equality Impact Assessment where appropriate.
Health and Wellbeing:	The underpinning objective of the Improvement Plan is to ensure the council is able to achieve the strategic priorities as set out in the Corporate Plan. These priorities focus on improving the health and wellbeing of our residents and tackling health inequalities in a multi-faceted way. Therefore, any improvements to the council's governance structures will strengthen the council's ability to deliver services that will improve the health and wellbeing of Sandwell.
Social Value	Within the Improvement Plan, the council is committed to developing its Social Value Policy in conjunction with the refresh of the Procurement & Contract Procedure Rules. Through strengthening our asks of contractors through this Social Value Policy and linking them to the Corporate Plan objectives, the council will be able to maximise its social value return.
Climate Change	The underpinning objective of the Improvement Plan is to ensure the council is able to achieve the strategic priorities as set out in the Corporate Plan. Green in everything we do is one of the Fairer Sandwell principles running throughout the Corporate Plan. Any improvements to the council's governance structures will strengthen the council's ability to embed this principle and further the climate change agenda.



7. Appendices

1. Grant Thornton Value for Money Governance Review December 2021 – reissued October 2022
2. Grant Thornton Value for Money Governance Review Follow-Up Report December 2022.

8. Background Papers

- Value for Money Governance Review December 2021:
 - Report to [Cabinet 15 December 2021](#)
 - Report to [Council 18 January 2022](#):
 - [Grant Thornton Report Governance Review](#)
 - [Governance Review Improvement Plan](#)
- [Sandwell Council Improvement Plan](#)
- Approval of Sandwell Council Improvement Plan [Report to Council 7 June 2022](#)
- Quarterly Monitoring Reports to Cabinet:
 - [December 2022](#)
 - [September 2022](#)
- Improvement Plan Progress Reports:
 - To Audit and Risk Assurance Committee
 - [November 2022](#)
 - [September 2022](#)
 - [June 2022](#)
 - To Budget and Corporate Scrutiny Management Board
 - [November 2022](#)
 - [September 2022](#)



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Page 15

Sandwell Metropolitan Borough Council: Value for Money Governance Review

Year ended 31 March 2021

17 October 2022

This report was originally published on 3 December 2021. It has been updated to include the findings relating to KLOE A8.



Contents

Page 16



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Section	Page
1. Introduction	3
2. Key Findings	6
3. Statutory and Key Recommendations	11
4. Detailed Findings	13
Appendix	
A. Improvement Recommendations	61
B. The scope of the auditor's work on value for money arrangements	68

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.

Our 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

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)

Page 24

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

Page 26

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

No	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.

Management responses to these and the improvement recommendations are included in a separate Council report.

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)

Part 2
2020

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)

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.

Page 33

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.

Page 34

Council management of financial risks

The Council's main source of monitoring the financial performance of SCT is via SCT reports to 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.

Page 35

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 its 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 39

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 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.

Page 4

KEY FINDINGS (cont'd)

SAC 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.

Page 49

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.

Other 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 A8: Governance and Legal Support to the DPH

The purpose of this KLOE was to consider the Council's governance and decision making arrangements relating to the alleged harassment of the Director of Public Health by an external blogger, and the governance arrangements relating to the introduction of a local contact tracing service and changes to shielding arrangement during Summer 2020.

Introduction

Unlike the other KLOEs, KLOE A8 has a particular focus on the governance arrangements relating to one director of the Council, and it is important to first set out the background to this director role. We note that senior and statutory officers can expect a greater degree of scrutiny than other officers, which relates to the role rather than the individual.

The Role of the Director of Public Health

The Director of Public Health (DPH) is employed solely by the Council, but is a joint appointment by the Council and the Secretary of State of the Department of Health and Social Care (DHSC) or a representative from a relevant departmental Arm's Length Body (ALB). During the timescale covered by this review the relevant ALB was Public Health England (PHE).

The DPH is a chief statutory officer of the council, a status defined by section 2(6)(zb) of the Local Government and Housing Act 1989, inserted by Schedule 5 of the Health and Social Care Act 2012.

"Directors of Public Health in Local Government – Roles, Responsibilities and Context" was published by DHSC and PHE in January 2020 under section 73A(7) of the NHS Act 2006 and of which local authorities must have regard. This guidance document set out the role of a DPH which includes:

- Being an independent advocate for the health of the local population and provide leadership for its improvement and protection.
- Being the person who elected members and senior officers look to for expertise and advice on a range of public health issues, from outbreaks of disease and emergency preparedness through to improving local people's health and access to health services;
- Improving population health by understanding the factors that determine health and ill health, how to change behaviour and promote both health and wellbeing in ways that also reduce inequalities in health;
- Providing the public with expert, objective advice on health matters.

With their local council and statutory partners (such as NHS, police and fire bodies) the DPH needs to be able to take responsibility for the oversight of their council's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money.

The DPH at Sandwell, as has been the case for DPHs in other localities, has had an increased profile during the COVID-19 pandemic. This has included interviews with national and regional media

The DPH, in their role to promote the Council's public health response to the pandemic, also used social media to provide updates and to engage with the local community. In addition, the Council's central social media accounts and website also provided key public health messaging relating to the pandemic during the period relevant to our review.

Politically Restricted Roles

Senior local government officers, such as the DPH, are employed in what are termed politically restricted roles.

This relates to the Local Government Officers (Political Restrictions) Regulations 1990, a Statutory Instrument created under the powers of the Local Government and Housing Act 1989. Officers in a politically restricted role should not, for example, canvass on behalf of a political party, nor "speak to the public at large or to a section of the public with the apparent intention of affecting public support for a political party".

These restrictions take the form of terms and conditions that are deemed to be incorporated into relevant officers' terms of appointment and conditions of employment.



KLOE A8: Governance and Legal Support to the DPH

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Media and Social Media Policies

Due to aspects of this KLOE relating to media and social media coverage it is helpful to set out the Council's policies and arrangements in place at the time period covered by this review.

The Council introduced a Social Media Policy for officers in March 2017, and the policy related to both personal and professional / business social media accounts, and for usage whether during working hours or otherwise. The policy included the following:

- Social media should never be used in a way that breaches any of Sandwell Council's other policies, procedures or guidance, including but not limited to: officer code of conduct, disciplinary procedure.
- Inappropriate use of social media can pose legal risks as well as reputational risks. Every employee therefore has a responsibility to maintain high professional standards of online behaviour.
- Great care should be taken when making a comment, post or blog, or 'liking' a post as it has the potential to be widely read / seen and re-distributed. Communications can be misinterpreted, taken out of context and are open to abuse. Any sensitive, emotive or political content could damage reputation whether it was intentional or otherwise.
- Sandwell Council employees are encouraged, where relevant, to use social media via established council accounts, as a means to inform the public and foster openness and engagement with local communities, as well as to promote council activities or inform the public of service disruptions
- If employees see any inappropriate content about Sandwell Council, its staff, partners or customers, or content that could bring the Council into disrepute, it is their duty in the first instance to bring this to the attention of their line manager or contact human resources front line for assistance.
- Never post anything which may be considered as unlawful, libellous or defamatory, threatening, harassing or abusive, racially offensive, harmful, obscene or of a sexual nature.
- Employees who fail to observe the standards of conduct set out in this policy may be subject to disciplinary action.
- If an employee becomes a victim of cyberbullying in relation to their employment they should bring this to the attention of their line manager...for further advice.

The Council did not have a formal policy in relation to senior officers providing interviews or otherwise engaging with regional or national media. From the interviews we have undertaken there appears to have been an expectation that any such requests would be discussed with the Council's communications team and where appropriate the Chief Executive and other relevant senior officers.

The Council at the time offered training for senior officers who engaged with regional or national media.



KLOE A8: Governance and Legal Support to the DPH

Page 53

The purpose of this KLOE was to consider the Council's governance and decision making arrangements relating to the alleged harassment of the Director of Public Health by an external blogger, and the governance arrangements relating to the introduction of a local contact tracing service and shielding arrangement during Summer 2020.

Alleged Harassment Case: Background

In June 2020 the Council's DPH contributed a video to support Mental Health Awareness Week, speaking out about their personal mental health history, as part of a wider Council campaign to reduce the stigma around mental health. The video was used on the Council's internal intranet, and the Council also broadcast the video on their You Tube channel and posted it on the Council Facebook page. The DPH posted the video on their personal Facebook page.

The video led to a local blogger posting a series of blogs and comments on social media over an extended period relating to the DPH, which the DPH considered were abusive, constituted harassment, and had a negative impact on their mental health. Other individuals also contributed similar posts on social media.

In January 2021 the DPH raised the issue with their line manager, the then Chief Executive, and asked for the Council's support. Advice was taken from a QC who advised that the threshold for legal action was met and was confident an injunction could be achieved.

The Council had previously taken external legal advice, in October 2018, confirming the Council could indemnify individual employees under the Local Authorities (Indemnities for Members and Officers) Order 2004 for costs of proceedings they may bring in connection to their roles as officers excluding defamation claims.

On 24 February 2021 the then Deputy Leader approved that the Council would support the DPH in taking legal action on the basis that the Council had a duty of care to their employee. Under the Protection from Harassment Act 1997, the Council could not be a claimant, only an individual could claim. The then Deputy Leader also agreed to indemnify the DPH against legal costs.

A claim was served on the blogger for the harassment of the DPH on 3 March 2021. The blogger did not agree to the consent order for the Council to cease legal action. On 9 April 2021 the blogger made an application to have the claim struck out.

On 16 July 2021 the judge struck out the claim.

Alleged Harassment Case: Key Findings

The 2004 Order allowed for the Council's Executive to make the decision in relation to indemnifying an officer. The Council has a "strong leader" governance model which means that the executive powers are vested in the Leader of the Council. At the time the decision was made the then Leader was suspended by their political party, and in their absence, the then Deputy Leader had the full powers of the Leader to make the decisions in relation to supporting a legal case and indemnifying the DPH.

The Council had spent significant time in 2018 understanding the legal framework and 2004 Order in relation to a similar case, including obtaining counsel opinion. In February 2021 key Council officers concerned felt that the 2018 advice and associated legal framework could be applied to the situation of the DPH and the legal framework had not materially changed. Following the decision being made, the Council sought retrospective counsel advice, which was received on 25 May 2021, following receipt of initial advice on 27 April 2021, stating that the decision to indemnify the DPH was legally robust.

The outcome of the judgment was based on the judge's view that the blogger's right of freedom of expression (including the protection of journalistic expression) outweighed the DPH's interests, including circumstances where the DPH had spoken publicly about their mental health, and that the blogger was deemed to have not been aware that their actions constituted harassment.

The judge noted that the judgement did not imply that criticisms made of the DPH by the blogger were justified, nor did it cast doubt on the impact of the comments on the DPH.

The Council officers involved were surprised at the outcome of the case based on the legal advice received and management have written to the barrister expressing disappointment. Mental health charities and commentary in the local government media has expressed concern around the judgment and that the bar for demonstrating harassment is too high for high profile public figures.

The total legal costs incurred by the Council relating to this action were £96,332 + VAT. This includes the legal costs of the defendant / blogger which represent over 40% of the total costs. The Council challenged the blogger's initial cost submission which was significantly reduced.

KLOE A8: Governance and Legal Support to the DPH

Page 54

The purpose of this KLOE was to consider the Council's governance and decision making arrangements relating to the alleged harassment of the Director of Public Health by an external blogger, and the governance arrangements relating to the introduction of a local contact tracing service and shielding arrangement during Summer 2020.

Alleged Harassment Case: Key Findings (Cont'd)

The blogger removed blogs and social media postings when the claim was served. Following the claim being struck out social media postings restarted, being made by the blogger and others.

The blogger entered into correspondence with Grant Thornton in July 2021 stating that the Council should not pay for the legal costs of the DPH, and that the indemnity was unlawful. Grant Thornton asked the blogger to clarify why the Council's actions were not lawful and that Grant Thornton had been provided with no evidence that the 2004 order does not apply to the actions undertaken by the Council. Grant Thornton has not received a reply from the blogger.

Grant Thornton has engaged Bates Wells to provide independent legal advice on the actions taken by the Council in indemnifying the DPH. Bates Wells did not identify any obvious grounds on which the granting of the indemnity could be said to be unlawful and noted that the reasons given for granting the indemnity appear to be rational, and take into account relevant factors.

Whilst the DPH is a joint appointment between the Council and Secretary of State for DHSC, the DPH is an employee of the Council, and we are content that it was the Council's decision to make in relation to the indemnity.

Alleged Harassment Case: Conclusions and Recommendations

The issues relating to the DPH occurred during the COVID-19 pandemic when the DPH had a critical and high-profile role locally. Given the legal advice received by the Council and senior officer recommendations it is unsurprising that the Deputy Leader agreed to support the DPH in taking forward legal action.

We are satisfied that the Council had the legal powers to indemnify the DPH, and that the Deputy Leader had delegated powers to make this decision.

Should the Council find itself in a similar scenario in the future, it would be prudent to obtain external legal advice on the specific circumstances under consideration, before any final decision on an indemnity is made.



KLOE A8: Governance and Legal Support to the DPH

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Local Contact Tracing Service: Background

The national NHS Test and Trace service was launched on 28 May 2020 to form a central part of the government's COVID-19 recovery strategy. The service was established to test anyone with symptoms of the virus. Anyone who tested positive would then be contacted to share information on recent interactions. The service would then contact these individuals to make them aware that they had to isolate for the then requirement of 14 days due to having had close contact with someone who tested positive. The service's aim was to help control the rate of reproduction and reduce the spread of the virus.

In late July 2020 the national service was successfully reaching approximately 65% of contacts in Sandwell. This was considered to be too low by the Council, with the reason due to particular demographic and socio-economic characteristics of Sandwell such as cultural diversity (including the level of English of some residents) and employment situations for some residents for example working in processing industries, factories and warehouses who were at greater risk of being exposed to the virus.

The purpose for introducing the local service was to utilise public health and other employees of the council, in particular those employees who were able to speak languages other than English, to:

- increase the successful number of contacts with people who had tested positive to reiterate public health advice to the individuals concerned, and
- to ascertain other persons that they had been in contact with so that they too could be also be contacted and given advice.

The local service was piloted on 29 July 2020 and went live the following day.

Sandwell was one of the first councils to set up a local contract tracing service and received regional and national media interest as a result, including requests for interviews with the DPH.

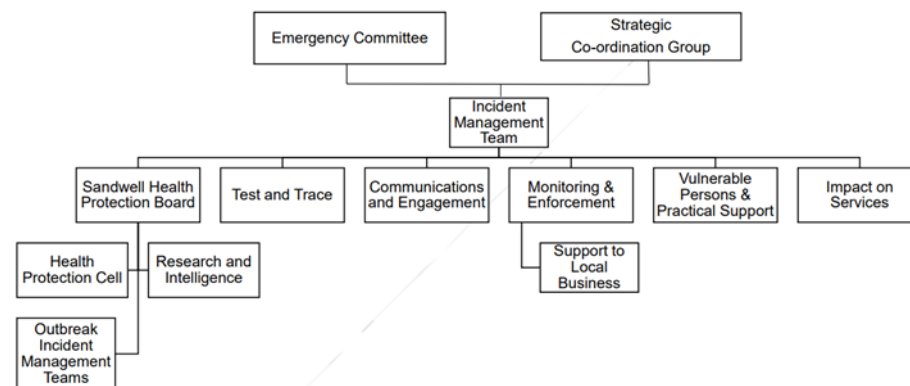
The media focus led to some individuals making criticisms of the council and the DPH relating to the introduction of the service. These criticisms were covered by local media and featured on some social media platforms.

Local Contact Tracing Service: Governance Arrangements

"Sandwell COVID-19 Stay Safe in Sandwell" is the Council's COVID-19 emergency plan (the Plan). The Plan notes that in response to the continuing community transmission of COVID-19 both local and central government are able to enforce local restrictions on an area in the country if it is considered that the number of daily new cases, or local outbreaks, is too high. These restrictions are decided by DHSC based on advice from PHE and the Joint Biosecurity Centre.

The Plan, which was endorsed by the Council's Emergency Committee on 31 July 2020, notes that the COVID-19 Framework, produced by DHSC, set out how national and local partners would work with the public at a local level to prevent, contain and manage outbreaks. "Successful management of local outbreaks is key to breaking the chains of COVID-19 transmission to enable people to return to and maintain a more normal way of life". The Council published its COVID-19 Local Outbreak Plan in line with the DHSC framework.

The Plan provided an overview of the interim governance arrangements established in relation to pandemic management:



KLOE A8: Governance and Legal Support to the DPH

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Page 56

Local Contact Tracing Service: Governance Arrangements (Cont'd)

The Plan recognised that good communication and engagement with communities and businesses would be key throughout the management of COVID-19 in the borough; both to support prevention of outbreaks, but also during any outbreak or additional measures put in place by central government. The Council's communications team would take a key role in co-ordinating communications, working with PHE and the Council's Public Health team.

Local Contact Tracing Service Governance Arrangements: Key Findings

The roles undertaken by PHE were replaced by the UK Health Security Agency (UKHSA) and Office for Health Improvement and Disparities following a review by the then Secretary of State in August 2020. Health protection responsibilities transferred from PHE to UKHSA on 1 October 2021, with PHE formally ceasing to exist on 1 April 2022. The Emergency Plan still refers to PHE and the Council should review the Plan to ensure that changes following the demise of PHE are reflected.

We have been unable to locate a document setting out formal membership of the Incident Management Team (IMT) which received updates on 27 and 28 July 2020 on progress in setting up the local contract tracing service and an update was presented to the Emergency Committee on 31 July 2020 to endorse the decision to introduce the service. The decision to proceed with the local service was the responsibility of IMT, however the minutes of IMT on 27 and 28 July 2020 do not make reference to approval to proceed with the local service. However, on the basis of our interviews we are satisfied that the decision to proceed with track and trace had the full support of the leadership team.

Local Contact Tracing Service: other key findings

On 31 July PHE named Sandwell as an area of concern on its watchlist following a rise in the number of COVID-19 cases. Sandwell's rate of infection rose to 28.1 per 100,000 people in the week up to 27 July 2020, up from 26.9 the previous week. The PHE watchlist was based on the weekly rate of COVID-19 cases in local areas, as well as the trend of whether infections were rising or falling. There were three categories into which local council areas could be placed on the watchlist at that time: areas of concern, areas for enhanced support, and areas of intervention. An area of concern was one of those areas with the highest prevalence of COVID-19 but where local officials were taking targeted actions to reduce the number of infections.

PHE actively encouraged councils to find solutions to manage their response to the pandemic, based on a council's understanding of their locality. Senior regional representatives of PHE and DHSC were aware and supportive of the Council's plans to establish a local contact tracing service, recognising that at the time, it was imperative to break the chain of transmission with more rapid contact tracing.

The Council worked directly with national NHS Test and Trace when establishing Sandwell's local service. This included being provided with access to the Contact Tracing and Advisory Service (CTAS) database. This database was created by NHS Test and Trace to record information about people who had been in contact with someone who had tested positive for COVID-19.

The local contract tracing service successfully managed to reach local residents identified by NHS Test and Trace to encourage them to self-isolate. As at 21 February 2022, 96% of contacts were being made in Sandwell, which according to UK Health Security Agency (UK HSA) data, was the highest rate of relevant local authority areas in the West Midlands.

When looking at the number of average confirmed COVID-19 infections during the week immediately prior to the local service, and the same UK HSA data for a month later, infections increased by 10.1% compared to an increase of 88.1% for the West Midlands, and an increase of 78.4% for England.

The Council was one of the first in the country to establish a local contract tracing service and was therefore one of the forerunners of what became the model on which many other councils introduced their own local contact tracing service.

The Council's local contact tracing service was recognised by the Local Government Association (LGA) in October 2020 as one of a number of examples of good practice.

KLOE A8: Governance and Legal Support to the DPH

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Local Contact Tracing Service: Media Coverage

In late July 2020 the Council received coverage in local media (radio and newspapers) and from a national news broadcaster relating to the introduction of the Council's local contact tracing service. In early August a number of criticisms from local politicians (not elected members of the Council) were made that were covered by local media and appeared on social media platforms. Individuals were reported in local media on 1 August 2020 as having said:

- The Council's contact tracing service was a "publicity stunt".
- If "officers stopped playing at being politicians and concentrated on their day jobs Sandwell's results would have been better and complaining about [national] track and trace".
- "Saying that the Government's track and trace system is not working and that we have to set up our own, is I'm afraid, scaremongering."

One local MP, referring to the 1 August 2020 article, posted on social media the following day:

- The Council is "backtracking from" claims that they have set up a local track and trace system, and the claims are "simply not true."

We understand that the context for this last comment was made because the DPH had made a public statement that the local service "was dovetailing with the government's service" (ie national NHS Test and Trace).

The Council's then Chief Executive initiated a lessons learned review which included a fact finding exercise in relation to the above. This review included obtaining the view of the Association of Directors of Public Health (ADPH) as to whether the DPH's comments were political in nature. The ADPH, which is the professional body of DPHs, concluded that the DPH's comments were not a criticism of the government and that they did not make a political statement, and that their actions were in line with the role of a DPH.

As part of the Grant Thornton review we have sought our own evidence in relation to the above comments and are satisfied that the local contract tracing service was in place at the time the above comments were made, although it had recently commenced. We have found no evidence that the DPH or Council were scaremongering about the reason to introduce a local service, nor that the DPH was making party political comments.

However we do note that the DPH's comments were robust where they felt they needed to correct inaccuracies, and recognise that some individuals may have perceived them as being critical of the government, even though this was not the intent.

The Council had in place a social media policy that was good practice and set out clearly the responsibilities of officers. We note that, as per the findings in KLOE B6, that the Council has a separate social media policy in place for elected Members which was reviewed and updated during 2021 with associated training being offered.

The Council acknowledges that directors in public facing roles have a role to play in delivering key messages and engaging with the public / local community.

We note that the DPH did not always discuss with the then Chief Executive or the communications team the messaging in advance of having a media interview. The DPH had received media training but under the Council's policies and guidance at the time there was no requirement to consult with senior colleagues or the communication team. We consider that such consultations would have been helpful, but acknowledge that they may not have led to a different outcome in terms of the media perception of the DPH and the Council. We consider that the Council should make clear in its policies and guidance when consultation is necessary.

The DPH used their personal social media accounts (Facebook and Twitter) to promote public health messages and engage with the community. There is evidence that such a personal approach leads to better community engagement than via a corporate (ie the Council's own) social media account. Use of a personal social media account can create the risk of cyberbullying, which is recognised in the Council's social media policy.

The then Chief Executive sought to rebut the statements made in the media by local politicians, but rightly wanted assurances on the facts before doing so. The fact finding exercise that took place at the time was not able to access call logs to fully validate the data provided, which caused some delays in the finalisation of the report. Once finalised we understand that effective rebuttals never took place. We note that this exercise was undertaken in the context of Council resource being focussed on pandemic response and management, but consider that a formal comment by the Council could have removed any misunderstanding between the Council and external parties.

We note that the fact finding exercise also incorporated a lessons learned review in relation to the local contact tracing service and issues relating to shielding covered separately in this report. This review was concluded without the draft or final report being shared with the DPH, and the current interim Chief Executive has issued an apology to the DPH on behalf of the Council, noting that the approach taken was not appropriate and should have been more collaborative and transparent.

KLOE A8: Governance and Legal Support to the DPH

The purpose of this KLOE was to consider the Council's governance and decision making arrangements relating to the alleged harassment of the Director of Public Health by an external blogger, and the governance arrangements relating to the introduction of a local contact tracing service and holding arrangement during Summer 2020.

Engagement with MPs

The Council's then Leader and then Chief Executive met weekly with local MPs during the timescale relating to this review, to provide updates on and respond to clarifications relating to the pandemic.

Given the context of the pandemic at least two local MPs requested on a number of occasions between April and July 2020 that the DPH and Director of Adult Social Care attended these meetings. However, the then Leader and then Chief Executive took an approach that council directors would not attend meetings with local MPs. Rather than the Leader and Chief Executive would obtain clarifications from directors, as required, to report back to local MPs.

One local MP was quoted in local media on 1 August 2020 expressing their frustration at not being able to meet Sandwell public health officials. We are aware that this frustration was compounded by the DPH making themselves available for media interviews, whilst the then Leader and Chief Executive of the Council were not permitting direct contact between the DPH and local MPs.

On or around the 3 August 2020 the same local MP used Facebook to message the DPH to mention they had been trying to request a meeting with them via the Leader and Chief Executive since the start of the pandemic, requests which had been refused. The MP also noted that two weeks previously the DPH had told the MP they were "too busy" to meet, and further noting they had a meeting with the DPH the following day.

The DPH used Facebook to reply that it was not true that they told the MP they were too busy, referred to an email dated 29 July 2020 which would be produced as evidence, that this was the first email received, and that the DPH would seek legal advice on "these public allegations."

The DPH has confirmed that she consulted with the then Chief Executive prior to responding to the Facebook posting by the MP. We have sought to confirm this, but have been unable to obtain a record of this meeting, and the then Chief Executive was unable to respond to our query due to the lack of access to his notes. We have accepted the DPH's statement.

The MP had their first meeting with the DPH on 4 August 2020. The DPH has subsequently been involved in meetings with local MPs

Reviewing this Facebook exchange, we are satisfied that the office of the local MP contacted the DPH by email on 23 July 2020 to request a meeting, and sent a chase email on 29 July 2020. It is the latter email that the DPH referred to in the Facebook exchange, and the former which was referred to by the MP in the Facebook exchange. The DPH replied by email to the MP on 29 July 2020 stating "Sorry – just seen this. We are absolutely flat out right now on our acute response. Have you put this request in through the CEO and Dept Leader? I haven't heard from them about it?". It was this response that the MP summarised as being "too busy" in the Facebook posting.

This exchange led the MP to contact the then Chief Executive on 4 August 2020 to clarify if the DPH was planning to take legal action. The MP chased the then Chief Executive on 6 October 2020 after having not received a response. We are not aware that a response was made.

The ADPH has also provided comment on this Facebook exchange. Their view is that DPH comments "are entirely consistent with the prevailing interpretation of good practice by a DPH" and that "correcting such a statement...is an act to maintain public trust, remain compliant with the role of the DPH and as such...retain confidence of the public." Further that it is "established custom and practice as well as clearly implied in guidance" that a DPH has "the right to provide a corrective response to a mistaken or erroneous statement as publicly as the statement was made".

We accept the ADPH's comments regarding the exchange but question whether making the public comment on taking legal advice in public was an appropriate action.

We are aware that the MP concerned contacted the Special Advisor for the then Secretary of State for DHSC in early August 2020 with concerns about the DPH's conduct. We understand that the then Secretary of State contacted the NHS National Test and Trace Director who was due to call the Council's then Chief Executive on this issue, as the Secretary of State was "exercised" over the DPH's comments on the national system and lack of engagement with local MPs. We have not been able to clarify if the then Chief Executive received this contact.

KLOE A8: Governance and Legal Support to the DPH

The purpose of this KLOE was to consider the Council's governance and decision making arrangements relating to the alleged harassment of the Director of Public Health by an external blogger, and the governance arrangements relating to the introduction of a local contact tracing service and shielding arrangement during Summer 2020.

Conclusions and recommendations

From our work we consider that:

- A local contact tracing service was established and that this added to the national system and improved contact tracing
- The service was not established for a political purpose. While we have not been able to locate a record in the minutes of IMT approving the establishment of the service our interviews indicate that the decision to establish the service had the support of the leadership team.
- The DPH complied with the Council's social media policy. We note that the use of personal social media led to cyber bullying and that this has had a significant impact on the DPH's well being
- The DPH's comments in the media and social media were largely appropriate. We do not consider that the comment regarding taking legal advice should have been made in public.
- The Council's decision that the DPH should not meet with local MPs resulted in an inaccurate perception that the DPH's comments were political. This is aligned to other comments in this report about the insularity of the Council at this time. We consider that this significantly contributed to the negative comments made with regard to the Council and the DPH.

We consider that the Council should make the following changes to its management arrangements. The Council should:

- **Ensure that senior Council officers in public roles who use social media for their public role are aware of the risks of using social media and their responsibilities in relation to the Council's social media policy. We recommend that these senior officers liaise with and seek advice from the Council's communications team in relation to their social media activity.**
- **Engage the Council's communications team in a review of the social media policy to consider if any updates are required, for example, to reflect the changed circumstances brought about by increased home working, and whether the social media policy should stipulate that social media accounts being used by officers clearly state that these accounts relate to their Council role.**
- **Ensure that where the Council identifies use of social media that could be contentious or considered by others as inappropriate, that this is reviewed by management and appropriate action is taken.**

- **Ensure the decision to attend media interviews should be made jointly by the Chief Executive, Senior Officers, and Communications Team.**
- **When establishing and implementing high profile and / or significant project or initiatives, ensure a better record of the decision-making and supporting information and evidence must be kept.**
- **Establish a clear policy for working with local MPs to ensure that they are appropriately informed.**
- **Ensure that all relevant COVID-19 communications from local MPs and DHSC should be promptly forwarded to the DPH should it be evident that the DPH has not received them directly.**
- **Review the Emergency Plan to ensure that changes following the demise of PHE are reflected.**
- **Ensure that decisions made to introduce new services, or materially changing existing services, are properly reflected in the minutes of the body responsible for making such decisions.**
- **Any future lessons learned reviews undertaken by the Council should be undertaken in a collaborative and transparent way with the key stakeholders concerned.**



KLOE A8: Governance and Legal Support to the DPH

The purpose of this KLOE was to consider the Council's governance and decision making arrangements relating to the alleged harassment of the Director of Public Health by an external blogger, and the governance arrangements relating to the introduction of a local contact tracing service and changes to shielding arrangement during Summer 2020.

Shielding arrangements: background

Part of the initial emergency response to COVID-19 the government introduced a policy of shielding for individuals considered to be clinically extremely vulnerable (CEV) and at high risk of infection. On 22 June 2020 the Secretary of State for DHSC announced that shielding for CEV individuals would end on 1 August 2020 as part of a wider series of changes being made as rules were relaxed in England as the country came out of the first national lockdown. The Council's emergency planning and response to the pandemic was a corporate responsibility, with the DPH having a key role alongside other senior officers including the then Chief Executive and the then Director for Adult Social Care.

A letter dated 30 July from the Deputy Chief Medical Officer was sent to councils setting out that the decision to end shielding for CEV individuals rested with government Ministers on the advice of the Chief Medical Officer (CMO) and that the reintroduction of shielding in a local area is a decision that must be taken by Ministers on the advice of the CMO.

The council did not update its shielding advice on its website until 7 August 2020 after being approached by DHSC who raised the issue of the council's website advice on shielding appearing to contradict national guidance.

Shielding arrangements: key findings

A number of councils, including Sandwell, made the assessment that people who were shielding were still very vulnerable to serious illness and death due to high COVID-19 case rates locally. The Council, with approval from the COVID-19 Emergency Committee, issued communication to this effect via its webpage on 31 July 2020 including a downloadable letter.

On 3 August 2020, the Council's then Director for Adult Social Care received an email from the Ministry of Housing, Communities and Local Government (MHCLG) which had followed a conversation about Sandwell's appearance on PHE's COVID-19 watch list and the risk of local lockdown. The email included the letter from the Deputy Chief Medical Officer on behalf of the Department of Health & Social Care, dated 30 July 2020. The letter outlined the process of re-introducing shielding and the fact that such a decision was for Ministers on the advice of the Chief Medical Officer. The letter also identified the implications of re-introducing shielding, both from a medical/wellbeing perspective and the funding implications, such as Statutory Sick Pay paid by employers. The letter was shared with the DPH by the then Chief Executive on 4 August 2020.

Discussions took place during 4 August between various senior Council officers, including the DPH, about updating shielding guidance on the Council's website. The same day the then Director for Adult Social Care received a further email from MHCLG asking if the Council's website had been updated.

On 5 August the DPH met with representatives from DHSC including the Deputy Chief Medical Officer, and received an email from DHSC following the meeting, highlighting the aspects of the Council's website guidance on shielding which appeared to contradict national guidance. On 6 August the DPH asked Council public health team to update the Council's guidance and the website was updated the following day.

During this period the Council received calls and emails from members of the public seeking clarification on the advice being given.

Conclusions and recommendations

The shielding advice being given by the Council was provided in good faith, but for a period of several days was in some respects inconsistent with the change in government guidance. This led to some confusion with members of the public and with some Council officers, which led to time being spent resolving clarifications at a time when officers were working considerably long days managing the pandemic response.

We have found no evidence that senior Council officers became aware of the Deputy Chief Medical Officer's letter dated 30 July 2020 prior to 3 August 2020. It is regrettable that the Council's shielding guidance was not updated sooner, but we note that once senior officers including the DPH became aware of the updated guidance, the error was corrected.

We recommend that the Council should review its processes and decision making arrangements following a change in government guidance or policy to ensure that local updates are made in a timely manner.

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.

Pages 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.

Page 62

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.

Page 66

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.

Page 08

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.

Page 73

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
#75

#	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.	14
2.	Enhancement of the induction programme to new members of Cabinet, including on local government finance and their governance roles is recommended.	14
3.	The Council should ensure that corporate KPIs are agreed so that the implementation of the Corporate Plan can be effectively monitored.	15
4.	The forward plan of the Cabinet should be shared with the Audit Committee and Scrutiny Board to help structure their agenda planning.	15
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).	15
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.	16
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.	16
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.	16
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	16

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 76	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.	17
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.	17
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.	17
	KLOE A1: Sandwell Children's Trust	
13.	<p>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:</p> <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. 	21
	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.	23
	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.	25
16.	The Council should ensure that all future property or land acquisitions and disposals are clearly aligned with relevant Council property related strategies.	25

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page
77

#	Improvement recommendations	Page #
KLOE A4: SEND Transport		
17.	<p>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:</p> <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. 	28
18.	<p>For the conclusion of the SEND Transport procurement and for all future major procurements, the Council should ensure that:</p> <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 	29
KLOE A5: Sandwell Land and Property		
19.	<p>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.</p>	31
20.	<p>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.</p>	31
KLOE A6: MADE Festival		
21.	<p>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.</p>	32

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 78	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.	35
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.	35
24.	The Council should ensure that the investments specified in the contract with Serco are made, such as a new vehicle fleet.	35
	KLOE A8: Governance and Legal Support to DPH	
25.	Should the Council find itself in a similar scenario in the future, it would be prudent to obtain external legal advice on the specific circumstances under consideration, before any final decision on an indemnity is made.	40
26.	<p>We consider that the Council should make the following changes to its management arrangements. The Council should:</p> <ul style="list-style-type: none"> • Ensure that senior Council officers in public roles who use social media for their public role are aware of the risks of using social media and their responsibilities in relation to the Council's social media policy. We recommend that these senior officers liaise with and seek advice from the Council's communications team in relation to their social media activity. • Engage the Council's communications team in a review of the social media policy to consider if any updates are required, for example, to reflect the changed circumstances brought about by increased home working, and whether the social media policy should stipulate that social media accounts being used by officers clearly state that these accounts relate to their Council role. • Ensure that where the Council identifies use of social media that could be contentious or considered by others as inappropriate, that this is reviewed by management and appropriate action is taken. • The decision to attend media interviews should be made jointly by the Chief Executive, Senior Officers, and Communications Team • When establishing and implementing high profile and / or significant project or initiatives, a better record of the decision-making and supporting information and evidence must be kept. • Establish a clear policy for working with local MPs to ensure that they are appropriately informed. • Ensure that all relevant COVID-19 communications from local MPs and DHSC should be promptly forwarded to the DPH should it be evident that the DPH has not received them directly. • Review the Emergency Plan to ensure that changes following the demise of PHE are reflected. 	45

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 79	Improvement recommendations	Page #
	KLOE A8: Governance and Legal Support to DPH (Cont'd)	
26.	<ul style="list-style-type: none"> Ensure that decisions made to introduce new services, or materially changing existing services, are properly reflected in the minutes of the body responsible for making such decisions Any future lessons learned reviews undertaken by the Council should be undertaken in a collaborative and transparent way with the key stakeholders concerned. 	45
27.	The Council should review its processes and decision making arrangements following a change in government guidance or policy to ensure that local updates are made in a timely manner	46
	KLOE A9: Lion Farm	
28.	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.	48
29.	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.	48
30.	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.	48
	KLOE A10: Introduction of new ERP System	
31.	<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. 	51

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 80	Improvement recommendations	Page #
	KLOE B1: Chief Officers	
32.	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..	52
	KLOE B2: Senior Leadership	
33.	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.	53
	KLOE B3: Complaints	
34.	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.	54
	KLOE B5: Standards Committee	
35.	Member training and development programme must play a key role in ensuring members fully understand the expectations and standards relating to their role	56
36.	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	56
	KLOE B6: Audit Committee	
37.	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.	58

Appendix A: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 81	Improvement recommendations	Page #
	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	59
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.	59
37.	Management should ensure the Finance team has appropriate skills and capacity to manage the Council's financial reporting responsibilities.	59

Appendix B: The scope of the auditor's work on value for money arrangements

Page 82

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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Page 85

Sandwell Metropolitan Borough Council: Value for Money Governance Review – follow up

Year ended 31 March 2022

2 December 2022



Contents

Page 86



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Section	Page
1. Introduction	3
2. Key Findings	6
3. Detailed Findings	15
Appendix	
A. The scope of the auditor's work on value for money arrangements	55
B. Improvement Recommendations	56

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.

Our 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

On the 3 December 2021 we published our report setting out the findings of our review of the Council's governance arrangements, which formed part of our 2020/21 VfM audit.

Our report set out significant weaknesses in the Council's governance arrangements, and was presented to full Council on 18 January 2022, along with the Council's Improvement Plan which set out the Council's response to our recommendations. The Grant Thornton report and the Improvement Plan were approved by the Council at this meeting. On the same day the then Local Government Minister at the Department for Levelling Up, Homes and Communities (DLUHC) announced the government was mindful to intervene in the Council because of the findings set out in our governance report.

The Council commissioned the Chartered Institute of Public Finance and Accountancy (CIPFA) to undertake a review of the Council's financial management and governance arrangements using the CIPFA Financial Management Model. CIPFA reported their findings and recommendations in January 2022. In addition, the Local Government Association (LGA) undertook a Corporate Peer Challenge review for the Council, reporting its findings and recommendations in February 2022.

On 22 March 2022 the Secretary of State for DLUHC issued statutory directions under section 15(5) and (6) of the Local Government Act 1999. These directions appointed two Commissioners who will oversee all functions associated with the governance and scrutiny of strategic decision making by the Council. The directions will be in force until March 2024, unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date. These directions are in addition to the ones that led to the creation of Sandwell Children's Trust.

The Council has expanded its Improvement Plan developed in response to our December 2021 governance report to incorporate its response to the findings of the CIPFA and LGA reviews. Both the Commissioners and the Council provide updates on progress on delivering the Implementation Plan to the Secretary of State for DLUHC every six months.

The purpose of our follow up review, which relates to our 2021/22 VfM audit, has been to draw conclusions on the progress made by the Council against the recommendations set out in our 3 December 2021 report. This does not represent a review of the Council's Improvement Plan which as already noted draws on a wider set of actions than those relating to the recommendations set out in our December 2021 report.

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. Our overall VfM conclusions for 2021/22 will be set out in a separate Annual Auditor's Report.

Our approach

Our work in relation to this review was undertaken between September and October 2022.

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 recommendation to clarify issues identified during stage one and to undertake more detailed analysis. A total of 33 stakeholders have been met during this follow up review.

Context, background and scope of the review (Cont'd)

Our Approach (Cont'd)

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.

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

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

Overview

Introduction

A range of different recommendations can be raised by a council's auditors as follows:

- **Statutory Recommendations:** written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the Council to discuss and respond publicly to the report.
- **Key Recommendations:** the NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as 'key recommendations'.
- **Improvement Recommendations:** these recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council's arrangements.

Further detail on the scope of auditor's work on VfM arrangements can be found at Appendix A.

Our December 2021 report included the following:

- 3 statutory recommendations,
- 5 key recommendations, and
- 37 improvement recommendations.

In this section we summarise our key findings on the Council's progress.

Our detailed findings relating to each Key Line of Enquiry are set out in a separate section.

Key Lines of Enquiry

The scope of our original review covered 17 Key Lines of Enquiry (KLOEs):

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)

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 findings in relation to KLOE A8 were not included in our December 2021 report and have not formed part of this follow up review.

As part of this follow up review we have also considered how the Council engages with residents and community stakeholders (KLOE B8).

Key Findings

This section provides a summary update of the Council's progress in relation to the key findings and statutory and key recommendations in our December 2021 report.

Page 92

Statutory Recommendation 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.

Key Findings

The Council has a greater corporate grip over improvement, performance and decision making. It has demonstrated progress on a number of areas such as children's social care and leisure services. The Council's leadership has taken shared responsibility for the oversight of the delivery of the Improvement Plan, and for cascading the plan through the organisation.

The introduction of a Performance Management Framework (PMF) provides an opportunity to improve evidenced based decision making, and sets out accountabilities to drive the delivery of the Corporate Plan. The Council needs to continue to refine how data is used to support the monitoring of Key Performance Indicators (KPIs).

Cabinet is demonstrating a commitment to making the tough decisions that are required, such as decisions made in relation to SLT, Lion Farm and SEND Transport. The Leadership Team has made good progress in its corporate approach to managing the operational issues and challenges raised in our previous report, with significant progress made in many areas. **There is more to do and this operational focus needs to continue, for example, on waste services, and also needs to expand into other areas, for example, medium-term financial planning and financial statement production.**

Skills and capacity gaps in relation to Serco and the ERP System implementation have been recognised and steps taken to manage them, including the use of interim and external resources. There has been a restructure of the Finance Team to better reflect the capacity and skill requirements needed to support the wider organisation. Work has been undertaken to better clarify roles and responsibilities, for example in relation to the ERP System implementation.

There is evidence of greater senior officer involvement in areas of key service challenges. A corporate Programme Management Office (PMO) has been created which will co-ordinate key change and transformation projects. These changes are welcome and necessary but it will take time to evidence their effectiveness. The Council needs to ensure there is a structured approach to knowledge transfer when using external specialists and that the capacity, skills and resourcing levels of the PMO and of key projects remain appropriate, that the PMO is able to effectively monitor the delivery of the Implementation Plan, and the PMO integrates all transformation and change activity being undertaken across the Council.

Statutory Recommendation 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.

Key Findings

There is clear evidence that the Council is making better procurement and commercial decisions. The SEND Transport procurement approach was reviewed, revised and re-run and has been successfully concluded. SLaP has been dissolved, and Lion Farm and Providence Place are now being managed through to a resolution. Notice has been served on SLT with plans to create a new local authority trading company for leisure services. The most recent Ofsted inspection of children's services has seen the rating move from inadequate to requires improvement to be good. This represents significant improvement.

Significant progress has been made on the ERP systems replacement, including the procurement of a new implementation partner. Due to the poor way these had previously been managed the Council has faced delays and incurred unnecessary costs. For example, in relation to ERP the Council has incurred additional costs of at least £2.2m, however we acknowledge that the Council is seeking to mitigate this loss.

Key Findings (Cont'd)

This section provides a summary update of the Council's progress in relation to the key findings and statutory and key recommendations in our December 2021 report.

Page 20

Key Findings: Statutory Recommendation 2 (Cont'd)

The lessons learned from both poor past practice, and the improved practice put in place to expedite failings must continue to be used to ensure that future large scale procurements and decision making follow good practice. The Council has not yet developed and agreed a commercial strategy which remains a key action to resolved and ensure there is understanding of the strategy across the organisation.

The Council has reviewed and updated its Contract and Procurement Procedures, financial decision thresholds, and the Protocol for the Disposal of Council Owned Land and Buildings, which were approved in July 2022.

There is evidence of improved corporate ownership and working relationships between the Council and SCT and Serco, helped by greater levels of senior officer engagement. Service quality and outcomes have been a feature of improvements made in relation to the SEND Transport procurement and form part of ongoing discussions in relation to the waste management contract.

As already noted, there remain challenges to progress in some areas, in particular in relation to waste services.

Statutory Recommendation 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 Findings

Much greater stability can now be seen, both politically and at a senior officer level, and the Cabinet and Leadership Team are working increasingly well both collectively and via their individual Director and Portfolio Lead roles. Hybrid working provides challenges for the Council's leadership, but there is evidence these changes are starting to be recognised across the wider organisation.

There is a more mature engagement between the Leader, Cabinet, Committee Chairs and senior officers, supporting good planning and work programming across different Council committees and a greater level of professionalism in how business is conducted by these committees. The Leader has an inclusive leadership style, and is working well with other Cabinet members and the chairs of key committees, who in turn recognise the need for change and are demonstrating their commitment to the Council's improvement journey.

By taking a grip of many long-standing operational challenges the leadership of the Council is starting to create time and space to better consider the long-term. There is evidence that the Council is moving away from its insularity with improved focus and engagement with regional and national bodies. Changes to financial decision thresholds provides an opportunity for Cabinet agendas to focus on issues of strategic priority.

The Performance Management Framework provides the Council leadership with the mechanism to monitor progress against Corporate Plan objectives. Further work is required for the Council to demonstrate the necessary organisational and cultural change, including the introduction of the Phase 2 Improvement Plan, and having in place appropriate data to monitor all KPIs.

Budget monitoring and financial benchmarking have been introduced, but further work is required before they are being used appropriately by all services.

The Council approved new financial decision thresholds in July 2022, with an updated scheme of delegation approved by the Council on 8 November 2022. These changes will need to become embedded so that officers are empowered and decision making becomes more agile.

The Current Position

The themes set out our December 2021 report illustrated how the Council's recent behaviours and legacy issues were impacting on good governance and decision making. Our previous report noted that the Council's leadership had started to make some necessary changes and that "green shoots" were in place to deliver the widespread transformation and changes required.

Key Findings (Cont'd)

This section provides a summary update of the Council's progress in relation to the key findings and statutory and key recommendations in our December 2021 report.

The Current Position (Cont'd)

The Council's Improvement Plan has been key for creating and maintaining a focus on the required improvements, and the Council has made significant progress on many of the recommendations made in our previous report, supported by the creation of additional capacity in some key areas. The Council has put in place the foundations to deliver the sustainable improvements that are needed, and significant improvements are already being made. Finalising and then delivering the phase 2 Implementation Plan, which will focus on organisational culture, values and behaviours required to deliver change, will be crucial for ensuring sustainable improvement.

The Council retains a challenging agenda of delivering business as usual alongside improvement and transformation and it must maintain the pace of change so that progress does not plateau or fall backwards. The Council must not become dependent on the Government intervention and the role of the Commissioners and be clear that the improvement journey is the responsibility of the Council leadership, both senior members and senior officers. In addition, the external environment for all councils remains highly uncertain, including the level of future Government funding and potential policy changes, alongside the impact of the cost of living crisis on businesses and communities and generationally significant levels of inflation.

The Council must ensure that it has taken all necessary steps to ensure that there is clarity on its medium-term financial position including how any funding gaps will be managed. The Council must also use the improvement building blocks now in place to bring a greater focus on service user responsiveness and outcomes. Once all the planned revisions to the Constitution have been agreed, the Council will need to embed these changes and demonstrate sustainable improvements in governance and scrutiny of decision making.

Improvement is also needed in the Council's financial processes and its processes for the production of its financial statements. At the date of this report the Council has not completed the audit of its 2020/21 financial statements. This needs addressing as a matter of urgency.

The interim Chief Executive has continued to be central to the improvements that have been made to date. The appointment of a new permanent Chief Executive was confirmed by the Council on 8 November 2022, with their start date confirmed as 6 February 2023. [The success of this appointment remains critical for the Council's improvement journey.](#)

Recommendations and detailed findings

We now set out the summary of our findings for each KLOE followed by our key recommendations.

The detailed findings in relation to each individual KLOE are set out in the following section. We have also identified various improvement recommendations, which are summarised at Appendix B.

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.

KLOEs: Summary Findings

This section provides a summary of the key findings on each KLOE.

KLOE	Summary Findings
A1: The Children's Trust	The Council has improved its relationships and contract management arrangements with SCT and the most recent Ofsted rating is evidence that positive steps have been taken on the Trust's improvement journey. The Council should continue to work with SCT to ensure there is sustainability of continued progress. In particular, it will need to support SCT to mitigate workforce challenges and will need to monitor SCT's ambitious financial plans, including efficiencies and demand management savings.
A2: Sandwell Leisure Trust	The Council has taken decisive steps to manage the contractual arrangements with SLT and is making changes to improve the provision of leisure services. The Council needs to successfully progress its plans for the local authority trading company.
A3: Providence Place	This matter has now been actioned and resolved with improved governance arrangements in place. We note that the Council's previous management of this issue incurred a significant loss
A4: SEND Transport	This matter has now been actioned and resolved with improved governance arrangements in place. The Council must ensure that the lessons learned are shared across other council services so that this learning becomes embedded across the organisation.
A5: SLaP	This matter has now been actioned and resolved with improved governance arrangements in place.
A6: MADE Festival	This matter has now been actioned and resolved with improved governance arrangements in place.
A7: Waste Service	The Council has made progress in its management of the Serco contract including improving the governance arrangements and introducing greater control to the management of the contract. The Council and Serco are moving from what was an adversarial contract management relationship towards a more constructive and collaborative partnership approach. There is greater engagement at most levels between the Council and Serco and relationships have improved to those being experienced during the time of our previous review. However, many changes now in train need to be completed and the more collaborative approach needs to become fully embedded and progress is still required including to finalise all associated plans and schedules, and formally agree the replacement timescales for the waste fleet and the financing of replacement costs and supplier lead in times with Serco. Clarity should be sought over the use of previous capital payments in relation to the Council's accounts.

KLOEs: Summary Findings (Cont'd)

This section provides a summary of the key findings on each KLOE.

KLOE	Summary Findings
A9: Lion Farm	The Council has taken all possible actions to resolve this matter and has a clear way forward, although we note that the process is by its nature slow. The Council has also improved arrangements with the updated protocol for the disposal of Council owned land and buildings.
A10: Introduction of new ERP System	The Council has taken significant steps to correct what was a floundering system implementation and undertaken a significant amount of work since our previous review. The Council has introduced more robust and appropriate governance arrangements, appointed a new implementation partner, scaled up the resources to implement the programme, introduced a programme management approach, engaged specialist external support and capacity, and corrected skills and experience gaps. The programme is now on a much more sound footing and the Council leadership now recognises that the introduction of a new ERP System is an enabler for transformation and has moved from a “lift and shift” approach to managing the implementation as a change programme. The increase in costs to manage the implementation more effectively should increase the chances of a successful implementation and for the Council to realise the planned benefits. However, the way the original implementation was managed has incurred significant and unnecessary costs and delays for the Council, which remains a key learning reference point for future large-scale change projects and programmes.
B1: Chief Officers	Overall, we found no evidence of any significant weaknesses in the Council’s arrangements for ensuring that it makes informed decisions and properly manages its risks.
B2: Senior Leadership	Overall, we found no evidence of any significant weaknesses in the Council’s arrangements for ensuring that it makes informed decisions and properly manages its risks. The success of the appointment of the new permanent Chief Executive remains critical for the Council if it is to successfully continue on its improvement journey.
B3: Complaints	Overall, we found no evidence of any significant weaknesses in the Council’s arrangements for ensuring that it makes informed decisions and properly manages its risks.
B4: Office and Member Relationships	Much greater stability can now be seen, both politically and at a senior officer level, and the Cabinet and Leadership Team are working increasingly well both collectively and via their individual Director and Portfolio Lead roles. This is being recognised across the wider organisation. There is a more mature engagement between the Leader, Cabinet, Committee Chairs and senior officers, supporting good planning and work programming across different Council committees and a greater level of professionalism in how business is conducted by these committees. The introduction of a PMF is evidence of an improvement in consolidated reporting and provides the Council’s leadership with an opportunity for improved evidenced based decision making and monitoring the delivery of the Corporate Plan and Improvement Plan. The Council recognises that the PMF approach requires ongoing refinement to improve how key indicators can be effectively measured.

KLOEs: Summary Findings (Cont'd)

This section provides a summary of the key findings on each KLOE.

KLOE	Summary Findings
B5: Standards Committee	Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks. The Council must ensure that the new arrangements now in place are used effectively to monitor and take prompt action whenever inappropriate behaviour is identified.
B6: Audit Committee	Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks. A final decision needs to be made by the Leader before this matter can be considered formally closed.
B7: Financial Reporting	<p>The Council's procedures for the production of its financial statements require significant improvement. We note that there are a number of legacy issues from prior years, dating back to the previous accounts, that are undermining the quality of the financial statements. We consider that this needs to be an area of priority for the Council. Until these matters are resolved there will remain some uncertainty over the Council's financial position.</p> <p>The other improvements that are in train will take time to embed, and improvements are not likely to be seen until the production of the 2021/22 accounts. The Council must successfully implement the new corporate asset management system to timescale, ensure all key finance roles have permanent appointments, and prioritise the recruitment to, and the training and development of, the Finance Team so that the role and behaviour changes planned become embedded.</p>
B8: Engagement with Residents and Community Groups	Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks. The Council needs to ensure that it continues to engage with residents and that this engagement supports improved corporate focus on service quality and customer outcomes.

Key recommendations

Page 98

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

#	Key Recommendation
1.	The Council must conclude the design of Phase 2 of the Improvement Plan, which will focus on organisational culture, values and behaviours required to deliver change, and introduce a “golden thread” aligning corporate KPIs to individuals performance objectives, so that planned improvements and changes become embedded across the organisation. The Council must also use the improvement building blocks now in place to bring a greater focus on service user responsiveness and outcomes.
2.	The Council needs to ensure that the new corporate PMO remains appropriately resourced, integrates all transformation and change activity being undertaken across the Council, and has access to appropriate data sources to be able to effectively monitor the delivery.
3.	The Council should progress and finalise outstanding actions relating to our previous recommendations, in particular introducing a commercial strategy and an asset management strategy and conclude the service based actions arising from our previous recommendations, including improvements in the management of the waste contract and the creation of the new leisure services company. The Leadership Team needs to ensure there is appropriate corporate focus on medium term financial planning and financial statement production.
4.	Once all the planned revisions to the Constitution have been agreed, the Council will need to embed these changes and demonstrate sustainable improvements in governance and scrutiny of decision making.

Management responses to these and the improvement recommendations are included in a separate Council report.

Detailed Findings

Key Corporate Actions

Before setting out our findings on each KLOE we set out our findings on key corporate actions taken by the Council since our previous review.

Governance Review

The Council has instigated a review of its governance arrangements following issues identified by our original VfM governance review, the LGA Corporate Peer Challenge review and the CIPFA Financial Management review. These reviews identified the need for the Council to address underlying constitutional and procedural deficiencies that directly and indirectly undermine or hinder the Council's governance arrangements, decision making ability and key working relationships.

The Governance Review has been established to refresh the Council's decision-making mechanisms and update constitutional arrangements to enable the achievement of the Council's strategic direction and ambition. In particular:

- efficient and effective decision-making;
- a more open, transparent and accountable Council;
- greater engagement with residents, communities and stakeholders in relation to democratic functions;
- more effective support to elected members to enable them to be confident and successful in their various roles;
- corporate governance documentation, policies and procedures to be updated and revised so that they are consistent with national guidance, align to best practice and are fit for purpose;
- strong and healthy relationships between elected members and officers.

An Officer Governance Project Team was established to help coordinate and oversee the delivery of the Governance Review. Support has also been provided by the LGA, the Centre for Governance and Scrutiny (CfGS), CIPFA, and the Government appointed Commissioners.

On 27 May 2022 the Governance and Constitution Review Committee established a cross-party Member Working Group to oversee the coordination of constitution revisions and proposals. The Working Group has considered a series of draft constitution proposals and worked with other committees, boards and groups to ensure proposed change are joined up, for example, any development and training needs are being fed into the Member Development Programme as training and development needs are identified.

The review has been designed to be delivered in three phases:

- Phase 1: Revisions to the Contract and Procurement Procedure, financial decision thresholds, and Protocol for the Disposal of Council Owned Land and Buildings. These were approved by the Council in July 2022.
- Phase 2: Revisions were agreed by full Council on 8 November 2022 in relation to: the Scheme of Delegation to Officers, Council Procedure Rules, Executive Procedure Rules, Access to Information Rules, Officer Employment Procedure Rules, Protocol Member and Employee Relations, and Officers' Code of Conduct.
- Phase 3: Proposed changes are due to be presented to full Council on 13 December 2022 in relation to: Budget and Policy Framework Procedure Rules, Financial Regulations and Procedure Rules, Remaining Articles, and Responsibility for Functions.

An annual review of the Constitution has been agreed following the conclusion of the current review.

We refer, where appropriate, to this governance review during the detailed findings set out in this report.

Improvement Plan

The Council developed an improvement plan in response to our original VfM Governance review which, as already noted, has been expanded to incorporate the recommendations from the LGA Corporate Peer Challenge review and the CIPFA Financial Management review. It has also been developed in line with the Secretary of State for DLUHC's Statutory Direction. This single Improvement Plan was agreed by full Council on 7 June 2022 and structured around the following six themes:

- Organisational Culture
- Corporate Oversight
- Strategic Direction
- Decision Making
- Procurement and Commercial
- Partnership and Relationships

Each theme has a clear set of deliverables, milestones and responsibilities which will be used to track our progress against expected timescales

Key Corporate Actions (Cont'd)

Before setting out our findings on each KLOE we set out our findings on key corporate actions taken by the Council since our previous review.

The Improvement Plan (Cont'd)

In developing the Improvement Plan staff and elected members were engaged including via a co-production staff network and a staff panel. The Plan was also discussed with Local MPs.

The Council recognises that the June 2022 version of the Improvement Plan as phase 1, with an updated Improvement Plan to include any additional areas of improvement that are identified during phase 1 activity.

Further staff and member engagement is planned through June to December 2022 to help shape the development of phase 2, which is due to go to Cabinet in January 2023. This engagement is due to focus on organisational change and to determine the desired culture of the Council.

In his Directions to the Council, the Secretary of State for DLUHC appointed two Commissioners with powers to make sure that the Council "has made sufficient improvement within the next two years to be able to comply with its best value duty on a sustainable basis". These roles are:

- Managing Director Commissioner: whose responsibilities include giving direction and leadership to deliver improvements that the Council is required to take; and
- Assistant Commissioner: one of whose responsibilities is overseeing the cultural change necessary at the Council.

The Commissioners will be providing six-monthly reports to the Secretary of State on the Council's progress in addressing the matters highlighted by the external reviews. The first of these was made in June 2022 and at the time of our review there had not been a response from the Secretary of State. The next Commissioner report will be made in December 2022.

There are several factors that will inform any decision by the Secretary of State to end the period of Government intervention at the Council, and this decision will be based on reports received from the Commissioners. Some of these factors include:

- That the council can demonstrate sustainable improvements in governance and scrutiny of decision making.
- That a permanent Chief Executive has been successfully appointed.
- The Council has reached a decision on implementing a four-yearly election cycle.

Progress on the Implementation Plan is monitored by Leadership Team on a monthly basis using RAG ratings and exception reporting.

Terms of reference have been agreed and the Managing Director Commissioner will chair this meeting, with the Assistant Commissioner in attendance as an observer.

Members will have oversight of progress through monthly informal reporting and formal reporting to Cabinet quarterly. Progress is reported to the Audit and Risk Assurance Committee and the Corporate Scrutiny Management Board.

Monitoring will continue until all actions have been completed and Government intervention has been lifted. Member-led committees will be used for decision making and to maintain oversight of implementation of the actions within the Improvement Plan. These will include Governance and Constitution Review Committee, Audit & Risk Assurance Committee and Scrutiny Committees.

The Council already has in place an existing Statutory Direction from the Department for Education (DfE) in relation to Children's Social Care. This Statutory Direction included the establishment of an independently chaired Improvement Board and these arrangements will continue to run alongside the council-wide interventions. There will be scheduled updates between Sandwell Children's Trust and the Commissioners through quarterly meetings with the independently appointed Chair of the Trust Improvement Board.

A dedicated team has been established to manage the development and delivery of the Implementation Plan via a programme management office (PMO). The PMO will identify variances to the agreed deliverables and work with lead officers to ensure mitigating action is designed and implemented as appropriate. The PMO aims to draw on key skills and expertise available across the Council as necessary, such as communications, organisational development, employee engagement, risk management, democratic services, financial management and internal audit.

We refer, where appropriate, to the Improvement Plan during the detailed findings set out in this report.

Review of the Council's election cycle

At its meeting on 26 July 2022, the Council approved arrangements for a public consultation in connection with the possible change of the election cycle from the current system of 'election by thirds' to 'whole council elections' occurring once every four years. This followed Directions by the Secretary of State for DLUHC that the Council reviews its current elections cycle. The Council undertook public consultation during August and September 2022. Of the total number of consultation responses received, 69% voted to retain the current electoral cycle of electing "by thirds". At full Council on 8 November 2022 the decision was taken to maintain the current cycle of elections "by thirds".

Key Corporate Actions (Cont'd)

Before setting out our findings on each KLOE we set out our findings on key corporate actions taken by the Council since our previous review.

Performance Management Framework

The Council approved a refreshed Corporate Plan (Vision 2030) in October 2021 which did not include any corporate Key Performance Indicators (KPIs). Through the development of directorate business plans during Autumn and Winter 2021/22 key metrics were identified to track progress and measures the success of the Council's actions towards the delivery of the Corporate Plan.

On 12 April 2022 the Council approved a Corporate Performance Management Framework (PMF) to monitor delivery of the Corporate Plan. The PMF is designed to:

- Track progress on delivering strategic outcomes in the Corporate Plan.
- Develop collective responsibility for delivering the Corporate Plan, across elected members, the Leadership Team and Council staff.
- Help improve services and outcomes by identifying poor performance and sharing good practice.
- Motivate staff by having clear objectives and targets, and hold staff accountable for delivery whilst providing cross-council support to address issues and achieve priorities.
- Celebrate the achievements of the Council whilst also identifying risks to achieving strategic outcomes and enable the Leadership Team and elected members to put in place mitigations in a timely manner.
- Provide a strong evidence based for improved decision making and the efficient use of resources.

The PMF is structured across four components as set out in Figure 1 on the right. A series of KPIs have been agreed for each area of the framework. Performance information has been identified to support each KPI be used to monitor progress, including benchmarking information where available.

The Council has developed a service planning framework that seeks to understand the needs of communities, identified priorities and sets out actions to deliver and measure progress and impact. This sets out the purpose of and relationship between the following plans:

- The Corporate plan sets out the strategic priorities and ambition for the borough
- The Improvement Plan sets out actions to respond to the Grant Thornton Governance Review, the LGA Peer Review and the CIPFA FM Review.

Figure 1: Summary of the Performance Management Framework



- The Corporate Plan and Improvement Plan set the priorities for directorate and service level plans.
- The Corporate Plan, Improvement Plan and Directorate Plans feed into the development of the Corporate Transformation Plan.
- The Corporate Transformation Plan is to ensure service improvements and transformation projects are delivered in line with the Corporate Plan and Medium-Term Financial Strategy (MTFS).

We refer, where appropriate, to the PMF as part of our detailed findings set out in this report.

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

The Service Delivery Contract (SDC) between the Council and Sandwell Children's Trust (SCT) went live on 1 April 2018. The total contract period was for 10 years with an option to exercise a break after 5 years of operation.

Our December 2021 report recommended the following:

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.

KEY FINDINGS

Ofsted inspection

In May 2022 Ofsted undertook their latest inspection of Children's Services at Sandwell. The report, which was published on 5 July 2022, rated services as 'require improvement to be good'. The previous inspection by Ofsted, conducted in November 2017, rated services as inadequate. This previous inspection led to the creation of SCT in April 2018.

Ofsted reported that the pace and trajectory of improvement had increased over the year preceding the inspection, underpinned by stronger strategic leadership and changes to service delivery such as the move to a locality model, the introduction of an early help strategy, a social work career pathway and high quality specialist services. Ofsted also noted effective collaboration by social workers with partners in other services.

However, Ofsted also reported that not all children experience effective social work practice due to staff turnover, workload pressures and variation in management oversight and support and effectiveness of partnership working.

Children's Services in Sandwell have been rated inadequate for over a decade, so this latest inspection reflects a positive direction of travel. However, Ofsted noted that COVID-19 had slowed the improvement journey and there is still much more to do for services to be consistently good.

When a service comes out of inadequate the Department for Education (DfE) will take a measured judgement on any changes to their terms of intervention. The current statutory direction will remain in place until DfE is assured on the long term trajectory of sustainable improvement. However, following the most recent Ofsted inspection results the Parliamentary Under-Secretary of State for Children and Families acknowledged the improvements that Sandwell has made and advised that Sandwell will now enter a period of 'transition from intervention'. There will continue to be ongoing support and supervision from the DfE until it is clear there is a 'sustainability of continued progress'.

The Council will need to ensure that the SCT accelerates its progress on this improvement trajectory so that the position does not plateau, including sharing good practice on case work across the various SCT social work teams.

Multi-agency early intervention and prevention strategy

The Council, working with SCT and the voluntary and community sector, has developed a multi-agency early help strategy, which focuses on early intervention and prevention across the early help system. It was launched on 17 March 2022 and there have been a number of events with partner organisations, such as the police and schools, to promote the strategy. The strategy seeks to ensure that needs are identified at the earliest possible point and early interventions prevent needs from escalating, reducing the need for more costly service provision.

The Council has approved invest to save funding for a strategic lead to drive the implementation of the strategy. Whilst the strategy is now being implemented it will take time to embed across all the organisations involved, and will require cultural, behaviour and practice change from the organisations involved to be successful.

The SCT Improvement Board monitors progress on the implementation of the strategy and the Children and Families Strategic Partnership has refreshed its strategic priorities to include early help and this body along with the Safeguarding Board provides system-wide governance for the new strategy.

It is envisaged that the strategy will take 18 months to embed across the early help system, and the Council will need to continue to closely monitor the implementation of the early help strategy to ensure planned objectives and outcomes are realised.

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.

Workforce challenges

Workforce challenges, relating to recruitment and retention remain a significant issue for SCT, with 25% of roles unfilled or covered by agency staff significantly impacting on capacity. The Council and SCT have a clear understanding of how this impacts on performance and SCT has developed a workforce strategy. There is a Key Performance Indicator (KPI) in place on social worker vacancy rates which is regularly monitored by the Operational Partnership Board (OPB), which has been in contract failure zone for last six months.

Social care is facing significant workforce pressures across the West Midlands, and indeed nationally, with the reputation of Sandwell considered a contributory factor to current challenges, alongside a number of councils in the region actively competing with each other for scarce resources. SCT has been using the recent improved Ofsted rating as part of recruitment messaging to try and address any labour market perceptions.

In 2018 SCT in consultation with the Council introduced a market supplement to be paid to social workers of £2.5k with a total value of £150k included in the 208/19 contract sum and to be retained for the following three years of the contract.

In March 2022 SCT's remuneration committee undertook a benchmarking exercise comparing the pay of children's social workers in Sandwell and the 13 West Midlands councils and identified that some roles at SCT provided competitive pay rates. However, a number of West Midlands councils have introduced financial incentives such as "golden handshakes" of between £2k and £10k.

When comparing SCT's social worker pay to the benchmarked group, SCT's pay bandings were generally lower than half the other councils. In March 2022 the Council's Cabinet agreed to continue the market supplement of £2.5k per annum which equates to £582k for 2022/23, of which £150k is already included in the contract sum. This is a maximum cost based on all 168 social worker posts being permanently employed. If this were the case the reduction in the cost of agency staff would offset the cost of the market supplement.

The Council have taken positive actions in supporting SCT manage its operational and financial challenges. The Council must continue to work with SCT to mitigate and reduce the level of vacancies and use of agency staff and take steps to ensure the associated KPI does not lead to contract failure.

Placement costs

The average cost of residential placements for Sandwell has been increasing since April 2018, with seven placements costing over £6k per week during 2021/22. The rise in placement costs is offset by the lower than average number of children in residential care (6% in Sandwell compared to the England average of 14%). This relatively low number of children in residential care suggests that SCT has been able to support children with high needs in foster placements. The children in care peaked at 56 in December 2018 and had reduced to 51 in February 2022.

The Head of Strategic Commissioning, an invest to save role, provides additional capacity and expertise to increase the potential for joint commissioning and ensure stronger strategic planning at an individual case level with key partners including the NHS and schools. The Head of Strategic Commissioning also provides challenge to children's placement activity including costs and the appropriateness of placements for the child, to support the drive for efficiencies. A saving of £87k has been reported during 2022/23 relating to complex placements. Nonetheless, the Council is forecasting an overspend during 2022/23 of £750k due to SCT needing to bring in managed social work teams to cover vacancies. The Council also has a £500k contingency for high cost replacements.

SCT has a board led by SCT's Director of Resources which monitors placements. At the time of our review a number of market events were planned with providers. The sufficiency of placements is discussed regularly at management and contract management meetings between the Council and SCT and by the SCT Improvement Board.

Invest to Save

The contract between the Council and SCT allows SCT to make invest to save proposals to increase the contract sum in the short term, to be paid back to the Council via a reduction in a future contract sum. SCT has submitted two invest to save proposals which the Council approved in September 2021.

These related to Early Help and Strategic Commissioning and total £287.5k investment in 2021/22 and 2022/23 with this amount being returned to the council by SCT in 2023/24 and 2024/25 by a reduction in the contract sum.

The Council should continue to monitor the progress of SCT against these invest to save activities to ensure that SCT is able to meet its financial plans and generate the ambitious savings and efficiencies required for the contract sum to be reduced.

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.

Page 105

Contract review

The SDC includes a requirement for SCT to produce an annual review and a contract review at the end of year four of operation. There is a joint requirement on the Council to also review the contract at the end of its first four contract years (April 2018 to March 2022). Unlike the annual review, the contract review is undertaken by both parties and the SDC sets out what this review should cover.

On the completion of the contract review process a recommendation must be made to the Secretary of State on whether a break notice should be served, and children's social care functions brought back under the direct management of the Council. The Secretary of State will make the final decision on the serving of the break notice, considering the recommendations of both the Council and SCT.

At its meeting on 28 September 2022 the Council's Cabinet agreed to not recommend to the Secretary of State that the break clause be invoked.

The funding provided by the Council to SCT during 2022/23 will be £71.7m and was determined by the contract sum negotiation process and change controls agreed by Cabinet. This amount is higher than the annual budget when the Trust was set up in 2018. There have been several financial pressures on the Trust linked to demand, the cost of placements and significant staff recruitment and retention issues that have underpinned the need for additional funding. SCT has detailed how it will reduce the total spend on service provision, through efficiencies and demand management, so that by 2024/25 the annual budget will be, after inflation and pay awards, over £2m a year lower than the 2021/22 budget.

The expectation when SCT was set up was that services would move from being 'inadequate' to 'good' within four years. The Council has accepted that the impact of the COVID-19 pandemic has had a significant impact on the delivery of children's services and Cabinet agreed at its meeting on 28 September 2022 to revise the timeline for achieving a judgement of 'Good' to March 2025, which also recognised that the next Ofsted inspection is likely to take place in three years.

SCT overspent their budget by £6.567m in 2018/19 and the Council allocated £5m towards this deficit from reserves. SCT overspent by £4.332m in 2019/20 but did not request additional funding, instead agreeing that this overspend would be recovered by the end of 2020/21. SCT had a cumulative deficit by the end of 2020/21 but is expected to recover their position by the end of 2023/24, based on information provided to the Council as part of the 2022/23 contract negotiations.

The service delivery contract between the Council and SCT sets out 15 Key Performance Indicators (KPIs) agreed in July 2018. These were based on key areas of service improvement against areas identified by Ofsted, and are monitored by OPB and the Strategic Partnership Board (SPB). We note that the SCT Board uses a performance management framework that is broader than these 15 contractual KPIs.

The Council and SCT agreed to review the contractual KPIs to ensure they are appropriate for current circumstances, with the new set of KPIs to be used from 1 April 2023 contract period. This review of KPIs was ongoing at the time of our review.

Benchmarking

The Council commissioned LG Futures to undertake financial benchmarking including analysis of children's social care in Sandwell. Children's social care spend in Sandwell based on head of population was lower than the average spend of statistical nearest neighbours over the period 2018/19 to 2020/21. The Council's Cabinet is aware that SCT does not represent above average unit costs when compared to the benchmarking group, and the Council has taken this into account as part of their contract negotiations including savings options for 2022/23 and 2023/24. This benchmarking analysis indicates a challenging context for SCT to achieve the efficiencies and demand management savings that are planned for the contract sum to be reduced.

SCT's Director of Finance has regular dialogue with the Council's senior finance officers and DCS, and SCT's financial plan is scrutinised by the Trust's Board.

Review of governance roles

The Council appointed a new Lead Member for Children's Services in May 2022, who had been in this role at the time that SCT was established.

Formal governance arrangements between the Council and SCT have not been changed. 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 OPB. The Council's Lead Member for Children and Education and Director of Children's Services meet quarterly with the Chair of the Trust Board and the Chief Executive of the Trust, at a Strategic Partnership Board (SPB). SPB is chaired by the Chief Executive of the Council and considers risks and issues escalated by OPB, such as workforce challenges. The Improvement Board of the Trust is chaired by an independent consultant appointed by DfE.

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.

Review of governance arrangements (Cont'd)

The main governance related change since our previous review is that there is more regular informal meetings between senior representatives of the Council and SCT, including the Chair and Chief Executive of SCT and the Director of Children's Services and the Lead Member for Children and Education, as well as meetings including the Director of Finance of the Council. There are also regular meetings between the Chief Executive and Director of Finance of the Trust and the Director of Finance and Director of Children's Services of the Council.

Conclusion and recommendations

The Council has improved its relationships and contract management arrangements with SCT and the most recent Ofsted rating is evidence that positive steps have been taken on the Trust's improvement journey. We have identified the following improvement recommendations:

- The Council will need to ensure that the SCT accelerates its progress on this improvement trajectory so that the position does not plateau, including sharing good practice on case work across the various SCT social work teams.
- The Council will need to continue to closely monitor the implementation of the early help strategy to ensure planned objectives and outcomes are realised.
- The Council must continue to work with SCT to mitigate and reduce the level of vacancies and use of agency staff and take steps to ensure the associated KPI does not lead to contract failure.
- The Council should continue to monitor the progress of SCT against these invest to save activities to ensure that SCT is able to meet its financial plans and generate the ambitious savings and efficiencies required for the contract sum to be reduced



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.

Our December 2021 report recommended that the Senior Leadership of the Council - both officer and member - must take ownership and 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.

KEY FINDINGS

Contingency planning

As at 2022 there were 12 years left to run on the Council's leisure contract with SLT, under which the Council agrees a rolling three-year business plan with SLT each year. The Council continued to be unable to agree a business plan and management fee with SLT for the next three-year period (2021-2024). The key issues for the Council related to the sustainability and value for money of SLT's business plan including the legacy operation of the Sandwell Aquatics Centre from June 2023, and the sharing of financial and key performance information.

The Council undertook contingency planning to ensure continuity of service which included commissioning Continuum Leisure to undertake an options appraisal for the future management of leisure services. Eight options were considered and the results of the appraisal were reported to Cabinet on 9 February 2022. Two options were identified by the consultants should agreement with SLT on their business plan not be reached:

- the creation of a local authority controlled trading company (LATC) or
- the outsourcing of the services.

Both of these options are projected to generate management fee savings when compared to the projected costs of the SLT contract based on SLT's most recent business plan and also when compared to bringing the services back in house.

The Senior Leadership Team were asked to undertake further detailed appraisal of these two options plus in-house provision.

At the same February 2022 meeting Cabinet agreed to serve reasonable notice of termination of the contract with SLT due to the Council and SLT not being able to agree a business plan and payment for 2021-2024, with SLT ceasing to deliver services by 2 May 2023.

Local Authority Trading Company

Detailed consideration of the three options for the future management of SLT's portfolio of leisure facilities was undertaken, including the changes planned in 2023 with the opening of the Sandwell Aquatic Centre and associated closure of Smethwick and Langley facilities.

The findings from this options appraisal were set out in a report to Cabinet on 22 June 2022 which focussed on the delivery model for 9 of the Council's 10 leisure centres (one is operated by Places Leisure and was not part of the scope of the options appraisal). Cabinet agreed to progress the LATC option.

The Council tested the market for a step-in provider, should SLT have decided to not work to the Council's transition timescales, but a step-in provider has not been required, with SLT demonstrating that they want to work with the Council to support an appropriate handover to the new LATC. This includes SLT's Chair attending the Council's monthly operational meetings on the transition of the service and supporting the planned TUPE process of SLT staff to the new company.

The Council has no recent experience of setting up a LATC and have engaged various suppliers to support the process. The Council is managing the transition to the new delivery model and is being supported by Bevan Brittan providing legal advice on the structure of the LATC, Trowers and Hamlin advising on TUPE, Strategic Leisure -drafting the service specification, and Penna are being engaged to help recruit the Chief Operating Officer of the new company. The Council is drawing on Sport England models of performance management for leisure services, and researching good practice from the local government sector on leisure services LATCs, to utilise and adapt notable practice.

The Council plans to use this change in delivery model to improve service quality, such as opening hours and expanding the service offering with a greater focus on wellbeing. At the time of our review the LATC had not been incorporated and the governance arrangements had not been finalised, including whether Non Executive Directors (NEDs) will be recruited to sit on the new company board.

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.

Local Authority Trading Company (Cont'd)

Whatever the legal structure of the new LATC, it will be a subsidiary to the Council who will retain the trading and operating risks of the new company and the Council will need to:

- ensure a business case is produced for the new leisure LATC so that there is a clear financial case for the commercial viability of the new arms length company.
- be clear how it effectively discharges its role whilst allowing the company the freedoms and flexibilities to operate and to deliver the planned financial and service benefits.

Sandwell Aquatics Centre

Following the hosting of the Commonwealth Games during the Summer of 2022, the Council is responsible for adapting the Aquatics Centre before it is transferred to the new LATC in June 2023 when it will become open to public use. This forms part of the Commonwealth Games legacy arrangements.

The Council will need to effectively manage the transition of the Aquatics Centre so that it is operational to the planned timescale and that there is a clear business case which sets out how the centre will be managed to become commercially viable and provide financial returns to the Council as part of the leisure LATC arrangements.

The Council is in the process of developing a commercial strategy to set out how the Council will identify, manage, and maximise new commercial opportunities. The new LATC will seek to generate income and provide the Council as sole shareholder a dividend and as such will form part of the commercial strategy.

Conclusion and recommendations

The Council has taken decisive steps to manage the contractual arrangements with SLT and is making changes to improve the provision of leisure services. The Council needs to successfully progress its plans for alternate delivery arrangements and we have identified the following improvement recommendations:

- The Council will need ensure a business case is produced for the new leisure LATC so that there is a clear financial case for the commercial viability of the new arms length company

- The Council will need to be clear how it effectively discharges its shareholder role in relation to the planned leisure LATC whilst allowing the company the freedoms and flexibilities to operate and to deliver the planned financial and service benefits.
- The Council will need to effectively manage the transition of the Aquatics Centre so that it is operational to the planned timescale and that there is a clear business case which sets out how the centre will be managed to become commercially viable and provide financial returns to the Council as part of the leisure LATC arrangements.



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

Our original review considered issues arising from the proposed sale of Providence Place. In our December 2021 report we recommended:

- Where the Council considers similar transactions (to Providence Place) 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.

KEY FINDINGS

Protocol for the Disposal of Land and Buildings

The Council has updated its protocol for the disposal of Council owned land and buildings which forms part of the Council's Financial Regulations. It applies to all property interests owned by the Council, and applies to every Member and officer of the Council and anyone acting on the Council's behalf.

The new protocol was approved by the Cabinet in July 2022 and clearly sets out the roles and responsibilities of individuals and bodies within the Council, and the scheme of delegation for approving asset disposals.

The protocol also sets out the risks and mitigations in relation to options agreements (such as used for Lion Farm) where the Council chooses to encourage and promote property development in order to promote regeneration and renewal, or to contribute to strategic targets such as housing numbers.

The Council has been undertaking a review of its asset portfolio to identify any surplus assets. This work had not concluded at the time of our follow up review. Once concluded the new protocol will be applied should there be agreement on any asset disposals.

Whilst the Council has not seen the circumstances to yet apply the new protocol, we have been advised that it has been used to provide a framework in relation to the acquisition of a shopping centre in West Bromwich town centre.

Asset Management Strategy

The Council has been developing an asset management strategy with a report due to go to Cabinet in October 2022. This is expected to identify assets to rationalise and reduce asset related costs. The Council has also appointed Technology Forge to support the development of a new asset management database.

The Council will need to conclude the finalisation of its asset management strategy and asset management database to better manage its asset portfolio including asset disposals.

The Future of Providence Place

On 23 December 2021 the Council agreed to the disposed of the Providence Place site to the Department for Education.

The Council's Planning Committee on 10 January 2022 approved the change of use of the Providence Place site from an office block to education, with external alterations and the erection of an associated school sports building and hard surfaced sports court.

On 30 March 2022 the Council's Planning Committee approved planning permission for the creation of an 870 place secondary school with sixth form (Shireland Collegiate Academy Trust) on the site of Providence Place. The school will operate in partnership with the City of Birmingham Symphony Orchestra, with the school due to open in September 2023.

The Council signed a pre-emption agreement with the Department for Levelling Up, Housing and Communities (DLUHC) on 8 July 2022. This agreement allows the Council to buy the property should DLUHC decide to dispose of it during the period of the agreement, with the pre-emption period ending on 8 July 2047.

Conclusion and recommendations

This matter has now been actioned and resolved with improved governance arrangements in place. We note that the Council's previous management of this issue incurred a significant loss. We have identified the following improvement recommendation:

- The Council will need to conclude the finalisation of its asset management strategy and asset management database to better manage its asset portfolio including asset disposals.

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 and the decision on the new contract award was deferred by the Council's Cabinet at its meeting on 16 June 2021.

Our December 2021 report recommended that 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.

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.

KEY FINDINGS

SEND Transport procurement

Following the Cabinet's decision on 16 June 2021 to defer a decision on the outcome of the Dynamic Purchasing System (DPS) procurement, the Council extended the exiting SEND transport contract until the February 2022 half term.

At its meeting of 12 January 2022 the Cabinet agreed to abandon the DPS approach to procurement and extended existing contracts until 21 July 2022 to ensure continuity of service was maintained whilst an alternate procurement was undertaken, with the outcome of this new procurement to provide new SEND Transport provision from September 2022.

The Cabinet agreed that an alternate procurement approach be developed to reflect the findings and recommendations of the Internal audit review of the DPS procurement, the Grant Thornton governance review and the review undertaken by the Council's Childrens Services and Education Scrutiny Board. In particular an approach that increased the number of lots, improved the quality of provision, encouraged greater competition and provide resilience in service delivery.

A Programme Board was established comprising the Director of Children's Services, Monitoring Officer and Director of Finance, to provide Director oversight of the procurement. A separate Implementation Group was established to develop and manage the procurement process, with this group including representatives from procurement, finance, legal, internal audit and the education support team. The Council appointed Bevan Brittan to provide legal advice and brought in two interim procurement staff to provide additional capacity and experience.

A project plan was agreed which included key delivery milestones to ensure that the procurement timescale was clear and that there was adequate time for suppliers and for the Council to manage the procurement process for the new service to go live on 1 September 2022. Delivery against the plan was scrutinised by the Programme Board.

The new procurement framework was structured to encourage smaller operators to bid and to create resilience of supply. The framework consisted of 13 lots with operators limited to the award of 1 contract per lot. The evaluation approach for compliance, finance and quality were reviewed and enhanced as was the pricing structure for tender submissions.

The service specification for operators was also reviewed and updated to ensure service quality requirements were met. Steps were included in the procurement to mitigate the risk of operators colluding. We have been advised that a new procurement template was created which included a link to the Council's declarations of interest form, which had to be completed by all people involved in the procurement exercise.

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.

SEND Transport procurement (Cont'd)

19 operators responded to the invitation to tender. Following evaluation 9 operators were appointed to the new framework, with others failing the technical or quality part of the evaluation. The Council then ran a mini competition for those operators appointed to the framework based on price. 6 operators were offered between 1 and 3 contracts each.

The budget for SEND Transport is £7.521m and contracts awarded total £7m resulting in an underspend in contract costs at the time of our review.

Post procurement activity

The new contracts went live on 1 September 2022. During the first week of the new contract an operator pulled out due to not having sufficient drivers available and were unable to meet the contract quality standards. The structure of the new framework meant that the Council was able to allocate an alternate operator – the next lowest priced tender - the same day to ensure continuity of service.

Contract monitoring arrangements for the new contracts include quarterly reviews with all operators to review their performance. These meetings are due to include senior officers of the Council. At the time of our review the Council was in the process of collecting performance information from operators.

Also at the time of our review the Council were undertaking a lessons learned review of the procurement, and exploring procurement approaches used by other councils, as part of a continuous improvement approach. The results of this work are due to be shared to support other similar Council procurement exercises, for example by providing a checklist of key considerations, including the next SEND Transport procurement. The procurement for SEND Transport contracts which will commence in September 2024 is due to start in Spring 2023. The lessons learned outcomes will be included in an update to the Scrutiny Board.

Conclusion and recommendations

This matter has now been actioned and resolved with improved governance arrangements in place,

The Council must ensure that the lessons learned from the SEND Transport procurement are shared across other council services so that this learning becomes embedded across the organisation.



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, and was established by the Council as a vehicle for protecting the freehold of the Council's schools and related sites. The Council was in the process of winding up the company at the time of our previous review.

Our December 2021 report recommended:

- 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.

KEY FINDINGS

Sandwell Land and Property (SLaP) has been dissolved and no longer exists as a company.

A review of arms length companies has been undertaken, which reported to the Council's Leadership Team on 1 August 2022, concluding that only one body, Sandwell Children's Trust, met the relevant criteria for an arms length company (as defined by the Local Government Act 1989), due to being a subsidiary of the Council and the Council being the sole subscriber. Due to the Trust being well established with reporting and governance arrangements already in place, no changes were recommended.

This review considered the following bodies, concluding that they didn't meet the relevant criteria:

- SIPS Education: the Council does not have direct control over the society.
- Sandwell Leisure Trust: the Council has a contractual relationship with SLT.

As noted in section KLOE A2 of this report, a leisure services LATC is being created, and the Council is obtaining external legal advice on the appointment of the company directors, board members, and representatives of the planned shareholder committee, their roles and responsibilities and training requirements.

This will be informed by lessons learned in relation to SLaP and SCT.

Conclusion

This matter has now been actioned and resolved with improved governance arrangements in place,

We have made an improvement recommendation in relation to the planned leisure company in the section on KLOE A2 of this report.



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 original review considered the governance arrangements and decision making relating to hosting the MADE Festival.

The December 2021 report recommended:

- 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.

KEY FINDINGS

Events Governance Framework

The Council has developed an Events Governance Framework, which was reported to the Leadership Team on 23 February 2022. This followed a review of how the Council manages events. The Framework includes:

- Defines events as activities that take place on Council owned land or property.
- Set out responsibilities for managing events and event decision making categories.
- Classification of event types and event organisers and associated fees to be charged by the Council.
- Event decision making process and decision making thresholds including delegated authorities
- Measures to ensure adequate consideration of resident impacts of an event.
- The purpose and role of the Safety Advisory Group in the events governance process
- A revised event booking process, decision making timescales and document requirements.
- Event marketing and promotion.
- Criteria for banned events.

The Event Governance Framework draws on what other local authorities are doing in relation to event governance and management, incorporating feedback received from the Local Authority Event Organising Group (LAEOG) the association of events organisers working for local authorities in the UK.

Following Cabinet Portfolio Holder approval the Framework went live on 28 February 2022 and will be reviewed annually by the Director of Borough Economy.

Other Findings

The new framework has been communicated internally to all Senior Managers and other relevant officers and an events page has been created on the Council's intranet.

The new framework has been communicated externally to event bookers to provide an update on changes made. The Council's external website has new content:

- Event Governance Framework
- Event Application Information for Event Providers and Organisers
- Event funding opportunities (to sign post event organisers to external funding for their events)
- 'What's on' list of approved events
- Resident Impact Assessment Form
- Resources and support (inc. FAQs) for event organisers / applications

In addition the Council has procured Event software that it is now using on the external website and is the channel for all internal and external event bookings to be made. An initial review has been undertaken of the app and content has been enhanced in relation to traffic management plans for public park venues.

Events management responsibility has been consolidated with the management of the Parks Service and a range of training has been provided to the events team.

New protocols have been created for the Council's work with friends of park groups, clarifying event booking arrangements, including holding a workshop with these groups on the new ways of working.

Quarterly reviews of event performance and lessons learned will be undertaken by the events manager, service manager, Director of Borough of Economy, and other internal stakeholders, depending on the nature of the event.

Events during 2022 have included those relating the Platinum Jubilee and the Summer 2022 events programme including events relating the Commonwealth Games such as the baton relay. The Council was undertaking a review of events managed by the Council at the time of this review.

Conclusion

This matter has been resolved and improved governance arrangements are now in place.

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 waste and street cleansing contract was awarded to Serco in November 2010 for a period of 25 years. The Council's current net expenditure on the contract is £29.5m per annum. Contract standards are performance based and measured against 34 Key Outcome Targets (KOTs).

Our December 2021 report recommended:

- 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.

KEY FINDINGS

Annual plans

A review of the Serco contract was undertaken by the Council in December 2021, and a refreshed approach was developed to ensure contractual requirements are being met. Prior to January 2022 the Council had not been pro-active in requesting the delivery plans required within the contract with Serco. Arrangements have now been put in place to request these plans for the Council to review and adopt. Delivery against plans now forms part of the Council's monitoring approach. The 2022/23 Quarter 1 update on plans was as follows:

- Service Delivery Plan: not yet approved
- Communication Plan – approved in May 2022
- Education Plan – draft received June 2022
- Fleet Replacement Plan – approved in April 2022
- Street Cleansing Plan – being redrafted by Serco
- Weed Spraying Schedule – approved in May 2022
- Leaf Collection Schedule – Serco to provide in August 2022

In addition a waste and recycling recovery plan has been agreed.

A six-month street cleansing recovery plan was agreed between the Council and Serco which resulted in Serco investing in deep street cleansing activity across all wards. Serco have been redesigning street cleansing improvement plans, including a programme to replace aging street cleansing sweeper vehicles and equipment. At the time of our review the revised plan had not been finalised and agreed.

An annual review of Serco's Service Delivery Plan (SDP) forms part of the output specification of the contract between the Council and Serco. In March 2022 Serco submitted their draft SDP to the Council for the period April 2022 to March 2023.

The Council reviewed the SDP and other plans received and raised a number of issues with Serco focussing on the need for greater transformation and improvement in relation to street cleansing, waste collection and bin replacement, improvement of recycling and food waste collection rates, alignment of fleet replacement with the Council's green agenda, and improvements to the education plan. A revised deadline of the end of October 2022 was informally agreed to finalise the SDP, and the revised SDP was approved at the Waste Partnership Board on 19 October 2022.

The Council must work with Serco to finalise all associated plans and schedules.

Governance Arrangements

The governance arrangements for the monitoring of the Serco contract with the Council is managed by the following groups:

- **Waste Partnership Board.** Council representatives are the Leader, Portfolio Holder for the Environment, Director of Borough Economy and Head of Service for Waste, Street Cleansing and Fleet. Serco representatives are their Contract Manager, Operations Manager and Transformation Manager. The Board meets monthly and provides the principal level of oversight on contract performance and improvement plans.
- **Senior Contract Management Group.** This meeting is attended by the Director of Borough Economy and the Waste and Fleet Service Manager from the Council, and the Regional Director, Senior Contract and Contract Manager from Serco. The group oversee performance targets, health and safety, key projects, contract milestones, staff/union issues, finance, improvement areas, and any outstanding issues from the operational performance meeting. The group meets monthly.

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.

Page 115

Governance Arrangements (cont'd)

Operational Management Group. This meeting is attended by the Waste Client Team from the Council and the Contract Manager, Street Cleaning Manager & Waste Collection Manager from Serco. The purpose of the group is to review customer complaints, street cleansing performance, waste collection performance, IT configurations and their applicability, KOT performance data and investigate detailed problem areas. It meets fortnightly.

- **Fleet Management Group.** This group is attended by the Assistant Director (Contracts, Strategy and Policy), the Fleet Manger and Fleet Officer from the Council. Serco attendees are the Director of Fleet, Regional Fleet Manager, Senior Contract Manager and Contract Manager. The purpose of this group is to ensure the fleet replacement programme is reviewed / considered / updated, replacement vehicles are ordered in a timely manner, vehicles are fit for purpose on the contract and there is oversight and review of the contractual maintenance requirements. It meets monthly.

Governance arrangements were reviewed during Spring 2022 which resulted in updates to the terms of reference of the Waste Board, updates of the data provided by Serco to the Waste Board, a refresh of standard agendas and action logs for all meetings.

Contract Monitoring

A review of the Performance and Management of the Waste Partnership Contract was undertaken by the Council's Economy, Skills, Transport and Environment Scrutiny Board which completed in December 2021, making 14 recommendations which were reported to Cabinet on 23rd February 2022.

The Council commissioned Frith Consulting to undertake an independent review of the waste and street cleaning contract to consider quality, performance and VfM. The final report was not available at the time of our review. At the time of our review Internal Audit were undertaking a review of the Council's contract monitoring arrangements of the Serco contract.

The Council has introduced the Intend module on contract management to improve the sharing of contract monitoring information between Serco and the Council.

A new framework for monitoring the Serco contract was introduced in April 2022 which set out the different Council bodies with a monitoring role, what each body should monitor, the frequency of monitoring and associated responsibilities. The Council has undertaken wider research into supplier relationship management and the monitoring of large contracts, including application of contract management tools such as those recommended by the Chartered Institute of Procurement and Supply (CIPS) contract management tools. The monitoring framework for the Serco contract may be further refined following the conclusion of this wider review.

A refreshed approach to the management of stakeholders has been developed including an associated communication plan.

Due to continued concerns and issues with the delivery and quality of street cleansing and recognised capacity challenges in the Council team, the Council has increased its monitoring of street cleansing to include three additional Performance Officers being retained on temporary fixed term contracts to ensure that there is daily monitoring and where the standard is short of what is required the issuing of rectification notices.

The Council's contract management role has seen changes in personnel during 2022, including an Interim Service Manager (Waste and Fleet) and a new Assistant Director joining in early October 2022 with responsibility for waste service contract management. The Council has reviewed the need for a contract manager role for the waste service, and has restructured the senior management team in Borough Economy to establish the role of Assistant Director Borough Economy (Contracts, strategy, policy) with responsibility for the waste contract.

The Council's Director for Borough Economy meets the Serco Managing Director responsible for Environmental Services and Serco Regional Director each quarter, providing an opportunity to discuss escalated performance issues relating to the contract

The Council has reviewed the information used to monitor KOTs and other Key Performance Indicators (KPIs) and ensure that contract rectification is improved so that it is more clearly aligned to the Council's service and contract requirements. New KPIs are being considered for contract monitoring to provide a focus to areas of concern, for example missed assisted bin collections and gully cleaning.

As part of the new corporate Performance Management Framework there is a quarterly report to the Councils Leadership Team and Cabinet on major contracts, including the Serco contract.

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.

Page 15

Contract performance

The waste and recycling recover plan saw an improvement in the number of missed collections during 2022 until July and August, which saw an increase in late and missed collections. Reasons given by Serco included high levels of COVID-19 related absences, high turnover of agency staff, mismanagement of leave, impact of pay negotiations on employee engagement, high levels of emergency and annual leave, reduced desire to do overtime due to good weather. In addition the fleet suffered as a result of hot weather with two vehicle fires and case of vehicles overheating and parts failing with an average of 15 vehicles not available each day in July and 13 a day in August (out of 62 vehicles).

Recycling performance has been improving but is still significantly below the contract target of 60.5%. A re-invigorated drive to improve food waste participation (currently at 4.5%) is planned to improve Serco's recycling performance.

Contractual penalty points are accrued for failing to achieve the specific KOT and each KOT has a different weighted penalty point deduction. Some KOTs from the original contract with Serco appear unachievable, such as the recycling rate which specifies recycling of 60.5% per annum. However this rate has never been higher than the 45%, which has resulted in a financial penalty of between £500k and £1m per annum. This income to the Council is allocated to a waste reserve which totalled £3.8m as at March 2022. The financial penalty for 2021/22 was £974k.

There are 126,000 properties in Sandwell and only approximately 5,000 households have signed up to food waste collection, impacting on Serco's ability to meet the recycling target.

Due to Serco being unable to achieve the recycling rates they have been in default of the contract. In 2014 the Council provided a letter of comfort to Serco, which gave Serco indemnity against default for failing to achieve the recycling rates and discounts to the recycling rate to enable them to close the gap on the actual recycling rate. This letter expired in March 2021 and the Council had verbally agreed to extend the letter for a further year pending a joint review the contract conditions, but due to management changes on both sides and a continual performance issue the review did not take place in this timescale. A further letter of comfort was then provided by the Council to Serco dated 5 August 2022 and the Council concluded its review of Serco's recycling performance, confirming financial penalties in relation to 2020/21 and 2021/22 annual recycling targets on 15 September 2022.

Contractual Investments

The Fleet Management Group monitors progress on Serco's fleet replacement plan to improve the reliability of the fleet. The plan has been developed to provide oversight to the Council following delays by Serco in meeting contractual obligations to replace vehicles when over eight years old. Delays in replacement timescales have been compounded by disagreement between the Council and Serco on the financing of replacement costs and supplier lead in times to provide new vehicles, which need to be formally agreed. There is a lack of clarity as to whether previous capital payments have been used to replace the fleet and whether the Council is able to recover these payments (due to poor contract management in prior years).

The first 18 vehicles were replaced in January 2022, with a phased replacement plan during 2022 and for future years, with other new vehicles on order to replace the oldest vehicles in the fleet.

Following the reintroduced food waste collection, Serco are utilising food waste trucks. More generally the make up of the fleet needs to align to the Council's policy on collections. Serco has modelled potential changes and expressed the need for certainty on whether the Council will alter collection policy (for example introducing alternative weekly collection for waste and recycling) leading to delays in the progress to aspects of the fleet replacement plan. **The Council should confirm with Serco if there will be changes to the waste and recycling or garden waste collection policies.**

Serco are replacing diesel street tipper vans with electric vehicles and the Council have agreed to fund the provision of electric vehicle charging points at the Serco depot, to support the Council's carbon neutral agenda. Updates on Serco fleet replacement are made to the Council's Climate Change Programme Board.

The Council is responsible for the maintenance of the Serco fleet at its Waterfall Lane workshop, with Serco paying approximately £1.2m per annum to the Council for this service as part of contract arrangements. Serco would like greater transparency on the pricing approach used by the Council, **and the Council should take steps to demonstrate to Serco how the service provides value for money.**

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.

Industrial Relations

For the period of the Commonwealth Games in the Summer of 2022 the Council contracted with a Ramora, via a separate tender process, to undertake street cleaning around the site of the Aquatics Centre to mitigate industrial relations risks at Serco and reflecting the additional street cleaning required during the period of the Games. Costs were met via the Games budget. In the eventuality there was no strike action called by the Serco workforce.

During 2022 Serco management have undertaken pay negotiations and reached agreement with their workforce. Serco changed bank holiday working arrangements as part of these pay negotiations and as already noted saw a high level of absences during July and August, but no strike action has taken place. The Council have sought assurances from Serco that bin collections will not be impacted in a similar way during the Christmas 2022 or Summer 2023 holiday periods.

Other findings

The Council is working with Serco to improve transparency and engagement with residents and businesses via improved investment in IT. This includes:

- Serco using their new software for gully cleansing and obtaining a licence so that the gully cleansing schedule can be viewed on-line by the public.
- Serco are making changes to their back-office system (White Space) and are considering moving introducing a texts service to residents, and are also considering the introduction of a residents app.
- Serco are introducing electronic monitoring of bin conditions via waste collection operative phones.

The Council has recently established an Enforcement Liaison Group, with officers represented from services including public protection, planning, highways, waste and housing. This group will develop waste related policies – that are not currently in place – to have clarity on what residents need to do such as managing bins left on streets. Once agreed the Council will communicate these policies to residents and community leaders. The Council is considering in-sourcing the waste enforcement officers currently employed via the Serco contract to enforce these new policies.

Conclusions and Recommendations

The Council has made progress in its management of the Serco contract including improving the governance arrangements and introducing greater control to the management of the contract.

The Council and Serco are moving from what was an adversarial contract management relationship towards a more constructive and collaborative partnership approach. There is greater engagement at most levels between the Council and Serco and relationships have improved to those being experienced during the time of our previous review. However, many changes now in train need to be completed and the more collaborative approach needs to become fully embedded.

Progress is still required and we have the following improvement recommendations:

- The Council must work with Serco to all associated plans and schedules.
- The Council should confirm with Serco if there will be changes to the waste and recycling or garden waste collection policies.
- The Council should resolve the delays and formally agree replacement timescales for the waste fleet and the financing of replacement costs and supplier lead in times with Serco. Clarity should be sought over the use of previous capital payments in the relation to the Council's accounts.
- The Council should take steps to demonstrate to Serco how the fleet maintenance service provides value for money.

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.

Background

Our original review considered the Council's governance arrangements and decision making in relation to the Lion Farm development.

Our December 2021 report recommended:

- 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 all the 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.

KEY FINDINGS

Developer secondary option

The Council was unable to reach agreement with the developer on a clear way forward in relation to the secondary option agreement. The Council's Cabinet agreed at its meeting on 11 January 2022 to give notice to the developer that the Council would refer the issue for determination by an expert, in line with the appropriate clause in the original options agreement between the Council and the developer dated 21 May 2013. Notice to the developer was made on 13 January 2022.

On 24 January 2022 the developer and Council agreed the expert to be a partner from CMS Cameron McKenna Nabarro Olswang LLP. The terms of the expert's appointment were then agreed by the Council and the developer, as well as agreeing the procedure to follow.

The Council has engaged a QC and Trowers and Hamlin to support them during the determination process.

The Council drafted a Statement of Agreed Facts in June 2022 and at the time of our review was seeking to agree this Statement with the developer. Once agreed the Statement will be shared with the expert for the expert to make their determination.

There have been some delays to the expected timescale including working through potential conflicts of interest of the proposed expert and in agreeing the Statement of Agreed Facts

The Council has taken external legal advice on unilaterally proceeding but the referral is preferable to be made jointly.

Once the Statement has been agreed and provided to the expert the Council will have no influence over the timescale but hopes that the determination on the secondary agreement will be confirmed by December 2022.

Once a determination has been made and should it release the Council from the developer agreement, the Council will need to consider the options for re-marketing the site and engaging with commercial developers.

Other findings

As already noted in the section of this report on KLOE A3, the Council has updated its protocol for the disposal of Council owned land and buildings and forms part of the Council's Financial Regulations. The new protocol was approved by Cabinet in July 2022. The protocol applies to all property interests owned by the Council and applies to every Member and officer of the Council and anyone acting on its behalf.

The protocol clearly sets out the roles and responsibilities of individuals and bodies within the Council, and the scheme of delegation for approving asset disposals. It also introduces a requirement that the value of any asset being proposed for disposal or acquisition is set out in reports to members.

The protocol also sets out the approach in relation to complex contractual arrangements, which are defined as contracts which commit the Council to dispose of land but where the receipt of purchase monies is delayed and/or is conditional on a future event. Such arrangements include option agreements which give a developer the right to acquire land at a future date, either at a pre-agreed price, a price to be fixed by a formula (such as a development appraisal) or a price to be fixed by independent valuation.

The protocol sets out the circumstances in which options agreements or conditional contracts are appropriate, and sets out the risks the Council should avoid when entering into such contracts and how these should be mitigated.

The protocol seeks to manage any potential confusion that previously existed on the difference between the sale of a property and the purchase of services.

Conclusion

The Council has taken all possible actions to resolve this matter and has a clear way forward, although we note that the process is by its nature is slow. The Council has also improved arrangements with the updated protocol for the disposal of Council owned land and buildings.

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 Council is replacing its main Enterprise and Resource Planning (ERP) system. The current ERP is Oracle E-Business Suite (EBS) which is being replaced by Oracle Fusion. There have been significant delays to the implementation and go live date for the introduction of the new system.

Our December 2021 report recommended:

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.

KEY FINDINGS

EBS Continuity

The Council has agreed with Oracle to extend licences and associated support by twelve months for EBS due to the delays in implementing Oracle Fusion and to ensure business continuity. There are two separate licence agreements in place, one has been extended to December 2022 and another until April 2023. They will need to be extended again given the current Oracle Fusion implementation timescale.

Implementation Support

The Council's Leadership Team at its 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 engaged Evosys and Version One to review the current status of the implementation of the new system.

On 15 December 2021 the Council's Cabinet considered an options appraisal in relation to the new ERP system including:

- The Council terminates the contract with Inoapps and revert to using EBS, the current system.
- The Council terminate the contract with Inoapps and look to use a new system (Oracle Fusion).
- The Council continues to implement the new system (Oracle Fusion) with Inoapps.
- The Council continues to implement the new system (Oracle Fusion) with an alternate implementation partner.

The Cabinet agreed to serve notice of termination of the implementation partner contract being delivered by Inoapps. Inoapps remain a support partner to the Council for the existing system.

The report to Cabinet on 9 October 2019 identified an ear-marked reserve to the value of £2.6m which at the time was deemed sufficient to fund all estimated costs of the implementation of the new system, and included more than 10% contingency. The additional costs incurred through extending the scope of the project and delays to the project has resulted in costs exceeding the ear-marked reserve.

These implementation costs included those relating to the implementation partner. The original contract sum with Inoapps to implement Oracle Fusion was £1.2m. Several change requests were agreed to incorporate work outside of the original scope of the project and to accommodate delays in the project, revising the contract sum to £1.6m.

At its meeting of 15 December 2021 Cabinet were advised that implementation costs needed to increase by £2.2m whether the Council remained with Inoapps or procured an alternative implementation partner.

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.

Implementation support (Cont'd)

The additional costs incurred through extending the scope of the project and delays to the project exceed the ear-marked reserve.

The total budget for the new ERP was revised to £5m, reflecting the increase in resources required to implement the new system effectively, requiring the use of £4.3m from reserves.

At the time of our review the Council was engaged in steps to mitigate its loss.

On 12 August 2022 the Director of Finance, in consultation with the Cabinet Member for Finance and Resources, agreed to the appointment of Infosys Limited as the Council's new Oracle Fusion implementation partner. This decision was taken under delegated authority agreed by the Cabinet at its meeting of 15 December 2021 following a competitive procurement process, via an appropriate Crown Commercial Service's Framework which was undertaken during May and June 2022.

The contract duration will be 18 months, with an option to extend up to a further 12 months. The maximum contract value over the full contract period will be £2.37 million. At the time of our review Infosys were mobilising to commence contract delivery.

Governance Arrangements

The Council commissioned the Society for Innovation, Technology and Modernisation (SOCITM) in March 2022 to support an assurance review of the governance and resource arrangements for the ERP system implementation. SOCITM were appointed due to their experience working with a number of other councils implementing Oracle Fusion.

There have been significant changes and improvements made to the governance arrangements:

- The Programme Board meets weekly to monitor progress, with the Director of Finance now being the Senior Responsible Officer (SRO).
- A Business Design group meets fortnightly to monitor the outcomes and benefits from the programme
- A Business Readiness Group meets fortnightly which has oversight on the implementation plan activity
- An Implementation Board meets weekly to monitor progress on delivery of programme workstreams

- Four work stream groups meet weekly focusing on HR and Payroll, Finance and Procurement, IT and Technical, and Commercial.
- A Programme Management Office has been established and is utilising good practice programme management approaches.
- There are also cross-cutting working groups on change management, reporting, data cleansing and migration, and implementation planning.

The membership and roles the Board and each group have been defined.

SOCITM have worked with the Council to produce key programme documents which were not previously in place, including a programme vision, programme scope, programme change management strategy, programme benefits framework and programme design principles. A change readiness assessment and review of benefits realisation was concluding at the time of our review. SOCITM have also provided the Council with advice on the procurement of the new implementation partner and implementation process.

A risk escalation process has been established, and at the time of our review work was ongoing to confirm key risk decision makers and risk tolerances, and defining and agreeing change control processes.

Also at the time of our review the corporate PMO was in the process of being established and a review of programme documentation and reporting tools was in progress.

The SRO provides regular updates to the Council's Leadership Team. There are weekly programme and project board meetings and a fortnightly business design board. Engagement sessions with wider Council stakeholders have also been introduced for example on the design principles of the new system.

Organisation engagement

A programme narrative has been created to share consistent messages across the Council to effectively communicate what is planned and the benefits to be realised. Services directly impacted by the change such as finance, HR and payroll have been engaged to better understand how the new system will create process efficiencies.

A programme communications manager role has been created and resourced.

The Council recognises that more work is required on organisational-wide engagement and is planning more engagement events for people who will be affected by the change

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.

Resourcing and Implementation Timescale

SOCITM have provided the Council with a good practice resource planning approach. An organisation matrix has been developed that clearly sets out all internal and external resource involved in the implementation and governance of the programme. A resource model has been developed setting out inputs, roles and timescales for each individual role involved in the programme. Resource profiles have been developed that set out what is required from a capacity and capability perspective.

By moving to treat the system implementation as a change programme the Council has recognised the need for additional resource roles such as in relation to change management, business analysis and communication. The Council has recently appointed an interim Transformation Director who has recent experience of implementing Oracle Fusion at another council. In addition, SOCITM have provided the Council with interim pre-implementation programme management resource.

Infosys, the new implementation support partner, in their tender submission indicated a go live date of October 2023 for the new system, other than payroll which would go live in December 2023 or January 2024. These timescales are aligned to SOCITM's advice to the Council. The Council was in the process of confirming go live dates with Infosys at the time of our review.

In September 2022 the Council agreed to extend the contract with SOCITM to continue to provide support until the new system goes live. This includes involvement in programme management, change management and test management.

Benefits realisation

A programme benefits framework has been produced and the strategic priorities for benefits have been agreed.

The Council is revisiting the original "business case" and baselining existing and known future costs on business support staff across the Council as well as relevant third party spend. This baseline will then be used to identify cashable and non-cashable benefits that should be created by introducing the new system. This had not concluded at the time of our review. The Council has approached Oracle to determine if Oracle can provide a value proposition assessment to support the Council's benefits planning.

The Council has commissioned C.Co (a consulting company owned by CIPFA) to review business support functions to identify any areas of activity that can be consolidated alongside system implementation. DXE have been commissioned by the Council to review supplier spend.

Further consideration is required by the Council on how the new system can support the Council's performance appraisal process, leave booking, and reporting real time financial information.

The Council must ensure that all expected benefits are defined, and that governance arrangements, including assigning accountabilities, are in place to ensure benefits are realised.

Future Major projects

The introduction of Oracle Fusion will support improved management information including data that can be used to support the KPIs in the Performance Management Framework, such as vacancy levels and sickness absence.

The Capital Asset Management Board, which oversees projects which include capital expenditure, has adapted its programme templates and governance arrangements, learning from the ERP systems implementation.

The Council is procuring a corporate Programme and Project Management (PPM) System and at the time the specification for this new system had not been finalised, with the Council working through an understanding of the requirements of different services. Market testing had been initiated.

The ERP system implementation programme as reconstituted and resourced (a blend of council officers and external providers) provides an opportunity for the Council to develop its in-house transformation capacity. To do this there will need to be knowledge transfer from external providers such as SCOCITM which it can then use of wider transformation and change activity.

A new central team is being established to manage the Council's Corporate Transformation Plan, At the time of our review this new team was finalising governance arrangements and associated guidance, including requirements for business case approval for all new change projects. The Council should ensure that the central transformation team is appropriately resourced and integrates all transformation and change activity being undertaken across the Council.

Furthermore, the Council must ensure that the ERP System implementation programme becomes aligned to other improvement and change initiatives being undertaken or planned by the Council, so that synergies and economies in delivery can be identified and duplication removed.

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.

Conclusion and recommendations

It is acknowledged by the Council that its governance of this project has been poor. We estimate that the minimum additional cost to the Council due to its poor oversight is £2.2m.

The Council has taken significant steps to correct what was a floundering system implementation and undertaken a significant amount of work since our previous review.

The Council has introduced more robust and appropriate governance arrangements, appointed a new implementation partner, scaled up the resources to implement the programme, introduced a programme management approach, engaged specialist external support and capacity, and corrected skills and experience gaps.

The programme is now on a much more sound footing and the Council leadership now recognises that the introduction of a new ERP System is an enabler for transformation and has moved from a "lift and shift" approach to managing the implementation as a change programme.

The increase in costs to manage the implementation more effectively should increase the chances of a successful implementation and for the Council to realise the planned benefits. However, the way the original implementation was managed has incurred significant and unnecessary costs and delays for the Council, which remains a key learning reference point for future large-scale change projects and programmes.

The Council must ensure that:

- all expected benefits are defined, and that governance arrangements, including assigning accountabilities, are in place to ensure benefits are realised.
- the central transformation team is appropriately resourced and integrates all transformation and change activity being undertaken across the Council
- the ERP System implementation programme becomes aligned to other improvement and change initiatives being undertaken or planned by the Council, so that synergies and economies in delivery can be identified and duplication removed.



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.

Page 133

Background

Our original review considered the Council's compliance with JNC guidance in relation to the departure of certain chief officers. Our December 2021 report recommended:

- 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.

KEY FINDINGS

There have been no chief officer departures since our 2021 review.

Following our original review the Council engaged Eversheds to undertake a retrospective review of the most recent chief officer departures (the former Chief Executive and Director of Resources) which were the focus of our original review. This legal advice determined that the Council followed model statutory procedures.

As part of the Council's ongoing review of its constitution, the Council's legal and democratic services teams are reviewing employment procedure rules to ensure they appropriately reference statutory procedures relating to the dismissal of chief officers. At the time of our review updates were being drafted but had not been approved.

The Council's Chief Offer Terms and Conditions Committee will have a clearly defined role where statutory procedures are required to be followed in relation to the departure of a chief officer.

The Council has advised that they would take legal advice in advance of any future decision relating to unplanned departure of a chief officer.

Conclusion

Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks.



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

Our original review considered the background to senior leadership changes and the impact of interim officers in place.

Our December 2021 report recommended:

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

KEY FINDINGS

The Council's most recent restructure created ten senior leadership roles. The eight director roles all had a permanent appointment in role by November 2021. The Chief Executive and Deputy Chief Executive roles remain vacant. In addition, a Director of HR role has been approved as a permanent role and was filled in March 2022.

The Council's Interim Chief Executive has agreed with the Council to continue in role until approximately six months after the appointment of a permanent Chief Executive.

The interim Chief Executive was appointed by the Secretary of State for DLUHC as the Managing Director Commissioner in March 2022, one of two Commissioners appointed to oversee the Council's Improvement Plan as part of the government's intervention in the Council. This dual role is uncommon in local government, with one current other example, until recently, at Slough Borough Council. We consider that in the circumstances the decision was appropriate.

At the time of our review the Council was in the process of recruiting to the permanent role of Chief Executive. The Council has appointed Penna, via a competitive tender process, to support this recruitment.

The Council's Chief Officer Terms and Conditions Committee have agreed the recruitment process and timescales for the new Chief Executive. The closing date for the advert was 12 September 2022, and 17 applications were received. The Chief Executive of the LGA has been supporting the candidate technical assessment process.

The Council approved the appointment of a new permanent Chief Executive on 8 November 2022, with their start date confirmed as 6 February 2023.

The new permanent Chief Executive will have nine Directors reporting to them, and as with many Chief Executives new to role may consider changes to the Council's organisational structure. It will be important that any changes made do not adversely impact on organisational stability, or on the pace and success of the Council's ongoing improvement journey.

Conclusion and recommendations

Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks.

The success of the appointment of the new permanent Chief Executive remains critical for the Council if it is to successfully continue on its improvement journey.

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

Our original review considered the appropriateness of complaints made against senior officers and members and the responses to these complaints.

Our December 2021 report recommended:

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.

KEY FINDINGS

A new Chair was appointed to the Ethical Standards and Member Development Committee in May 2022 and an agreed work programme is in place for the Committee's meetings in June, November and December 2022 and in March 2023. An update on complaints is programmed for each of these meetings.

The Committee received an update on complaints at its most meeting on 21 June 2022. Six complaints were reported, with these complaints having been received between 22 October 2021 and 12 April 2022. Three complaints were from members of the public, two from officers and one from an elected member. All alleged breaches of the member code of conduct.

Five of the complaints were reported as having been resolved: two via member training, one via a written apology and two were judged to have had insufficient evidence to be a breach of the member code of conduct. Of the six only one was referred for investigation, the conclusion of which had not been reported at the time of our review.

At the equivalent meeting of the Committee in June 2021 there were twelve complaints reported, indicating a reduction in the level of complaints received to a more manageable level. This can be seen as a proxy measure for wider improvements in the culture and governance of the Council.

The revised Member Code of Conduct, approved in March 2021, is still in place. The Code is reviewed via alternating annual light touch and in-depth reviews. A light touch review is planned for the end of 2022.

Arrangements for dealing with complaints, which forms part of the Council's ethical framework, is also reviewed annually, following the same approach as the Member Code of Conduct.

Conclusion

Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks.



KLOE B4a: 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.

Page 12

Background

Our original review considered the relationships between senior officers and senior members and whether they were appropriate in supporting good governance.

Our December 2021 report made a series of recommendations relating to senior officers and members and related recommended

- 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.
- Enhancement of the induction programme to new members of Cabinet, including on local government finance and their governance roles is recommended.
- 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.
- 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).
- 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.
- 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.
- 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 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
- The Council should continue its more outward looking approach is sustained and develop key local and sub-regional relationships.
- 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.
- 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.

Due to the nature of the recommendations arising from our original review we have structured the key findings from our follow up review as follows:

- KLOE 4a: Member and officer relationships
- KLOE Bb: Performance management and other matters.

KLOE B4a: 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.

Page 127

Review of member development programme

The Member Development Programme (MDP) has been reviewed and introduced for 2022/23. The programme covers preparing candidates who may become newly elected members, new member induction and then a programme of development for all members. The programme includes planned monitoring, evaluation and review to ensure candidates, newly elected members and established members receive appropriate and targeted learning and support matched to their current and future needs.

This revised MDP will build on what has been learned over the past four years plans to develop members who are in positions of special responsibility or are aspiring to be. Personal Development Plans (PDPs) will be created for all members to ensure their development is bespoke to their individual needs. The development of PDPs commenced in July 2022 and are due to be reviewed at the end of the current municipal year.

The member development programme has been augmented with additional training sessions being delivered by the LGA, as already noted. An update on progress is due to be reported to the Standards Committee at its October 2022 meeting. The MDP was being delivered at the time of our review and includes training on public speaking and chairing meetings and has received positive feedback from participating members.

There have been a number of changes to the chairing arrangements of some committees and boards for the 2022/23 municipal year. Initial conversations have taken place with the Council Leader on succession planning and the criteria used to identify individual members for Special Responsibility Allowance (SRA) roles, but this work has not yet concluded.

The Council needs to build on the progress being made on member development and conclude the 2022/23 programme including the review of member PDPs and take further steps to finalise arrangements on succession planning for members in SRA roles.

New training programmes

The Council has engaged the Local Government Association (LGA) to provide training on effective officer and member relationships. The training is designed to improve understanding of respective roles and what good relationships look like.

Two sessions have been planned for members and two for officers. The training programme was in the process of being delivered at the time of our review and we have been advised that there has been positive feedback from those who have so far participated. The LGA will provide the Council with a summary of their experiences of delivering the programme following the final session which is due in November 2022.

The Director of Finance is providing training for the Cabinet and members of the Opposition on budget setting and local government finance, to support the 2023/24 budget setting process.

Member induction

The LGA has also been engaged to deliver a development programme for new members of the Cabinet, as well as training for the Cabinet collectively. This programme was ongoing at the time of our review.

The Council also delivered a training programme during May and June 2022 for all newly elected members. This included the Code of Member Conduct, Internal Audit, Counter Fraud and Risk Management, the scrutiny function, local government finance, and planning.

Forward Plan

A forward plan of Cabinet business has been made available to all members to improve awareness and transparency. The changes to the Council's scheme of delegation, approved by Cabinet in July 2022, is expected to see a reduction in the number of reports to Cabinet making agenda planning more straightforward and allowing Cabinet a greater focus on strategic priorities and issues.

Work is underway to extend the forward plan from four to twelve months, and to work with Scrutiny Boards and Audit and Risk Assurance Committee to use the forward plan to inform their work programmes.

KLOE B4a: Officer and member relationships (Cont'd)

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

Page 18 of 28

Scrutiny Board and Audit Committee Governance Roles

There is a more mature engagement between the Leader, Cabinet, Committee Chairs and senior officers, supporting good planning and work programming across the different committees.

In May 2022 new Chairs were appointed to the Audit and Risk Assurance Committee and the Budget and Corporate Scrutiny Management Board. For both committees relationships have been reset and improvements made.

Scrutiny training and development for members and officers was introduced in June 2022, alongside improvements in relation to scrutiny work programming. A Scrutiny Improvement Plan has been developed which sets out a longer-term training plan for scrutiny members and greater clarity on roles and protocols for scrutiny committees and protocols on how scrutiny works with the Executive and Chief Officers, which were approved by full Council on 8 November 2022.

Improvements have already been introduced by the Scrutiny Board Chair including formal pre-meetings, forward plans have been reviewed to improve agenda setting, and Chairs and Vice Chairs have agenda setting meetings for all scrutiny committees.

The Scrutiny Improvement Plan includes further actions including: an annual report of the impact of scrutiny to full Council, peer support and mentoring from the LGA and Centre for Governance and Scrutiny, creation of job roles for scrutiny members, the introduction of a protocol clarifying the relationship between scrutiny and the Executive, and the introduction of feedback to support continuous improvement.

Training has been provided to members on the Audit Committee and more generally all members are participating in the MDP previously discussed.

The Council had its first scrutiny call-in for 13 years, which was in relation to the future of the Brandhall Golf Course site, which is an indication of the progress being made. Following the meeting the Chair has asked officers to consider examples of call-in approaches from other councils to identify any improvements that can be made by the Council.

Overall, positive progress has been made to improve the culture and professionalism of key Council committees, with the scrutiny function making particular progress. The Scrutiny Improvement Plan must be approved so that this positive direction of travel is maintained.

Improved outward looking approach

The Cabinet and senior officers, have been proactive in reconnecting with regional and national bodies, such as the West Midlands Combined Authority and the Local Enterprise Partnership (LEP).

The Leaders Office is being restructured to better support the Leader and Cabinet in attending external meetings and their associated external responsibilities.

The Council must continue its proactive approach in working with regional and national bodies, and obtain structured evidence of progress being made and identify where further engagement supports the Corporate Plan.

Tone from the top and internal communication

The Council has introduced a number of initiatives to try and improve communication between senior officers and the rest of the organisation, in the context of post pandemic hybrid working arrangements. These include:

- The trialling of video updates and sessions with the leadership team, alongside the staff briefings that had already been in place.
- Listening champions are being introduced so that senior officers can obtain a “bottom up” view from the organisation.
- A Co-Production Network of officers has been used to help develop the Improvement Plan.
- An employee engagement survey was undertaken in Spring 2022, which had a 61% response rate. This was the first such survey since 2018. The results have been widely shared, including via the listening champions. The results are being used to inform discussions and thinking at directorate and team levels. Regular “pulse” surveys are planned.

The LGA's Peer Review follow up visit in October 2022 reported that Council staff are feeling much better communicated with from the corporate level,

Member briefings take place approximately every three months where key issues and topics are discussed, based on members declared areas of interest. These sessions provide back bench members with an opportunity to ask senior officers questions.

A new Head of Communications has been appointed with the brief to increase the level of internal and external communications. A Communications Strategy was agreed by the Leadership Team on 20 September 2022.

KLOE B4b: Performance management and other matters

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

Performance Management Framework and Corporate KPIs

The Improvement Plan and MPF, alongside the refreshed Corporate Plan provides the Council with an opportunity to improve evidenced based decision making. Accountability has been improved with objectives aligned to Directors, Associate Directors and Service Managers, but not below this level.

At the time of our review Quarter 1 performance monitoring had been undertaken, and reported to Cabinet on 28 September 2022. The report included updates on:

- Budget monitoring
- KPIs for key contracts (SCT and Serco)
- Organisational health
- Workforce composition (Equality, Diversity and Inclusion)
- Sickness absence
- Employee engagement
- Health and safety
- Corporate Plan delivery
- Improvement Plan delivery
- Strategic risk register
- Customer experience

This reporting framework represents a major step forward in providing the Leadership Team and Cabinet with a consolidated approach to performance and risk reporting. Due to the approach being recently introduced the Council plans to undertake reviews of the MPF and reporting approach, We note the following:

- KPIs selected for the PMF include data that is available quarterly, annually, biannually and in some cases termly. This provides a challenge for the quarter 1 report because not all data is available for this period. Quarter 1 reporting was therefore partial, with the expectation that additional data will be available for future quarterly reports.
- Organisational health indicators do not currently include targets.
- Data quality is expected to improve to support some indicators once Oracle Fusion has been implemented, in particular workforce data.
- Further work is required to ensure there are clearly defined customer outcomes to better measure data in relation to customer experience (channel shift, call centre performance and complaints).

The Council needs to ensure that the Corporate Plan, Improvement Plan and MPF and how they inter-relate are clearly communicated across the whole organisation to avoid potential confusion impacting on the delivery of these plans, and support the planned work on phase 2 of the Improvement Plan on organisational culture and behaviours. **The Council should consider aligning individual performance objectives of staff to these Plans to create a “golden thread” throughout the organisation, as part of the Council’s annual performance appraisal process.**

The quarter 2 performance report, covering the period July to September 2022, and due to be presented to Cabinet on 7 December 2022, summarised key Corporate Plan actions as follows:

- 258 on track (252 in quarter 1)
- 91 medium issues/risks/slippage (85 in quarter 1)
- 9 significant issues/risks/slippage (7 in quarter 1)
- 53 no data available (66 in quarter 1).

Significant issues reported were:

- Alignment of governance arrangements and budgets of the VCS grants programme to corporate objectives.
- Strategic Plan to feed into the Black Country Plan, review of the Black Country Plan policy base.
- Deliver 2022/23 capital programme of annual maintenance for highways
- Refresh the Council’s storage area network
- Development of the Corporate Data Strategy to define and deliver approach to business intelligence.
- Delivery of income generated from chargeable garden waste
- Replacing high energy street lighting.

It is positive that the Council is now able to monitor Corporate Plan progress, but we note that delays to the Corporate Data Strategy, due to organisational capacity. **The Council should ensure appropriate capacity is in place so that data gaps relating to KPIs can be resolved.**

KLOE B4b: Performance management and other matters (Cont'd)

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

Page 130

Medium term financial objectives and principles

The Council's Leadership Team have more regular discussions on budget related issues including a dedicated leadership team session, led by the Director of Finance, on budget setting. The Leadership Team is seen to have greater corporate ownership of financial issues but there is further work to do before all Directors take a collegiate and strategic view at all times, rather than a departmental perspective. This will be supported by the Leadership Team agreeing key financial objectives and principles, which has not yet been concluded.

Star chambers continue to be used to support budget setting and more progress is required for this to generate innovative and transformational proposals. There is an absence of a whole organisation view of the scale of the financial challenge facing the Council for 2023/24 and in the medium-term, and how these challenges will be addressed

The Council's Leadership Team must agree medium-term financial objectives and principles to provide a framework for financial planning discussions and ensure that there is a whole organization view of the scale of the financial challenges facing the Council in the medium term and how these are going to be addressed.

Financial benchmarking

LG Futures have been commissioned by the Council to provide financial benchmarking data which is shared by Finance Team with Directorates.

Because there hadn't been a culture of using financial benchmarking in recent years, developing an understanding in services of factors such as unit costs and how they compare to statistical nearest neighbours remains a work in progress. The use of benchmarking has been variable across services.

It remains important for the Council to utilise financial benchmarking tools and data to support the service and financial planning process, in particular to help identify opportunities for efficiencies, savings and service improvements.



KLOE B4: Conclusions and recommendations

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

Page 15 of 18

Conclusions and recommendations

Much greater stability can now be seen, both politically and at a senior officer level, and the Cabinet and Leadership Team are working increasingly well both collectively and via their individual Director and Portfolio Lead roles. This is being recognised across the wider organisation.

There is a more mature engagement between the Leader, Cabinet, Committee Chairs and senior officers, supporting good planning and work programming across different Council committees and a greater level of professionalism in how business is conducted by these committees.

The introduction of a PMF is evidence of an improvement in consolidated reporting and provides the Council's leadership with an opportunity for improved evidenced based decision making and monitoring the delivery of the Corporate Plan and Improvement Plan. The Council recognises that the PMF approach requires ongoing refinement to improve how key indicators can be effectively measured and must ensure capacity is created to resolved KPI data gaps.

The Leadership Team has progressed in its corporate approach to managing key issues and challenges but on medium-term financial planning there remains work to do.

Whilst positive progress has been made, the Council remains on an improvement journey and we have identified the following improvement recommendations:

- The Council should consider creating a "golden thread" throughout the organisation, linking the Corporate Plan and other Plan objectives, through to the objectives set for each individual member of staff, as part of the Council's annual performance appraisal process.
- The Council should ensure that capacity is in place to resolve KPI data gaps..
- The Council's Leadership Team must agree medium-term financial objectives and principles to provide a framework for financial planning discussions and ensure that there is a whole organization view of the scale of the financial challenges facing the Council in the medium term and how these are going to be addressed.
- The Council needs to build on the progress being made on member development and conclude the 2022/23 programme including the review of member PDPs and take further steps to finalise arrangements on succession planning for members in SRA roles.

- It remains important for the Council to utilise financial benchmarking tools and data to support the service and financial planning process, in particular to help identify opportunities for efficiencies, savings and service improvements.



KLOE B5: Standards Committee

The purpose of this KLOE was to consider the appropriateness of the work undertaken by the Standards Committee.

Background

Our original review considered the appropriateness of the work undertaken by the Ethical Standards and Development Committee. Our December 2021 report recommended:

- Member training and development programme must play a key role in ensuring members fully understand the expectations and standards relating to their role
- 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

KEY FINDINGS

An update on the review of the Member Development Programme (MDP) has been provided in our key findings in relation to KLOE B4.

The MDP which is being delivered during 2022 includes content relating to the role of members on committees and the role of these committees.

The Monitoring Officer, the interim Chief Executive and the Leader were introducing at the time of our review arrangements to meet the political group leaders and chief whips to create a safe space to discuss any behavioural issues that are not in line with the Code of Member Conduct that have been identified.

This arrangement is being put in place to identify emerging issues and trends and agree any actions required to manage inappropriate behaviours. These meetings are also seen as an opportunity to recognise positive examples of member behaviours.

Conclusion and recommendations

Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks.

The Council must ensure that the new arrangements now in place are used effectively to monitor and take prompt action whenever inappropriate behaviour is identified.



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.

Page 133

Background

Our original review considered the long-standing issues relating to the Wragge and Cox reports.

Our December 2021 report recommended:

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.

KEY FINDINGS

The Audit and Risk Assurance Committee, at its March 2022 meeting, resolved to refer to the Council's Executive the decision on whether a further review was required into the Wragge report or Cox report. A new Chair of the Audit and Risk Assurance Committee was appointed in May 2022 at the start of the new municipal year. We understand that the new Chair of the Committee's position is that they do not seek to re-open the matter. At the meetings of the Committee in May and June the issue of the Wragge or Cox report did not get raised and is not the subject of further review by the Committee.

The Audit Committee has continued to operate throughout the year in an operate manner focussing on significant governance matters.

The Council's Improvement Plan includes actions, such as member training, which have been progressing during 2022, which include content on appropriate behaviour of elected members, their roles and responsibilities.

The Council's Leader will confirm the Executive's position on any further review by the end of December 2022.

Conclusion and recommendation

Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks

A final decision needs to be made by the Leader before this matter can be considered formally closed.



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 original review considered the Council's responses to recommendations raised in our 2019/20 Audit Findings Report (AFR) and further issues identified by our governance review. Our December 2021 report recommended:

- 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.

KEY FINDINGS

Financial statement audit

The audit of the 2020/21 financial statements is still in progress as at November 2022. The audit has been significantly delayed due to the quality of the financial statements and working papers presented for audit. The audit is drawing to a conclusion and a draft report will be issued to the Council in December 2022. Issues include:

- material errors in the valuation of property plant and equipment and pension fund
- material errors in cash balances and other areas of the financial statements
- uncertainty with regard to credit loss allowances, recognition of payables, and assets and liabilities relating to the SERCO waste contract.

We have not been able to draw a conclusion on a number of these areas and it is uncertain whether they will impact on the reserves available to the Council. It is possible that we will issue a modified opinion on the 2020/21 financial statements.

We have been unable to commence the audit of the 2021/22 financial statements due to the delays in the 2020/21 audit.

Financial systems and finance team

The Council is introducing a new corporate asset management system which is expected to improve fixed asset accounting and therefore mitigate issues relating to the closure of accounts. The new system is due to be in place by the time of the 2022/23 closure of accounts. Additional technical accountant resources have been brought in to support the accounts backlog.

The Finance Team has been restructured with the new structure going live in August 2022. This restructure has been undertaken to provide greater focus on finance business partnering by introducing more finance business partners so that each Director has their own business partner supported by an assistant business partner. Business partners should provide improved focus in supporting departmental and service change and transformation.

There have been some changes in personnel, in particular the financial reporting team and a new post has been created relating to fixed assets. Not all new posts have permanent appointments, for example the new head of technical finance is being filled via an interim, who started in September 2022.

Training for members of the Finance Team was undertaken in February and March 2022, prior to the restructure with a focus on accounts closedown. A skills gap analysis was being undertaken at the time of our review to identify the training needs of members of the restructured Finance Team.

The actions taken so far will take time to complete and successfully embed the necessary changes.

Budget setting and monitoring

The Council's Leadership Team continues to receive a monthly budget morning report. The Cabinet and Scrutiny Board receive budget monitoring reports each quarter.

The star chamber approach introduced during Autumn 2021 for 2022/23 budget setting is being retained for 2023/24 budget setting. Star chambers are to be held for each Directorate with the Director of Resources, the relevant finance business partner, the relevant service director and one of the Commissioners providing challenge on budget pressures and savings proposals.

KLOE B7: Financial reporting (Cont'd)

The purpose of this KLOE was to consider the Council's response to recommendations raised in our 2019/20 audit findings report.

Budget setting and monitoring (Cont'd)

Financial benchmarking continues to be used and the Council has engaged LG Futures to provide ongoing support in this area. In addition, Grant Thornton have provided some financial benchmarking from the CFO Insight benchmarking tool.

The Council's Cabinet continues to be engaged with a number of budget planning sessions having taken place by the time of our review, with plans in place to provide a session for the Labour Group.

The Council commissioned Eventure Research to undertake a public consultation exercise on the Council's budget. The results, which were based on a survey completed by 1,070 residents, were reported in September 2022. This was the first such consultation exercise for several years. The consultation has provided the Council with representative views on areas such as: the most valued services, options for closing the budget gap, service provision, the level of Council Tax, and access to services on-line. The results of this exercise are being used as part of the 2023/24 budget setting process.

Conclusion and recommendations

The Council's procedures for the production of its financial statements require significant improvement. We note that there are a number of legacy issues from prior years that continue to have an impact on the timeliness and accuracy of the accounts and are undermining the quality of the financial statements. Whilst we note that actions have been taken over the past twelve months to address these issues, improvements are not likely to start to be seen until the 2021/22 accounts. We consider that this needs to be an area of priority for the Council, including managing the recruitment challenges that have been experienced. Until these matters are resolved there will remain some uncertainty over the Council's financial position.

The other improvements that are in train will take time to embed, reflecting the lack of a corporate asset management system and an appropriately resourced and skilled finance team, which had not received appropriate development and training in prior years.

The Council must successfully implement the new corporate asset management system to timescale, ensure all key finance roles have permanent appointments, and prioritise the recruitment to, and training and development of, the Finance Team so that the role and behaviour changes planned become embedded.



KLOE B8: Engagement with residents and community stakeholders

The purpose of this KLOE was to consider how the Council engages with residents and community stakeholders.

Background

Whilst not a key line of enquiry for our original review we have agreed with the Council's management to consider how the Council engages with residents and community groups to supplement our understanding of the Council's improvement journey.

This has included a sample of two community consultations:

- West Bromwich Masterplan.
- Walker Grange, an extra care facility owned by the Council.

We have also considered wider resident engagement surveys.

KEY FINDINGS

Resident engagement

The Council has introduced an annual residents survey and are considering additional mechanisms to improve resident engagement, such as resident panels and focus groups.

Eventure Research were commissioned by the Council to undertake a resident and wellbeing survey. A survey was conducted with 1,062 respondents throughout the borough, with quotas set on age group, gender, disability, ethnic group and area of the borough. The survey was conducted in July and August 2022. Some of the questions are also asked by the LGA in their national tracker survey, allowing national comparisons. The results included:

- 78% of respondents are satisfied with their local area as a place to live.
- Just over a quarter (27%) of respondents had been in contact with Sandwell Council recently.
- Housing, missed bin collections, reporting anti-social behaviour, and council tax queries are the most common reasons for contacting the Council.
- Satisfaction with the Council is slightly higher than the national average (66% compared to 62%),
- Three in five (60%) think Sandwell Council acts on the concerns of local residents, compared with 52% nationally.
- Three in five (60%) think Sandwell Council keeps residents informed about services and benefits it provides, compared with 57% nationally
- Trust in the Council is higher amongst Sandwell residents than nationally (67% and 58% respectively)

- Council services receiving higher than national satisfaction ratings were waste, street cleaning, road and pavement maintenance, sport and leisure services and services to support children and young people.
- Services where satisfaction is lower than national satisfaction ratings are library services, services to support older people and parks and open spaces.
- Respondents are most concerned about the cost of living increases and inflation, NHS waiting lists and having a family that is healthy.

The Council also commissioned Eventure Research to undertake a public consultation exercise on the Council's budget, which is discussed in the section on KLOE B7. The Council has also undertaken a public consultation on the electoral cycle.

Undertaking this resident engagement survey is a positive step for the Council, and the results will need to be used to inform service and financial planning. The changes being made via the Improvement Plan and the corporate Performance Management Framework the Council needs to ensure that it continues to engage with residents and that this engagement supports greater corporate focus on service quality and customer outcomes.

Community consultation: West Bromwich Masterplan

The 5 February 2020 Cabinet approved the development of the masterplan to provide a vision for the future of the town centre, including the need for public consultation to support the masterplanning process. In November 2020 the Council commissioned Savills as the lead consultant which included a community consultation role. Mott MacDonald were engaged to undertake viability work, and Benoy to lead on the design.

In March 2020 the Council discussed their vision for West Bromwich with the Government's High Street Task Force, which identified the need for more effective community engagement.

A consultation and engagement plan was developed in April 2021, to support the Towns Fund deal for West Bromwich, and this was used for the masterplan consultation.

KLOE B8: Engagement with residents and community stakeholders (Cont'd)

The purpose of this KLOE was to consider how the Council engages with residents and community stakeholders.

Community consultation: West Bromwich Masterplan (Cont'd)

Consultation was then undertaken with various groups and organisations including regional stakeholders such as the LEP, West Midlands Combined Authority, the West Midlands Growth Company, West Midlands Police, West Bromwich Town Members Board, West Bromwich Town Deal Board, Sandwell College and Lyng Primary School.

Workshops were then held with the Council's Cabinet in June 2021 to discuss findings before a four-week public consultation exercise was undertaken with residents, local businesses and landowners during July and August 2021. This included physical events and virtual events, and the use of the website questionnaire.

The consultation responses were fed back to the external consultants in a consultation outcome plan which was also reported to Cabinet on 9 February 2022. The Cabinet approved the West Bromwich Interim Planning Statement and West Bromwich Masterplan at this meeting. Consultation feedback was used to inform changes to the masterplan and these changes were highlighted in the Cabinet report. Some issues raised by the consultation could not be met by the masterplan, such as crime and anti-social behaviour and these responses were shared with the police.

This is an example of a well-structured approach to community consultation. The Council believe that the consultation process has significantly improved and strengthened relationships with local business and community groups.

Community Consultation: Walker Grange

Walker Grange is an extra care supported housing accommodation for people aged 55 years or above who require care and/or support to live independently. The facility, which has capacity for 39 residents, is owned by the Council and was built in the 1980s. It was proving unsuitable to meet the changing care and support needs of some individuals and the Council was considering its closure and the transfer of residents to other extra care accommodation in the borough.

On 1 September 2021 the Council's Cabinet agreed to a consultation exercise in advance of taking decision on the future of the facility. A twelve-week consultation period was approved for consultation with stakeholders including tenants, their families and carers, day care users, staff of the facility and trade unions

The consultation received a lot of interest locally, on social media and from ward councillors and local MPs, in part due to a view that the Council had already taken a decision to close the facility.

From the consultation, a clear message from tenants, their families and staff were that they valued and wanted Walker Grange to continue to provide services to the current cohort of people and potentially develop and promote the service further. During the consultation period it became clear that further investment, rather than purely maintenance, could potentially provide the Council with a resource to provide additional support to vulnerable adults through extra care provision.

The Cabinet considered the consultation outcomes at its meeting on 18 November 2021 alongside three options for the future of Walker Grange:

- Do nothing: continue to provide Extra Care Housing at Walker Grange.
- Look at the closure of Walker Grange & the transfer of Tenants to other suitable Extra Care Housing provision
- look at upgrading Walker Grange building to ensure it is fit for purpose to provide Extra Care Housing.

The Cabinet agreed to the third option of investing in the current facility to ensure that it is fit for purpose. This is an example of where the Council has engaged with and listened to the views of local residents and stakeholders to improve its decision making.

Conclusion

Overall, we found no evidence of any significant weaknesses in the Council's arrangements for ensuring that it makes informed decisions and properly manages its risks. We have identified one improvement recommendation:

- The Council needs to ensure that it continues to engage with residents and that this engagement supports greater corporate focus on service quality and customer outcomes.

Appendices

Appendix A: The scope of the auditor's work on value for money arrangements

Page 139

Revised approach to value for money work for 2020/21 onwards

- 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

Appendix B: Improvement recommendations

This appendix summarises our improvement recommendations by KLOE.

Page 140	Improvement recommendations	Page #
	KLOE A1: Sandwell Children's Trust	
1	The Council will need to ensure that the SCT accelerates its progress on this improvement trajectory so that the position does not plateau, including sharing good practice on case work across the various SCT social work teams.	22
2	The Council will need to continue to closely monitor the implementation of the early help strategy to ensure planned objectives and outcomes are realised.	22
3	The Council must continue to work with SCT to mitigate and reduce the level of vacancies and use of agency staff and take steps to ensure the associated KPI does not lead to contract failure.	22
4	The Council should continue to monitor the progress of SCT against these invest to save activities to ensure that SCT is able to generate the savings and efficiencies required for the contract sum to be reduced.	22
	KLOE A2: Sandwell Leisure Trust	
5	<p>The Council will need to:</p> <ul style="list-style-type: none"> ensure a business case is produced for the new leisure LATC so that there is a clear financial case for the commercial viability of the new arms length company. be clear how it effectively discharges its role whilst allowing the company the freedoms and flexibilities to operate and to deliver the planned financial and service benefits. 	24
6	The Council will need to effectively manage the transition of the Aquatics Centre so that it is operational to the planned timescale and that there is a clear business case which sets out how the centre will be managed to become commercially viable and provide financial returns to the Council as part of the leisure LATC arrangements.	24

Appendix B: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page # 141

#	Improvement recommendations	Page #
	KLOE A3: Providence Place	
7	The Council will need to conclude the finalisation of its asset management strategy and asset management database to better manage its asset portfolio including asset disposals.	25
	KLOE A4: SEND Transport	
8	The Council must ensure that the lessons learned from the SEND Transport procurement are shared across other council services so that this learning becomes embedded across the organisation.	27
	KLOE A A7: Waste Service	
9	The Council must work with Serco to urgently finalise all associated plans and schedules which remain outstanding.	33
10	The Council should confirm with Serco if there will be changes to the waste and recycling or garden waste collection policies.	33
11	The Council should resolve the delays and formally agree replacement timescales for the waste fleet and the financing of replacement costs and supplier lead in times with SERCO. Clarity should be sought over the use of previous capital payments in relation to the Council's accounts.	33
12	The Council should take steps to demonstrate to Serco how the fleet maintenance service provides value for money.	33

Appendix B: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 142

	Improvement recommendations	Page #
	KLOE A10: Introduction of new ERP System	
13	The Council must ensure that all expected benefits are defined, and that governance arrangements, including assigning accountabilities, are in place to ensure benefits are realised.	38
14	The Council must ensure that the central transformation team is appropriately resourced and integrates all transformation and change activity being undertaken across the Council.	38
15	The Council must ensure that the ERP System implementation programme becomes aligned to other improvement and change initiatives being undertaken or planned by the Council, so that synergies and economies in delivery can be identified and duplication removed.	38
	KLOE B4: Officer and member relationships	
16	The Council should consider creating a “golden thread” throughout the organisation, linking the Corporate Plan and other Plan objectives, through to the objectives set for each individual member of staff, as part of the Council’s annual performance appraisal process.	47
17	The Council’s Leadership Team must agree medium-term financial objectives and principles to provide a framework for financial planning discussions and ensure that there is a whole organization view of the scale of the financial challenges facing the Council in the medium term and how these are going to be addressed.	47
18	The Council should ensure that capacity is in place to resolve KPI data gaps.	47
19	The Council needs to build on the progress being made on member development and conclude the 2022/23 programme including the review of member PDPs and take further steps to finalise arrangements on succession planning for members in SRA roles.	47
20	It remains important for the Council to utilise financial benchmarking tools and data to support the service and financial planning process, in particular to help identify opportunities for efficiencies, savings and service improvements.	47

Appendix B: Improvement recommendations (cont'd)

This appendix summarises our improvement recommendations by KLOE.

Page 143	Improvement recommendations	Page #
	KLOE B5: Standards Committee	
21	The Council must ensure that the new arrangements now in place are used effectively to monitor and take prompt action whenever inappropriate behaviour is identified.	48
	KLOE B6: Audit Committee	
22	A final decision on the Cox report needs to be made by the Leader before this matter can be considered formally closed.	49
	KLOE B7: Financial Reporting	
23	The Council's procedures for the production of its financial statements require significant improvement. We note that there are a number of legacy issues from prior years that are undermining the quality of the financial statements. We consider that this needs to be an area of priority for the Council. Until these matters are resolved there will remain some uncertainty over the Council's financial position	51
24	The Council must successfully implement the new corporate asset management system to timescale, ensure all key finance roles have permanent appointments, and prioritise the training and development of the Finance Team so that the role and behaviour changes planned become embedded.	51
	KLOE B6: Engagement with residents and the community	
25	The Council needs to ensure that it continues to better engage with residents and that this engagement supports greater corporate focus on service quality and customer outcomes.	53



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