



Resources and Governance Scrutiny Committee

Date: Tuesday, 3 September 2019

Time: 10.00 am

Venue: Council Antechamber, Level 2, Town Hall Extension

This is a **Supplementary Agenda** containing additional information about the business of the meeting that was not available when the agenda was published

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Membership of the Resources and Governance Scrutiny Committee

Councillors - Russell (Chair), Ahmed Ali, Andrews, Battle, Clay, Davies, Lanchbury, Moore, B Priest, Rowles, A Simcock, Stanton, Wheeler and Wright

Supplementary Agenda

4. **Minutes** 3 - 14
The draft minutes of the meeting held on 16 July 2019 attached.
7. **Discounting compensation payments for Windrush failings for the national Housing Benefit calculation** 15 - 26
Report of the City Treasurer (Deputy Chief Executive) attached
- This report seeks Executive approval to use the Council's discretion under section 13A (1) (c) of the Local Government Finance Act 1992 to reduce the Council Tax liabilities for those receiving payments from the Windrush Compensation Scheme from the Home Office.

Further Information

For help, advice and information about this meeting please contact the Committee Officer:

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This supplementary agenda was issued on **Thursday, 29 August 2019** by the Governance and Scrutiny Support Unit, Manchester City Council, Level 3, Town Hall Extension (Lloyd Street), Manchester M60 2LA

Resources and Governance Scrutiny Committee

Minutes of the meeting held on Tuesday, 16 July 2019

Present:

Councillor Russell (Chair) – in the Chair

Councillors Andrews, Clay, Davies, Lanchbury, O'Neil, B Priest, A Simcock, Stanton, Wheeler and Wright

Also present:

Councillor Ollerhead, Executive Member for Finance and Human Resources

Apologies: Councillors Ahmed Ali, Battle, Moore and Rowles

RGSC/19/37 Minutes

The minutes of the meeting held on 18 June 2019 were submitted for approval as an accurate record of the meeting.

Councillor Wheeler requested that Minute RGSC/19/36 (Strategic Acquisition in the Northern Gateway (Part B)) be amended to include reference to the fact that he moved a motion that the Committee should not proceed with the venture, which was seconded by Councillor Clay, but not supported by the Committee.

Decision

To approve the minutes of the meeting held on 18 June 2019 as a correct record subject to the above amendment.

RGSC/19/38 Revenue Budget Outturn 2018/19

The Committee considered a report of the City Treasurer (Deputy Chief Executive), which outlined the Council's position for 2018/19 for the Council's revenue expenditure and income.

The main points and themes within the report included:-

- For the previous financial year the outturn variance compared to the revised budget was an overspend of £293k;
- This was a reduction of £0.767m from the overspend position of £1.060m reported in February 2019;
- The large budget overspends in both Children's and Adult's Services were due to the need to cope with continuing high demands for support and service provision;
- The balance on the General Fund Reserve at 31 March 2019 was £22.045m, with the budget overspend being taken from the reserve, which was still deemed to be a reasonable amount for the risks the City Council is facing;
- The Housing Revenue Account (HRA) outturn position was a £11.064m favourable variance; and

- A summary of budget allocations and transfers to reserves that had been approved by the Executive at its meeting on 26 June 2019.

Some of the key points that arose from the Committees discussions were:-

- Clarification was sought as to whether Directorate underspends which had occurred due to vacant posts were not being used to offset the overspend in Children Services and Adult Services;
- Was the Council's ability to deliver a balanced budget dependent on Directorate underspends;
- Was there any instances where vacancies were contributing to a reduction in the ability to deliver agreed levels of service
- What was the level of vacant posts across all Directorates and at what grades were these vacancies;
- There was concern that the Council was holding posts open for staff that had been suspended which were then being filled by agency staff and, as such, the post was costing the council twice;
- What was the anticipated impact to Council Tax and Business Rates collection of arrears with the introduction to a 60 day breathing space payment and attachment to earnings;
- Were the number of external residential placements in Children's Services rising above the expect trend level;
- How had the Leaving Care accommodation service improved the support offered whilst reducing costs by 30%;
- Why had decision been made that there would be no increase in funding for SEND provision; and
- Were some of the overspends within Directorates due to "one off" instances/events;
- Concern was raised that the funding available to address the issue of homelessness in 2018/19 had been sourced from short term funding streams and that there was no guarantee that this funding would be available for 2019/20 or beyond.

The Deputy City Treasurer explained that the Council did not make budget assumptions on the levels of underspends in Directorates arising from vacant posts, but did allow for a small percentage (around 2%) of staff turnover in its budget planning process. She advised that an element of the vacancy saving would be due to internal recruitment and the subsequent vacancy created elsewhere in the Council which was difficult to predict. She confirmed that she did not have information available on the number of vacancies (and their grades) that currently existed across each Directorate but agreed to provide this information to Committee Members outside of the meeting. The City Treasurer (Deputy Chief Executive) commented that as part of the Council's recovery plan in 2018/19 it had been agreed that a number of posts would be held as vacant and that this was due to the climate of austerity faced by the Council. She added that there was sometimes a challenge to fill particular vacant posts and the Council would look to fill these internally before looking to appoint externally.

The Committee was advised that in terms of the Council's budget, it was anticipated that the rate of Council Tax and Business Rate collection would remain the same

even in light of the 60 day breathing space payment and attachment to earnings proposals and as such no adjustment was required at the present moment. The City Treasurer (Deputy Chief Executive) explained that there were a number of pieces of work underway on the possible impact of these proposals and once completed, the budget would be reset if necessary.

The City Treasurer (Deputy Chief Executive) advised that the original Leaving Care Service had not been the most cost effective for the Council and confirmed that the new service provision would provide an improved level of service at a reduced cost. In terms of external fostering trends, it was acknowledged that the original reduction in placement target had not been achievable and there had also been an increase in the number of Special Guardianship Orders, which was in line with the objective of promoting permanency for children and young people within families, as such, the budget had been readjusted.

The Deputy City Treasurer advised that the Council would seek to manage overspends in year and that these would then be looked at as part of the budget setting process for future years to identify any longer term implications. In terms of SEND funding, there was previously a proposed transfer of funding from the schools block to the high needs block of 0.5% per pupil (£2m) in 2019/20. However, in December 2018, the DfE announced additional funding nationally, of which the City received £1.281m per annum for 2018/19 and 2019/20 and as a result it had been agreed by the Schools Forum not to progress the proposed funding transfer from the schools block. It was also acknowledged that the budget to tackle homelessness was supported by a number of grants and external funding streams which were not guaranteed for future years.

Decision

The Committee:-

- (1) Notes the report and the decisions taken by the Executive at its meeting on 26 June 2019; and
- (2) Requests that Members are provided with a briefing note on the number of vacancies that exist across all Directorates, including the grade of these positions and how long they have been vacant.

RGSC/19/39 Global Revenue Budget Monitoring to the end of May 2019

The Committee considered a report of the City Treasurer (Deputy Chief Executive), which outlined the projected outturn position for 2019/20, based in spend as at the end of May 2019 and future projections.

The Deputy City Treasurer gave a very brief introduction to the report. Some of the main points and themes within the report included:-

- The forecast for 2019/20 at the end of May 2019 is an overspend of £3.495m;
- The main differences between the 2019/20 original and revised budget were:-

- £5.084m for the annual pay inflation award which was included in the original Corporate Budgets and allocated across Directorates (Adults Social Care pooled budget was allocated £1.002m in the original budget);
- £2.7m Youth Services budget transfer from Children's Services to Neighbourhoods and Highways;
- £0.983m Decriminalised Parking Enforcement and Bus Lane income budget from Neighbourhoods and Highways to Corporate Services; and
- £279k Winter Pressures grant transfer from Adults Social Care to Homelessness;
- The HRA was forecasting a £1.333m favourable variance;
- Budgets still to be allocated on the assessment of individual business cases;
- The drawdown request from the Transformational Challenge Reserve to champion Manchester Fair Trade status;
- The proposed virements for a revised 2019/20 budget that required either Executive or Council approval; and
- The savings target for 2019/20 was £14.798m, which included an additional £5.776m of recovery plan savings.

The report was also to be considered by the Executive at its meeting on 24 July 2019.

Some of the key points that arose from the Committees discussions were:-

- Assurance was sought that the £2.7m Youth Services budget transfer from Children's Services to Neighbourhoods and Highways was still going to be spent on Youth Services;
- What work was being done to address the £374k overspend due to un-achievement of cross cutting savings in relation to the HR policies;
- Was the forecasted underspend of £373k on Community Safety and Compliance, City Centre Management, Licensing and the Out of Hours Team for the full year and where did the vacancies in these services exist as the Council had already invested significantly into community safety and compliance and it appeared that the Council was struggling to spend this additional investment;
- Did the Council have a policy for paying "out of hours" premiums to staff;
- Who were Redgate Holdings, what service did they provide on behalf of the Council and why was it proposed to pay them a further £355k; and
- What scrutiny had, or was planned to take place, on the identified savings of £0.775m from Mental Health assessments.

The Head of Finance assured the Committee that the £2.7m Youth Services budget transfer from Children's Services to Neighbourhoods and Highways would still be spent on Youth Services. He also advised that the overspend in relation to HR policies was more of a delay in savings being reported due to part year implementation of some of the already agreed saving proposals, some of which would be implemented from September 2019 onwards. These included a change to how additional voluntary contributions were managed which gave the Council benefits from an income tax perspective, and the staff annual leave purchase scheme which commenced in April 2019.

The Deputy City Treasurer also advised that in terms of the underspend in Community Safety and Compliance, this was the projected full year underspend. The Head of Finance explained that the money that had previously been invested into the service had been centred around the city centre and out of hour's support, which had been an area that had been difficult to recruit to and retain staff. An investment plan was in place and was being monitored and evaluated. The City Treasurer (Deputy Chief Executive) commented that the Council did have a policy for out of hours working but it would not be appropriate to comment on any additional payment of out of hours premiums without reviewing the existing policy first.

The Deputy City Treasurer explained that Redgate Holdings provided facilities for non-residential waste disposal for the Council. It was explained that the way that the Council budgeted for inflation, meant that companies that provided services to the Council were entitled to seek inflation under the contract that had been agreed. However, the Council did not allocate inflation to the budget until the case for it had been reviewed and the amount agreed was appropriate. In response to concerns that the amount of inflation proposed appeared to be quite substantial, the Executive Member for Finance and Human Resources advised the Committee that inflation payments were included in all of the Council's contracts and in comparison to other contracts, the amount proposed was not deemed an unreasonable amount. He agreed to provide Members with details of the uplift between Redgate Holdings and the Council.

The Deputy City Treasurer advised that the proposed savings from mental health assessments would have or would be included as part of the business planning process that would go to the relevant scrutiny committees each year regarding planned changes to Council budgets.

Decision

The Committee:-

(1) Notes the recommendations asked of the Executive, these being:-

The Executive is requested to:

- Recommend that the Council approve the proposed virements over £0.5m in paragraph 61;
- Approve the use of budgets to be allocated in paragraph 58;
- Approve the use of reserves in Paragraph 59;
- Approve the use of grants in addition to that already planned, as detailed in paragraph 60; and
- Approve the proposed virements under £0.5m in paragraph 61;

(2) Recommends that Officers review the Council's recruitment strategy and attractiveness of roles within the Community Safety and Compliance service;

(3) Recommends that as part of the HR Sub Group's Work Programme, it considers the challenges experienced in recruiting and retaining staff within the Out of Hours Service as part of a wider report on the Council's recruitment policy and process;

- (4) Requests that the Executive Member for Finance and Human Resources provides Members with details of the contract between Redgate Holdings and the Council in respect of in-year allocations; and
- (5) Recommends that Chair of Health Scrutiny consider whether he wishes Health Scrutiny Committee to consider scrutinising the planned savings of £0.775m from Mental Health assessments in more detail.

RGSC/19/40 Income Generation

The Committee received a presentation from the City Treasurer (Deputy Chief Executive), which provided an overview of income generating activities within the Council with a focus on what the Council proactively did to generate income, what more could be done in the future, and what other models exist.

The main points and themes within the presentation included:-

- Local Authorities had traditionally received fees and charges for the provision of services. These could be split into statutory or discretionary services;
- Local Authorities did not always control the level of fees that were charged. For statutory services the fee levels were often set by Government (eg. planning fees);
- During the years of austerity, income generation as well as reduced spending had been a key consideration;
- There needed to be a balance between risk/reward when considering income opportunities;
- A breakdown of budgeted income and actual income across key areas of the Council for 2018/19 and the projected income for 2019/20 within these areas; and
- The opportunities that potentially existed for further income generation in the future and key issues that would possibly have an impact on these.

Some of the key points that arose from the Committees discussion were:-

- Did (or could) the income generated from parking include income from residential parking schemes;
- How was it anticipated to generate a further £1 million income from bus lane enforcement when it was anticipated that there would be change in driver behaviour;
- Had any additional bus lanes been introduced to help achieve this additional projected income and what account had been taken into consideration in regards to a number of highways major projects being behind schedule which might contain additional bus lanes that would contribute to this enforcement income;
- Clarification was sought as to whether budget underspends were considered as income in future years;
- The report did not reflect or explain how much surplus was made from income generating services with reference made to the income generated by Legal and Democratic Services and it was asked what this income was used for;
- Did the Council cover its costs for services that it provided on behalf on other local Authorities;

- What was the additional one off income from the investment estate;
- Considering some services (Facilities Management and Other Core Services) had only generated half of their expected 2018/19 budget income, had these services covered their costs and how was the level of income projected for 2019/20 considered realistic or achievable;
- Was there any specific reason why the 2019/20 projected income figures were just slightly below the actual income figures for 2018/19;
- It was felt that it would have been helpful if Members had been provided with information on where particular income streams had stipulations as to what they could or could not be spent on;
- It was felt that there needed to be some clarity around why the Council undertook certain services which were generating income, as not all services were used purely to generate a financial return, but rather it provided a strategic and/or community need for the city;
- It was considered that the information presented to the Committee did not contain enough detail to gain a true understanding of income generation across key areas, future opportunities around innovation and possible income these opportunities may offer, a distinction between those cores services the Council provided for social reasons and those it provide solely to make profit and what other local authorities were doing around this which the Council could possibly emulate and as such a more detailed report should be submitted to a future meeting; and
- It would be interesting to see the amount of money the Council had accrued since its inception as Manchester Corporation and what this had generated for the Council.

The Head of Finance advised that there was opportunity to fund some activities within parking through income generated from residential parking schemes which would be contained within a report going before the Council's Executive later in the month. He advised that in terms of income from bus lane enforcement, the Council had been prudent in its assumptions with the fact that drivers would learn and change their behaviours and as such in future years it was expected that the income expected from this area would reduce. He also advised that the 2019/20 projected income included the net amount after what had been placed into Council reserves. In response to clarification of this, The Head of Finance explained that the Council was restricted on what it could use this income for and any surplus generated over the agreed budgeted amount went into a ring-fenced reserve for parking and bus lane enforcement. He advised that additional bus lane related income had been factored into the income figures for 2019/20 but there was nothing assumed in the forecast for new bus lanes going forward. On this issue, the Executive Member for Finance and Human Resources clarified that there had been an underspend within bus lane enforcement for 2018/19 which had subsequently been included in the projected income for 2019/20.

The City Treasurer (Deputy Chief Executive) explained that the figures contained within the presentation related to the income that was credited to the Council's revenue budget. It was explained that bus lane and parking enforcement was quite a volatile area of income and was also tightly defined by statute as to what this income could be used for. This income was placed into reserve and the Council drew down a set amount each year to support the revenue budget. The Chair expressed

concern that whilst understanding the complexity associated with the Council's income and the Council's revenue budget, the information contained within the presentation was not clear on this matter.

The City Treasurer (Deputy Chief Executive) advised that the Council had been prudent in its assumptions around income generation from bus lane enforcement in 2018/19. Taking into account the costs eligible to be funded from the bus lane enforcement reserve, it had been determined that a higher level of reserve could be used to help support the budget for the next few years, which had been factored into the budget setting process for 2019/20.

The Executive Member for Finance and Human Resources acknowledged the point on the need for clarity around why the Council undertook certain services which generated the income and agreed that, if minded to, the Committee could receive a future report on this.

The City Solicitor explained that the Council had restrictive requirements when it was providing services for other local authorities. These services were only provided where it was clear that they would generate further income for the Council, however, due to legislative requirements, the Council was not allowed to make excessive amounts of surplus on these services. She reassured the Committee that in providing these services, the income generated was in excess of the associated costs.

The Head of Finance advised that the one off investment estates income in 2018/19 was in relation to a lease arrangement with Manchester Airport for land use for car parking and this had been reflected in the budget reports for 2019/20 which had been considered earlier in the year.

In terms of the income generation for Facilities Management, the lower than forecasted amount generated was in part as a result of the adjustments to the Town Hall budget, specifically in relation to the loss in catering income. It was acknowledged that the projected 2019/20 budget income generation figure had been overstated and although this would be offset by a draw down from the reserve for the Town Hall Project budget, this figure needed amending. The Executive Member for Finance and Human Resources commented that the loss of income from Town Hall activities had always been factored into the overall Town Hall Project budget. The City Treasurer (Deputy Chief Executive) also advised that as part of a previous budget setting process in relation to the Town Hall Project, a revenue reserve had been set up to meet the loss in this income. In terms of the proposed increase in budget income generation within Core Support Services for 2019/20, the Head of Finance agreed to provide details to the Committee as to how the increase would be achieved.

The Committee was advised that it was not Council policy to set future budgets at a level just below the current year's income and number of factors were taken into account when determining the Council's budgets, including previous years' performance, known demand and the need to consider any known expenditure.

The City Solicitor advised that any additional surplus generated by Legal and Democratic Services was re-invested into the service to help support the cost of the whole service. She explained that the Council was clear in its negotiations with all of its partners and careful business planning was undertaken to ensure that there was an appropriate resource available to support any additional work undertaken. The City Solicitor agreed to provide responses to queries around the shortfall in actual income for 2018/19 and the projected level of income to be generated in 2019/20 for by Legal and Democratic Services as part of a more comprehensive report.

The City Treasurer (Deputy Chief Executive) commented that the aim of the presentation was to provide an overview of the Council's income, the different categories of income and legislative background for particular parts including the issue around trading and profit. She and Officers noted the Committee's views around the level of detail requested to be included in a future report around income generation across key areas, future opportunities around innovation and possible income these opportunities may offer, a distinction between those core services the Council provided for social reasons and those it provides solely to make profit and what other local authorities were doing around this which the Council could possibly emulate.

Decision

The Committee:-

- (1) Notes the presentation.
- (2) Notes that the Head of Finance will provide information on how the proposed increase in budget income generation within Core Support Services for 2019/20, will be achieved.
- (3) Requests Officers produce a further report that provides a greater level of detail on income generation across the key areas; and
- (4) Agrees that the Chair, in consultation with the City Treasurer (Deputy Chief Executive) will determine an appropriate date at which this report shall be considered.

RGSC/19/41 Delivering the Our Manchester Strategy

The Committee considered the report of the Executive Member for Finance and Human Resources, which provided an overview of work undertaken and progress towards the delivery of the Council's priorities, as set out in the Our Manchester Strategy (OMS), for those areas within his portfolio.

Some of the key points that arose from the Committee's discussions within the Executive Member's report were: -

- How did the Executive Member intend to improve how the Council monitored and managed its contracts;
- What were the main concerns arising from the BeHeard 2018 survey results and what was the Executive member doing to address these concerns;

- What progress had been made with the appointment of a full time Director of HROD;
- What role did the Council have in relation to the Credit Union offer being promoted to staff and how was this being promoted;
- Does the Council offer payroll saving to a Credit Union and if so how is this being promoted;
- A request was made that the Executive Member assisted in getting a response to the Committee on the Trade Union recognition from Highways contracts;
- Could the Executive Member give an assurance that all staff employed on the Manchester International Festival (MIF) 2020 would be paid a minimum of the Manchester Living Wage;
- What involvement did the Executive Member in the Council's review of the diversity of its workforce, and if it did not already, would this review look at those staff subject to misconduct;
- What consideration or thought had the Executive Member given to incorporating the Council's recently adopted stance on climate change within the procurement process; and
- A request that the success of the recent Council Tax charge on empty properties pilot was included in the annual Revenue and Benefits report.

The Executive Member for Finance and Human Resources advised that he had established a small working group of officers to look at contract management with a view to establishing a database. He had also met with Open Data for advice and guidance on how monitoring could be implemented. This work was on going at present but was intended to help shape how improvements could be made to how contracts were monitored and managed.

The main concerns arising from the BeHeard survey were in the main at Senior Leadership Group level and the feeling amongst staff at this level not having the flexibility to actually drive forward improvements. The Chief Executive and City Treasurer (Deputy Chief Executive) were meeting with these staff to address the concerns that had been raised. In the main, he advised that satisfaction levels were up amongst staff and there had been a 77% positive response from staff who felt that their managers helped fulfil their potential. He acknowledged that there was still work to be done to improve certain areas and ensure that Manchester City Council was a place where people wanted to come and work and this was being addressed through Listening into Action sessions.

The Committee was advised that at present there was an Interim Director of HROD in place and he anticipated that the role would be appointed to by the end of August 2019.

The Executive Member for Finance and Human Resources advised that the Council had well established relationships with two Credit Unions within the city and the Council's role was purely in making staff aware of the services available through the Credit Unions and helped staff make a connection with one of the Unions should they require financial support. There had been a soft launch of the offer and a more formal wider communication was planned. In terms of a payroll saving scheme, the Council did offer this to its staff and agreed to provide information around the take up of this offer to the Committee and agreed that as part of the communication to staff

on the Credit Union offer, this would also be part of the communications. He agreed to chase officers for a response to the request around Trade Union recognition from the Highways contractors and gave an assurance that all staff employed at MIF 2020 would be paid the Manchester Living Wage as a minimum.

The Committee was advised that a Peer Review was being undertaken around the diversity of the workforce and this would also include a review of the diversity of staff subject to misconduct proceedings. The Executive Member advised that he was meeting regularly with the Interim Director of HROD and Trade Unions around a wider piece of work around ensuring equality and diversity across the workforce was embedded, which included all protected characteristics.

In terms of incorporating the Council's recently adopted stance on climate change within the procurement process, the Committee was advised that it was planned to include a 10% weighting in two of the major Highways contracts to address any environmental impact as well as the 20% weighting for Social value. He advised that it would be for the Highways department to determine and set the criteria for the 10% environmental impact weighting.

Decision

The Committee notes the report.

RGSC/19/42 Overview Report

The Committee considered a report of the Governance and Scrutiny Support Unit which contained key decisions within the Committee's remit and responses to previous recommendations was submitted for comment. Members were also invited to agree the Committee's future work programme.

The Chair suggested that the Committee should receive a report at its next meeting on the progress that had been made with motions submitted and carried by full Council over the last three years, if possible.

Some of the key points that arose from the Committees discussions were:-

- Further information on the Register of Key Decisions:-
 - Velodrome (reference 2019/05/21E);
 - Airport Car Park Investment (reference 2018/12/14B); and
 - Collection, disposal and recycling of street cleansing and bulky waste (2019/03/01B); and
- A request to consider reviewing capital expenditure within the Highways Department at a future meeting.

The City Solicitor advised that she was already undertaking a piece of work in relation to the tracking of progress with Council motions. She commented that it would be possible to provide a report to the next meeting which provided information on the progress of motions submitted over the last 12 months, but it would take longer to provide this information on motions submitted over the last three years as suggested.

The City Treasurer (Deputy Chief Executive) advised that the Velodrome required a large amount of maintenance akin to all of the Commonwealth Games legacy estate, but could not give any specific detail at the current moment in time. She agreed to provide further information in due course. She also advised that the Airport Car Park Investment proposals had been to Executive and would provide the minute extract for the Committee.

The City Treasurer advised that she was not aware if Neighbourhoods and Environment Scrutiny Committee were planning on scrutinising the collection, disposal and recycling of street cleansing and bulky waste. The Chair commented that she would have a discussion with the Chair of Neighbourhoods and Environment Scrutiny Committee in relation to the scrutiny of the collection, disposal and recycling of street cleansing and bulky waste and the scrutiny of the delivery of Highway capital projects.

Decision

The Committee:-

- (1) Agrees to receive a report at its next meeting on the progress that has been made with motions submitted and carried by full Council over the last 12 months and any future updates will also include the progress of motions older than 12 months;
- (2) Notes that the City Treasurer (Deputy Chief Executive) will provide the Executive minute extract in relation to the Airport Car Park Investment;
- (3) Notes that the Chair will speak to the Chair of Neighbourhoods and Environment Scrutiny Committee in relation to the scrutiny of the collection, disposal and recycling of street cleansing and bulky waste and the scrutiny of the delivery of Highway capital projects; and
- (4) Agrees the work programme for future meetings

**Manchester City Council
Report for Resolution**

Report to: Resources and Governance Scrutiny Committee – 3 September 2019
Executive 11 September 2019

Subject: Council Tax Support Scheme - Treatment of Windrush Compensation Scheme payments

Report of: City Treasurer (Deputy Chief Executive)

Summary

The Council has the discretion to reduce Council Tax liability to people receiving payments from the Windrush Compensation Scheme. This report seeks approval to use the Council's discretion under section 13A (1) (c) of the Local Government Finance Act 1992 to reduce the Council Tax liabilities for these individuals.

Recommendations

The Resources and Governance Scrutiny Committee is recommended to endorse the recommendation to Executive as detailed below.

The Executive is recommended to approve the proposal:

To reduce the liability of a liable person for Council Tax under section 13 A (1) (c) of the Local Government Finance Act for the following class of people:

- People receiving payments from the Windrush Compensation Scheme.
-

Wards Affected – All Wards

Environmental Impact Assessment - the impact of the decisions proposed in this report on achieving the zero-carbon target for the city

No impact

Our Manchester Strategy outcomes	Contribution to the strategy
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	Supporting our residents at difficult times is a key part of the Our Manchester Strategy. Working across service areas with the citizen at the heart of this is key.

A highly skilled city: world class and home grown talent sustaining the city's economic success	
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	This initiative supports residents. It is appropriate that residents do not lose other benefits and support as a result of this compensation.
A liveable and low carbon city: a destination of choice to live, visit, work	
A connected city: world class infrastructure and connectivity to drive growth	

Full details are in the body of the report, along with any implications for:

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

Financial Consequences – Revenue

The financial impact on the revenue budget is calculated based on maintaining the current level of Council Tax Support (CTS) in payment rather than reassessing the award and reducing the amount of CTS awarded. There is therefore not a direct additional spend as a result of this policy.

The financial impact on the revenue budget is therefore not expected to be significant. This is because there are a discrete number of residents based on specific circumstances and those in receipt would need to be liable for Council Tax and also in receipt of Council Tax Support.

The loss of income will be met from the collection fund from where the Council Tax Support Scheme is funded.

Financial Consequences – Capital

None

Contact Officers:

Carol Culley – City Treasurer (Deputy Chief Executive)
 Tel: 0161 234 3406
 E-mail: c.culley@manchester.gov.uk

Julie M Price – Director of Customer Services and Transactions
Tel: 0161 953 8202
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Background documents (available for public inspection):

DWP Circular A8/2019 Windrush Compensation Scheme and Housing Benefit 21
May 2019

<https://www.gov.uk/government/publications/housing-benefit-adjudication-circulars-2019/a82019-windrush-compensation-scheme-and-housing-benefit>

Windrush Compensation Scheme
<https://www.gov.uk/guidance/windrush-compensation-scheme>

1. Introduction

On 3 April 2019 the Home Office announced a Windrush Compensation Scheme (WCS) to provide redress for those individuals who suffered financial loss, due to their inability to demonstrate their lawful right to live and work in the UK. There are various criteria within the WCS that set out what individuals who are eligible can claim.

It is not known how many people may get compensation but the Department for Work and Pensions (DWP) expects that numbers will be low.

DWP advice is that compensation payments made by the Home Office under the WCS and the Windrush Exceptional Payments Scheme should be disregarded for Housing Benefit (HB) purposes on an extra-statutory basis with the agreement of HM Treasury. They have not made any amendments to the HB regulations.

The extra statutory provision applies to anyone in receipt of HB or any of the other income related benefits. They have advised that any payments made to claimants in respect of the WCS should be disregarded for the purposes of income or capital calculations indefinitely.

The Council's current Council Tax Support (CTS) scheme does not include provision to disregard compensation payments from the WCS. This means that beneficiaries of the WCS could lose some or all entitlement to Council Tax Support because of the compensation they receive. This is the case in Manchester's scheme for both elderly and working age people.

It is therefore appropriate that in this situation, scheme changes are made to ensure that the CTS scheme aligns to the new approach determined for the assessment of Housing Benefit. This report details how the Council intends to deal with this and seeks approval from the Executive to provide a local discount. This will ensure that any Manchester resident receiving this compensation does not lose Council Tax Support.

2. Legislation and next steps

It is worth noting that Housing Benefit legislation is provided by the Department for Work and Pensions (DWP) and the legislation relating to the non-localised areas of the Council Tax Support scheme (for pensioners) is provided by the Ministry of Housing, Communities and Local Government (MHCLG)

As advised above, for the HB calculation, the DWP have advised that local authorities should take the required action on an extra-statutory basis. However, it is considered unlikely the Ministry of Housing, Communities and Local Government (MHCLG) will change the rules they set for Council Tax Support schemes. In any case, if MHCLG were to provide for the disregard of WCS payments, this would not take effect until April 2020 and they may apply it only to people of pension age.

It is therefore appropriate that in this situation scheme changes are made to ensure that the CTS scheme aligns to the new approach determined for the assessment of Housing Benefit. This report details how the Council intends to deal with this and seeks approval from the Executive to provide a local discount.

3. Entitlement

The scope of the government's Windrush Compensation Scheme is not limited to men and women who originally came to the UK from the Caribbean Commonwealth. Almost everyone originally from a Commonwealth country who arrived before 1 January 1973 is included.

Any resident who has a right of abode or settled status (or is now a British citizen) and arrived to live in the UK before 31 December 1988 is also eligible to apply regardless of nationality on arrival – even if not a Commonwealth citizen.

The scheme is also open to:

- children and grandchildren of Commonwealth citizens in certain circumstances
- the estates of those who are now deceased but who would have otherwise been eligible to claim compensation
- close family members of eligible claimants where there has been a significant impact on their life or where there is evidence of certain direct financial costs

4. Discretion under section 13A of the Local Government Finance Act 1992

Under section 13A of the Local Government Finance Act 1992, local billing authorities have the discretion to grant reductions and exemptions on an individual basis for a class of council tax payers. Section 13 A (1) (C) of the 1992 Act gives all councils a power to reduce liability in cases where they think fit. It is proposed that this discretionary power is used to implement a discount to a specific class of Council Tax payers namely those liable for Council Tax within the Manchester City Council area who are receiving an element of Council Tax Support and have received compensation from the WCS.

In practice this means that the Council would make a discretionary award to reduce the Council Tax liability, equivalent to what the claimant would have received under the Council's Council Tax Support Scheme (CTSS) had they not received the compensation from the WCS.

This will continue indefinitely unless the government lays regulations to make a disregard of these payments a prescribed requirement of Council Tax Support schemes or we go out to consultation and add it to the disregards defined in our Council Tax Support scheme.

This aligns the Council's approach for Council Tax Support with other means tested benefits whose rules are determined by the DWP on behalf of central government, for example Housing Benefit.

5. **Contributing to a Zero-Carbon City**

No impact

6. **Contributing to the Our Manchester Strategy**

(a) A thriving and sustainable city

Supporting our residents at difficult times is a key part of the Our Manchester Strategy. Working across service areas with the citizen at the heart of this is key.

(b) A highly skilled city

Support will be provided to those residents that require assistance with their self-service and digital access skills development.

(c) A progressive and equitable city

This initiative supports residents. It is appropriate that residents do not lose other benefits and support as a result of this compensation.

(d) A liveable and low carbon city

See above

(e) A connected city

Support will be provided to those residents that require assistance with their self-service and digital access skills development.

7. **Key Policies and Considerations**

(a) Equal Opportunities

The Windrush Compensation Scheme directly affects residents from BME communities. .

It is appropriate that any affected residents do not lose other benefits and support as a result of any compensation. The proposed change ensures that both working age and pensioner residents who may receive compensation do not lose other benefits as a result.

(b) Risk Management

No significant risks identified. The number of residents affected is expected to be low.

(c) Legal Considerations

No further legal considerations identified. The change proposed are within the Council's current discretions under section 13A of the Local Government Finance Act 1992

8. Recommendation

1. The Executive is recommended to consider approving:

That the Council exercise its discretionary powers to reduce the liability of a liable person for Council Tax under section 13A (1) (c) of the Local Government Finance Act for the following class of people:

- People receiving payments from the Windrush Compensation Scheme.
2. The recommendation of this report is that the Council uses this flexibility to grant a discount for a specific class of Council Tax payers, namely those liable for Council Tax in the city who claim Council Tax Support or have been receiving an amount of Council Tax Support but whose entitlement is reduced or extinguished as a result of a payment from the WCS.
3. It is proposed that the use of this flexibility is not time limited. The reason is, that this will allow the Council to administer the discount for as long as is required, which will be until the Council goes out to consultation on any further changes to the Council Tax Support scheme and the scheme regulations are updated so that WCS payments are disregarded when working out entitlement to Council Tax Support.

Appendix 1 – DWP Circular A8/2019 Windrush Compensation Scheme and Housing Benefit

Updated 10 July 2019

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Who should read

All Housing Benefit (HB) staff

Action

For information

Guidance Manual

The information in this circular does not affect the content of the HB Guidance Manual.

Queries

For any general or technical content of this circular, contact:
hdd.strategyteam@dwp.gov.uk

For questions in relation to Local Council Tax Support Schemes, contact the Ministry of Housing, Communities and Local Government at:
council.tax@communities.gov.uk

For distribution of this circular, contact: housing.correspondenceandpqs@dwp.gov.uk

Introduction

1. On 3 April 2019 the Home Office announced a Windrush Compensation Scheme (WCS) to provide redress for those individuals who suffered financial loss, due to their inability to demonstrate their lawful right to live and work in the UK. There are various criteria within the WCS that individuals who are eligible can claim against.

WCS in relation to Housing Benefit

2. This circular gives details about the WCS and how any payments made under the scheme should be treated for the purpose of Housing Benefit (HB) administration and provides guidance to local authorities (LAs) in circumstances where an individual makes a claim for denial of access to benefits (including HB).

3. LAs should be aware that no changes have been made to HB regulations on this matter. But LAs need to be aware of the WCS, which has been developed in consultation with the Department for Work and Pensions (DWP) and other government departments, as there will be some impact.

4. It is not expected that all LAs will receive cases under WCS. Initial estimates suggest that volumes will be low as many individuals will have already made direct contact with the Home Office under the existing 'Home Office Task Force' process. If appropriate these individuals will have had their immigration status corrected and LAs will have reviewed their claims through the ongoing DWP/LA monthly Immigration data share; which has been in existence since December 2016.

LA process

5. The intention of the WCS is for LAs to review and reinstate or award an HB benefit claim (where they have not already done so – see paragraph 4) to eligible Windrush claimants; where current HB legislation allows.

6. Before any action can be taken to revise a benefit claim it is expected that the individual will have made contact with the Home Office Task Force Team, to have their immigration status reviewed and, if appropriate, they will have been provided with the necessary paperwork to prove their lawful right to live and work in the UK.

7. When considering a loss of HB under the WCS there must be a record of a claim to HB made in the prescribed manner. This will allow LAs to reconsider the decision

made at the time of the claim.

8. All pass-ported HB cases are being dealt with by DWP in the same way. Following DWP operations making a revised decision on the claim, Housing Delivery Division (HDD) will send LAs a clerical notification prior to receipt of the automated ATLAS (Automated Transfer to LA Systems) alert.

9. Where evidence confirms that an HB claim was made and the decision to refuse or terminate that claim was reached without knowledge of a material fact or based on incorrect information, in line with current legislation decisions should be revised and payments awarded.

LA action

10. DWP's Housing Delivery Division (HDD) will act as a main conduit with the Home Office and will only make contact with LAs by exception to:

- check if an individual had a historical HB claim that was refused or terminated due to the claimant's immigration status and provide dates to DWP
- alert LAs to a WCS claim to HB using an electronic form (using the existing Home Office data share single point of contact (SPOC)). LAs should then review their original decision on a refused/terminated claim and, where appropriate, arrange for HB payments, including backdated payments, to be made in accordance with current guidance/legislation.

11. The LA must then complete the form and return it via email to HDD at hdd.strategyteam@dwp.gov.uk

12. You should note, it is not expected that the Home Office will contact an LA directly regarding WCS and the loss of benefits.

How LA should treat payments made under the WCS

13. Compensation payments made by the Home Office under the WCS and the Windrush Exceptional Payments scheme should be disregarded for HB purposes on an extra-statutory basis with the agreement of HM Treasury. No amendments will be made to HB regulations.

14. The extra statutory provision applies to anyone in receipt of HB or any of the other income related benefits. Any payments made to claimants in respect of the WCS should be disregarded for the purposes of income or capital calculations indefinitely.

Additional funding

15. Consideration of the provision of funding for those LAs who may be disproportionately affected will be considered in the Autumn 2019 when impacts will be clearer. HDD is acting as a SPOC for liaison with LAs in regard to specific Windrush compensation cases and management information will be gathered to inform those impacts.

Signposting claimants

16. Should an LA receive an enquiry from a claimant or member of the public regarding their immigration status or making a Windrush Compensation Claim you should use the following Home Office contact details.

Immigration status enquiries

Phone: 0800 678 1925
Monday to Saturday 9am to 5pm
Email: commonwealthtaskforce@homeoffice.gov.uk

Making a Windrush Compensation claim

Phone: 0800 678 1925
Monday to Friday 9am to 5pm
Email: WindrushCompensationScheme@homeoffice.gov.uk

Further information about the WCS

17. Further guidance regarding the WCS can be found at:
<https://www.gov.uk/guidance/windrush-compensation-scheme>

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