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**Nottingham
City Council**

Additional / To Follow Agenda Items

This is a supplement to the original agenda and includes reports that are additional to the original agenda or which were marked 'to follow'.

Nottingham City Council City Council

Date: Monday, 11 July 2022

Time: 2.00 pm

Place: Council House, Old Market Square

Governance Officer: Jane Garrard, Senior Governance Officer **Direct Dial:** 0115 8764315

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Questions from Citizens

PQ1

Question to be asked on behalf of CS of the Leader of the Council at the meeting of the City Council to be held on 11 July 2022

During the last few years the Council has participated in a Big Conversation with members of the public about the future use of the Broadmarsh. Overwhelmingly people demanded a green and sustainable area with socially inclusive use. Therefore, I am asking for assurance that current and/or future plans for the space, as well as including a park, will only include buildings that are constructed to at least Green Building Council Framework Standards, will not include fossil fuel use, will insulate up to passivhaus standards, will include heat pumps and solar panels, energy storage and energy-sharing schemes. I am also asking the Council for assurance that the development will include indoor spaces that are welcoming and financially accessible to all members of the community, including for creative and group use. I would also like to be reassured that the plans include responsible use of waste products generated.

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Questions from Councillors

CQ1

Question to be asked by Councillor Maria Watson of the Portfolio Holder for Children, Young People and Schools at the meeting of the City Council to be held on 11 July 2022

On reopening in 2015 following a £500,000 renovation, the then Portfolio Holder for Children's Services and current Leader said, and I quote: "*There was a need for a new and updated centre in Clifton and we saw the importance of investing in somewhere children and young people can socialise and meet new friends.*" Can the Portfolio Holder illustrate what it has done to replace the services lost in Clifton which it previously described as a "need"?

CQ2

Question to be asked by Councillor Maria Watson of the Portfolio Holder for Leisure, Culture and Planning at the meeting of the City Council to be held on 11 July 2022

Can the Portfolio Holder provide updates, both on the future of Aspley, Radford and Basford Libraries, as well as the progress on the Central Library?

CQ3

Question to be asked by Councillor Kirsty Jones of the Leader of the Council at the meeting of the City Council to be held on 11 July 2022

Given that the money unlawfully misspent by Nottingham City Council and Nottingham City Homes now amounts to £40million, what impact does the Leader believe that the money wrongly going to the General Fund and not the Housing Revenue Account has had on the residents that it has been held back from?

CQ4

Question to be asked by Councillor Kirsty Jones of the Portfolio Holder for Highways, Transport and Parks at the meeting of the City Council to be held on 11 July 2022

We wait with anticipation for the results of the proposed consultation on the future of the Victoria Embankment paddling pool, but it seems clear that the public opinion is already heavily in favour of returning it to its former glory.

Can the Portfolio Holder outline how the Council is proposing to afford to replace the paddling pool when it seemingly cannot afford to repair it? Is this not just a holding tactic to head off more unflattering headlines of closing facilities?

CQ5

Question to be asked by Councillor Kirsty Jones of the Portfolio Holder for Neighbourhoods, Safety and Inclusion at the meeting of the City Council to be held on 11 July 2022

Can the Portfolio Holder provide an update on the status of Highbank Community Centre and its future? Are there any indications that it may reopen anytime soon?

CQ6

Question to be asked by Councillor Samuel Gardiner of the Portfolio Holder for Housing and Human Resources at the meeting of the City Council to be held on 11 July 2022

5 years on from tragedy of the Grenfell Fire, could the Portfolio Holder for Housing and Human Resources please update Council on the actions we have taken to ensure the safety of residents of high rise buildings across the city and particularly the lessons learned from the ongoing inquiry.

CQ7

Question to be asked by Councillor Nayab Patel of the Portfolio Holder for Finance at the meeting of the City Council to be held on 11 July 2022

In light of the news that Central Government is minded to implement commissioners at Nottingham City Council, could the Portfolio Holder for Finance please comment on why they feel commissioners are being brought in despite the good progress made by and willingness to change and improve shown by Nottingham City Council to date?

CQ8

Question to be asked by Councillor Audrey Dinnall of the Portfolio Holder for Finance at the meeting of the City Council to be held on 11 July 2022

Does the Portfolio Holder for Finance recognise the true scale of the cost of living crisis currently affecting Nottingham people? What is Nottingham City Council doing to help people and what pressure can she bring to bear on Government Ministers to provide further help to people urgently?

CQ9

Question to be asked by Councillor Georgia Power of the Portfolio Holder for Housing and Human Resources at the meeting of the City Council to be held on 11 July 2022

The 30th July will mark this year's Nottinghamshire Pride celebrations, is the Portfolio Holder for Housing and Human Resources able to confirm Nottingham City Council's support for this event and what other actions the Council is taking to be an inclusive employer for all LGBTQ+ persons?

CQ10

Question to be asked by Councillor Michael Edwards of the Leader of the Council at the meeting of the City Council to be held on 11 July 2022

Is the Leader able to inform me as to what actions have been taken in Nottingham to reduce speed on our roads?

CQ11

Question to be asked by Councillor Andrew Rule of the Leader of the Council at the meeting of the City Council to be held on 11 July 2022

The Leader of the Council will be aware that the Secretary of State has indicated that one of their main areas of concern with the Council's improvement journey remains the lack of governance framework that defines the relationship between the Council and its companies. How does the Leader intend to rectify this?

CQ12

Question to be asked by Councillor Andrew Rule of the Leader of the Council at the meeting of the City Council to be held on 11 July 2022

Next month will see the anniversary of the Leader's decision to cancel Goose Fair due to Covid. Can the Leader of the Council reassure residents that Goose Fair will be reinstated this year and it will remain a free event?

Questions from Councillors requiring a written response

WQ1

Written question to be asked by Councillor Andrew Rule of the Portfolio Holder for Leisure, Culture and Planning at the meeting of the City Council to be held on 11 July 2022

On 13 June 2019 the Council announced, via the My Nottingham website, that it had been awarded the sum of £1.5million from the National Lottery Heritage Fund to "secure the future of The People's Hall". Given that the intended third party company declined the grant due to the conditions attached to it and no work has been completed on The People's Hall, can the Portfolio Holder confirm whether this grant was returned to the National Lottery Heritage Fund?

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City Council - 11 July 2022

Report of the Leader of the Council

Corporate Director/ Director:

Mel Barrett, Chief Executive

Report Author and Contact Details:

Richard Beckett, Head of Major Projects, richard.beckett@nottinghamcity.gov.uk

James Schrodel, Policy and Performance Team Manager,

james.schrodel@nottinghamcity.gov.uk

Title: Proposed Statutory Intervention

Does the report form part of the Budget or Policy Framework?

Yes No

Does this report contain any information that is exempt from publication?

No

Relevant Council Plan Key Outcome:

Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Financial Stability	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>

1. Summary

- 1.1 The Chief Executive has received a letter from the Department for Levelling Up, Housing and Communities (DLUHC) which sets out that Government is 'minded to' implement an intervention package at Nottingham City Council. The City Council has made a representation to the Secretary of State in response to that letter.

2. Recommendations

- 2.1 That DLUHC's letter dated 23 June 2022 stating that the Secretary of State is 'minded to' intervene is formally noted, together with the Council's letter of representation.

3. Reasons for recommendations

- 3.1 The Secretary of State for Levelling Up, Housing and Communities' is minded to implement an intervention package at Nottingham City Council. If confirmed, this would be extremely serious and would be likely to have a significant impact on the Council.

3.2 Given the significance of the proposed intervention and the impacts on the conduct of Council affairs, it is essential that it is formally noted by all councillors, together with the representation that Nottingham City Council has made to the Secretary of State in response.

4. **Other options considered in making recommendations**

4.1 The Government's letter setting out that it is minded to intervene might not be formally noted at this meeting. Such an approach would miss the opportunity to ensure that all councillors are formally aware of the significance of the Secretary of State's proposed statutory intervention.

5. **Consideration of Risk**

5.1 Formally noting the Secretary of State's proposed intervention and the Council's representation does not have any risk implications directly associated with it.

6. **Background (including outcomes of consultation)**

6.1 On the 23rd June 2022 the Minister for Equalities, Local Government, Faith and Communities announced in a written ministerial statement that the Secretary of State for Levelling Up, Housing and Communities is 'minded to' intervene in Nottingham City Council (Appendix One).

6.2 On the same day, a letter was sent to the Chief Executive of Nottingham City Council from DLUHC setting out the justification for the proposed intervention, proposed functions of the Commissioners, directions for the Council and also inviting the Council to make any representations to the Secretary of State by 7th July 2022 before a final decision is made about intervention at the Council (Appendix Two).

6.3 The proposed intervention at Nottingham City Council would see the appointment of Commissioners for two years, led by the current Chair of the Improvement and Assurance Board in Nottingham, Sir Tony Redmond.

6.4 The Secretary of State proposes that the following functions would be exercised by the Commissioners:

- *"All functions associated with the governance and scrutiny of strategic decision making by the Authority, to include:*
 - o *Overseeing the full range of the Authority's improvement activities, including its strategies to secure the medium to long term sustainability of the Council, its plans to uncover all instances of poor governance, and its plans to transform front line services and the culture of the organisation.*

- *All functions associated with the strategic financial management of the Authority, to include;*
 - o *The requirements from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs;*

- *Providing advice and challenge to the Council to improve its financial stability and its ability to meet future commitments without additional borrowing, including advising upon credible budget planning;*
 - *The power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty;*
 - *Providing advice and challenge to the Council on the governance and structure of its commercial portfolio.*
- *All functions relating to the appointment and dismissal of persons to positions, the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers, to include:*
- *The functions of designating a person as a statutory officer and removing a person from a statutory office;*
 - *The functions under section 112 of the Local Government Act 1972 of appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority”.*

(Annex Proposed Intervention Package – Letter from Deputy Director, Local Government Stewardship to the Chief Executive of Nottingham City Council 23rd June 2022 – Appendix Two to this report)

6.5 The deadline for making representations on the above proposals was the 7th July 2022. The Council's submission, which was shared with the leaders of both opposition groups and signed by the Leader and Chief Executive, is attached as Appendix Three to this report. The main points are summarised below:

- A commitment to the Council's full co-operation should commissioners be appointed.
- Welcoming the appointment of Sir Tony Redmond as Lead Commissioner should intervention be implemented.

6.6 The Council now awaits the outcome of the Secretary of State's consideration of the representation.

7. Finance colleague comments (including implications and value for money)

7.1 The most immediate implication of such a move would be the establishment of a Commissioners Office and support arrangements to ensure that their functions could be discharged efficiently. This size and scope will be a matter for discussion with the Commissioners but will be at the Council's expense.

7.2 In the longer run, the financial implications are not yet clear but should the Commissioners require the Council to go deeper and further in support of delivering its 'Together for Nottingham' plan, the financial impacts of this would need to be assessed and agreed with the Commissioners within the parameters of the Council's Financial framework.

- 7.3 Members will be kept up to date on any implications regularly through financial reporting to the Executive Board.

Clive Heaphy, Corporate Director, Finance & Resources and Section 151 Officer, 7th July 2022

8. Legal colleague comments

- 8.1 The ability of the Secretary of State to implement an intervention following the “minded to” letter, and after consideration of representations by the Council, arises under powers contained in Part 1 of the Local Government Act 1999 (the Act). S15(6)(a) of the Act enables the Secretary of State to issues directions in relation to how certain functions of the Council shall be exercised either by the Secretary of State personally, or by a person nominated by them. That section also enables the Secretary of State to specify in any direction how long it shall apply for or for such period as they consider appropriate. Section 15(6) (b) of the Act requires the Council to comply with any instruction given by the Secretary of State, or their nominee, in relation to the exercise of the function and to provide such assistance as they may require for that purpose.

Malcolm R. Townroe, Director of Legal and Governance, Solicitor. 5 July 2022

9. Other relevant comments

- 9.1 None

10. Crime and Disorder Implications (If Applicable)

- 10.1 Not applicable – this report concerns the formal noting of correspondence received from the Department for Levelling Up, Housing and Communities and the representation that the Council has made in response to these.

11. Social value considerations (If Applicable)

- 11.1 Not applicable – this report concerns the formal noting of correspondence received from the Department for Levelling Up, Housing and Communities and the representation that the Council has made in response to these.

12. Regard to the NHS Constitution (If Applicable)

- 12.1 Not applicable – this report concerns the formal noting of correspondence received from the Department for Levelling Up, Housing and Communities and the representation that the Council has made in response to these.

13. Equality Impact Assessment (EIA)

- 13.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

(Please explain why an EIA is not necessary)

Not applicable – this report concerns the formal noting of correspondence received from the Department for Levelling Up, Housing and Communities and the representation that the Council has made in response to these.

14. **Data Protection Impact Assessment (DPIA)**

14.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because:
(Please explain why a DPIA is not necessary)

Not applicable – this report concerns the formal noting of correspondence received from the Department for Levelling Up, Housing and Communities and the representation that the Council has made in response to these.

15. **Carbon Impact Assessment (CIA)**

15.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because:
(Please explain why a CIA is not necessary)

Not applicable – this report concerns the formal noting of correspondence received from the Department for Levelling Up, Housing and Communities and the representation that the Council has made in response to these.

16. **List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

16.1 None

17. **Published documents referred to in this report**

17.1 Written Ministerial Statement – Statutory Intervention: Nottingham City Council: 'Minded To' decision – 23rd June 2022

[Statutory Intervention: Nottingham City Council: 'Minded to' decision - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/2022-06-23-statutory-intervention-nottingham-city-council)

17.2 Letter to Nottingham City Council Chief Executive, regarding the Secretary of State's 'minded to' decision to intervene and appoint commissioners

[Nottingham City Council: Letter to the Chief Executive - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/letters/correspondence/2022-06-23-letter-to-the-chief-executive-nottingham-city-council)

Councillor David Mellen
Leader of the Council

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**Appendix One - Written Ministerial Statement – Statutory Intervention:
Nottingham City Council: ‘Minded To’ decision**

Statement made by:

Kemi Badenoch

Minister of State for Equalities, Local Government, Faith and Communities

Statement Date: 23rd June 2022

Statement

All Hon Members will recognise the critical role local councils play in providing essential statutory services to their residents and being accountable to the communities they serve. That is why the situation at Nottingham City Council is of such concern.

Despite significant support, Nottingham City Council has struggled to resolve serious governance and financial issues. In November 2020, following a number of issues raised in a Public Interest Report published in August 2020 by the Council’s external auditors Grant Thornton, a rapid non-statutory review was conducted into the Council to review the serious governance and risk management issues associated with its energy company Robin Hood Energy. The report presented by Max Caller CBE highlighted serious governance failings, poor risk management and the pursuit of commercial ventures which had resulted in a significant budget gap and low levels of reserves.

The former Secretary of State appointed an independent Improvement and Assurance Board in January 2021, chaired by Sir Tony Redmond and made up of independent experts, to offer the Council advice, expertise and challenge as it sought to address these failings. The Board have provided regular assurance reports to the Secretary of State on the Council’s progress throughout this time.

In December 2021, the Council discovered unlawful accounting practices associated with its ring-fenced Housing Revenue Account (HRA), covering the period 2014/15 to 2020/21 and totalling £15.86 million. In response, the Council issued Section 114 and Section 5 notices and commissioned independent reports from an LGA associate (Richard Penn) and the Chartered Institute of Public Finance and Accountancy (CIPFA) to understand the scale of the unlawful expenditure and decision-making processes that ultimately led to this situation. These comprehensive reports (“the Reports”) can be found at:

<https://committee.nottinghamcity.gov.uk/documents/s133381/Key%20Findings%20Report%20for%20Nottingham%20City%20Council.pdf>

<https://committee.nottinghamcity.gov.uk/documents/s133382/NCC%20HRA%20Phase%20%20Final%20Report%20260422%20002%20-%20FINAL.pdf>

The Reports paint a deeply concerning picture of serious historic financial and governance failings. This includes the failure of the Council and its wholly-owned company Nottingham City Homes (NCH) to maintain the integrity of its HRA ringfence, and NCH operating without strategic oversight given poor client management and governance by the Council. The Penn report does not conclude that unlawful accounting practice was a deliberate mechanism to divert funds from the HRA to support the General Fund, but provides evidence of cultural failings and a reluctance to escalate issues appropriately, which led to the situation remaining unchallenged over several years. The scale of the unlawful expenditure may also be more substantial than originally thought, with CIPFA now estimating that it could be up to £40 million.

In light of this evidence, the Secretary of State is satisfied that Nottingham City Council is failing to comply with its best value duty, and is minded to implement the intervention package set out below to secure compliance with that duty. To that end, and in line with procedures laid down in the Local Government Act 1999, officials in my department have today written to the Council seeking representations on the Reports and on the proposed intervention package.

I want to place on record that the Secretary of State recognises the actions taken by the current Chief Executive to address the unlawful HRA expenditure since it was first identified in December last year. He has worked closely and constructively with the Improvement and Assurance Board since January 2021 in addressing the many challenges the Authority faces. However, whilst the building blocks of recovery have been put in place, there are many difficult decisions ahead and the scale of the challenge cannot be underestimated. The Secretary of State agrees with the Board's assessment that the HRA issue represents a 'serious setback' and is concerned that further serious issues may yet be uncovered which could have a severe impact on the Authority's ability to maintain and increase the momentum of the required improvements. This lack of assurance, along with the risk of progress stalling or slowing, is significant and the proposed intervention is therefore both necessary and expedient to secure compliance with the best value duty.

The proposed package is centred on the appointment of Commissioners to exercise certain and limited functions as required, for two years. It is envisaged this will be a shorter and narrower intervention than has been seen previously due to the Council being subject to a non-statutory intervention since January 2021. The proposal is for the Council, under the oversight of the Commissioners, to re-appraise its Improvement Plan within the first three months of the intervention and report on the delivery of that Plan to the Secretary of State every six months.

It is important that the Council leads their recovery but that it does not lose momentum in making the necessary improvements. Sir Tony Redmond has forged constructive working relationships with the Council leadership and has an intrinsic understanding of the scale and nature of the challenges facing the City. The Secretary of State is therefore minded to appoint Sir Tony Redmond as Lead Commissioner, subject to representations received on the proposed intervention package.

Given the gravity of the Reports' findings, the Secretary of State is, consequently, proposing to direct the transfer to Commissioners all functions associated with:

- the governance and scrutiny of strategic decision making by the Authority;
- the strategic financial management of the Authority under section 151 of the Local Government Act 1972; and
- the appointment and dismissal of persons to positions the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers under section 112 of the Local Government Act 1972.

I hope it will not be necessary for the Commissioners to use these powers, but they must be empowered to do so if they consider that required improvement and reforms are not being delivered.

I am inviting representations from the Council on the Reports and the Secretary of State's proposals by 7 July 2022. We want to provide the opportunity for members and officers of the Council, and any other interested parties, especially the residents of Nottingham, to make their views on the Secretary of State's proposals known. Should the Secretary of State decide to intervene along the lines described here, he will make the necessary statutory directions under the 1999 Act and appoint Commissioners. I will update the House in due course.

The Government does not take these steps lightly and recognises and respects the role of local councils in our communities and our democracy.

The Government also recognises the importance of councils having an effective relationship with their local auditor. I urge all councils to consider whether they could be doing more to ensure they are delivering the good governance that residents deserve, including considering the governance risk and resilience toolkit developed by the Centre for Governance and Scrutiny.

Despite rare cases like Nottingham, as a whole, local authorities in England have a good record of service delivery, transparency, probity, scrutiny, and accountability. It is a reputation worth protecting. Local councils must continue to act to benefit the communities they serve.



Department for Levelling Up,
Housing & Communities

Mel Barrett
Chief Executive
By email

Max Soule
*Deputy Director, Local Government
Stewardship*

**Department for Levelling Up,
Housing and Communities**
2 Marsham Street
London SW1P 4DF

www.gov.uk/dluhc

23 June 2022

Dear Mel,

I am writing to invite your Authority, if it wishes, to make to the Secretary of State representations about the intervention he is proposing, following the publication of the two independent reports into the unlawful Housing Revenue Account (HRA) expenditure and the latest progress report and HRA assessment by the Nottingham City Council Improvement and Assurance Board. This letter proposing this intervention will be published on www.gov.uk.

I would like to take this opportunity to formally recognise the hard work of many of the staff at your Authority, including yourself, as the Council continues on its improvement journey. The Secretary of State is mindful that you and your Corporate Leadership Team have worked closely and constructively with the Improvement and Assurance Board since January 2021 to address the many challenges the Authority faces. Whilst the building blocks for the Authority's recovery are in place, many difficult decisions remain, and it is essential that the proposed intervention does not distract the Authority from the vital improvements that are starting to be made.

It is important that the Council does not lose momentum in making the necessary improvements. The Secretary of State is therefore minded to appoint Sir Tony Redmond as Lead Commissioner, subject to representations received on the proposed intervention package, given your constructive existing working relationship and his understanding of the scale and nature of the challenges facing the Council. The 'minded to' decision does though represent a significant shift in Government's interaction with the Council, which to date has been on a non-statutory basis, and you will wish to reflect on the impact the proposed intervention package could have on your improvement plans moving forward and the way you would work with Commissioners, if they are appointed.

The Secretary of State has carefully considered the findings and recommendations of the independent reports by Richard Penn (LGA Associate) and the Chartered Institute of Public Finance and Accountancy (CIPFA) which were published on 23 April. He is satisfied on the basis of matters set out in the Reports that your Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the best value duty. On that basis, he is considering exercising the powers of direction in the 1999 Act in relation to your Authority to secure its compliance with the best

value duty. The package of measures which he is proposing to implement through appropriate Directions is set out in the attached Annex.

Your Authority is now invited to make such representations as it wishes about the Reports and the Secretary of State's proposals. All such representations should be sent by email to maxwell.soule@levellingup.gov.uk or in hard copy to the address above marked for my attention, so as to be received on or before Thursday 7 July. They will then be carefully considered by the Secretary of State when deciding whether to make any and, if so, what Directions.

I am copying this letter to the Authority's Section 151 Officer and Monitoring Officer.

Yours sincerely,

Max Soule
Deputy Director, Local Government Stewardship

PROPOSED INTERVENTION PACKAGE

1. The Secretary of State is considering exercising his powers of direction under section 15 of the Local Government Act 1999 (“the 1999 Act”) in relation to Nottingham City Council (“the Authority”) to secure its compliance with the best value duty. He is doing so following the publication of the independent reports by Richard Penn (LGA Associate) and the Chartered Institute of Public Finance and Accountancy (CIPFA) into the unlawful Housing Revenue Account (HRA) expenditure which was identified by the Authority in December 2021. The Secretary of State has considered this evidence alongside the quarterly assurance reports provided by the Nottingham City Council Improvement and Assurance Board, chaired by Sir Tony Redmond, who has provided advice, expertise and challenge to the Authority following its rapid non-statutory review in November 2020.
2. Whilst the independent reports conclude that the Authority is now on an improvement journey, they evidence failings of the utmost seriousness and provide considerable evidence of significant and systemic best value failure. In light of this evidence, the Secretary of State is minded to implement the intervention package set out below. The Secretary of State is supportive of the steps the Authority has taken to address the unlawful HRA expenditure since it was discovered last December. The Chief Executive has also worked closely and constructively with the Improvement and Assurance Board since January 2021 to address the many challenges the Authority faces. However, whilst the building blocks of recovery have been put in place, difficult decisions will be required moving forward and the scale of the challenge cannot be underestimated. The Secretary of State is concerned that further serious issues may be uncovered which could have a severe impact on the Authority’s ability to maintain and increase the momentum of the required improvements. This lack of assurance, as highlighted in the Improvement and Assurance Board’s latest progress report and Sir Tony Redmond’s assessment of the HRA issue, along with the risk of progress stalling or slowing, is significant and the proposed intervention is necessary and expedient to secure compliance with the best value duty.
3. The Secretary of State has set out his proposals in order to assist the Authority to formulate any representations it may choose to make. He acknowledges that, save in cases of urgency, the Authority has a statutory right to make representations if the Secretary of State is considering making a direction. He will carefully consider those representations in deciding whether to make any and if so what Directions. He specifically reserves his ability to make further or revised Directions after implementing this, or any, intervention package (if that is what he decides to do).

Overall purpose and approach

4. The starting point is the evidence, as set out in the independent reports and in the assessments by the Improvement and Assurance Board, which highlight serious governance concerns and an ineffective culture whereby scrutiny and challenge are lacking. The Secretary of State has concluded that there are significant concerns around the Authority's overall strategic approach to risk and financial management. It is also a concern that further serious issues may yet be uncovered and there is a lack of assurance regarding the actions being taken to determine and address these concerns, alongside on-going capacity constraints which will hamper the Authority's recovery. In particular, the Reports include the following:
- On governance, until recently the Authority has failed to take an effective grip of key issues facing the Authority. There is evidence that the Authority has not made progress at the pace of change expected since the commencement of the intervention and appointment of the Improvement and Assurance Board in January 2021, particularly in relation to the review of its commercial portfolio and associated governance arrangements. The Improvement Board and external auditors are highly critical at the speed at which the Authority is addressing this issue. The commercial portfolio review remains incomplete and should have been expediated by the Authority, noting this was due to be completed within the first year of the Recovery Plan (*Recommendation 5, Non-statutory review Report November 2020*). There has also been a lack of challenge within the Authority with regards the decisions being taken that impacted the HRA, a lack of understanding of the HRA ring-fence and/or a lack of will to maintain the integrity of the ring-fence. The independent reports also highlight serious governance failings, a lack of overview and scrutiny, poor record keeping as well as processes that are not fit for purpose. The Improvement Board have commented that whilst "*a large proportion of the failings are historical, a number of those shortcomings have yet to be completely eradicated*" and these behaviours have continued under the current leadership.
 - On financial governance, there has been a failure over several years to properly scrutinise proposals, ensure transactions are lawful and maintain the integrity of the HRA ringfence, poor record keeping relating to HRA transactions, and an overall lack of grip on financial management. Accounts for both 2019/20 and 2020/21 remain open with the risk of formal qualification by external auditors in respect of one or both years. In addition, while financial leadership in the Council has improved since the appointment of the Improvement Board, concerns have been raised by both the Improvement Board and the Council's external auditor, Grant Thornton, regarding the adequacy of the financial control regime across the whole Council, with particular attention drawn to the capacity of the current finance team. Resourcing needs to be addressed to ensure recovery can be delivered, noting the current Section 151 officer and Deputy Section 151 officer roles are filled on an interim basis, and that capacity and expertise within the wider finance function needs improvement.

- On culture and leadership, a poor culture has been allowed to embed within the Authority over several years, whereby robust challenge and intellectual curiosity did not take place, or on occasions when it did happen, was subsequently ignored. Whilst the current leadership has taken positive steps to address these failings, these deep-rooted practices will take time to resolve. There is viable concern, as set out by the Improvement and Assurance Board, that the issues that have been uncovered with relation to the HRA may have permeated into other areas of the Authority.
 - On services, the Authority's actions in diverting money from the HRA to the General Fund has had a negative impact on some of the Council's most vulnerable residents. The magnitude of the issues facing Nottingham City Council's portfolio of companies raises concern that the Council does not have the capacity to act at the pace required to remedy the problems, and there is a risk this will impact on service delivery.
 - On capacity or capability to improve, while progress under the Chief Executive and recently consolidated Leadership Team is recognised, it is noted that capacity constraints within the Authority remain, particularly with regards the council's finance function. The Improvement and Assurance Board notes that the quality of financial planning, management and control across the Authority is such that it requires a credible and properly resourced improvement programme moving forward.
5. The Secretary of State considers that given the evidence of governance culture concerns revealed by the Report, a broad and wide-ranging intervention package would be necessary and expedient to address the circumstances of the Authority.
 6. The proposed intervention package would need to, and is designed to, cement and expand on the progress that has been seen over recent months. It recognises the building blocks that have been put in place, whilst also appreciating the scale of the challenge and how much improvement is necessary for the Authority to deliver its best value duty. Such an intervention package would need:
 - To ensure that a strategic and systematic approach to risk management, with appropriate scrutiny and governance of the decision-making processes and procedures, is adopted and embedded across the Authority;
 - To continue to rebuild the governance capacity of the Authority, addressing the historic culture of poor financial management and governance of its commercial portfolio;
 - To restore public trust and confidence in the Authority by putting an end to any of the Authority's activities, practices, and omissions which are, or risk being, not compatible with the best value duty;

- To secure as soon as practicable that all the Authority's functions are exercised in conformity with the best value duty thereby delivering improvements in services and outcomes for the people of Nottingham.

Commissioners

7. The proposed intervention package accordingly involves putting in place Commissioners who between them will have experience to work closely with the Authority. It is important that the Council leads their recovery but that it does not lose momentum in making the necessary improvements. Sir Tony Redmond has forged constructive working relationships with the Council leadership and has an intrinsic understanding of the scale and nature of the challenges facing the Authority. The Secretary of State is therefore minded to appoint Sir Tony Redmond as Lead Commissioner, subject to representations received on the independent reports and proposed intervention package.
8. The following Directions are proposed in relation to the Commissioners. The Secretary of State proposes to direct that the Authority's functions listed below are to be exercised by the Commissioners, who will act jointly or separately, and that the Authority is to provide the Commissioners with such assistance and information, including any views of the Authority's members on the matter in question, as the Commissioners may request. It is envisaged that in exercising any function the Commissioners will have regard to any views the Authority's members and officers arrived at through their normal processes of consideration. In particular, the Secretary of State is mindful that the Chief Executive and his team have taken considerable steps to address the unlawful HRA expenditure and have made progress on the Authority's wider improvement journey, and envisages that the Commissioners would build on the work they have started and work closely with them.
9. The Secretary of State proposes that this Direction to the Authority should be in place for up to two years. If the Secretary of State considers at any time that it would be appropriate to change the Direction or withdraw it, then he will do so. His concern will be to ensure that the Direction operates for as long, but only as long, and only in the form, as he considers it should operate in order to secure the objectives set out above.

Functions to be exercised by the Commissioners

10. For the reasons set out above, the Secretary of State considers that the proposed scope of intervention needs to focus on the Authority's overall strategic approach to risk and financial management, to ensure that the appropriate procedures and processes are in place and that the Authority has the capacity and capability to fulfil its best value duty. Accordingly, he is proposing to direct that the following functions should be exercised by the Commissioners:

- All functions associated with the governance and scrutiny of strategic decision making by the Authority, to include:
 - Overseeing the full range of the Authority's improvement activities, including its strategies to secure the medium to long term sustainability of the Council, its plans to uncover all instances of poor governance, and its plans to transform front line services and the culture of the organisation.
- All functions associated with the strategic financial management of the Authority, to include;
 - The requirements from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs;
 - Providing advice and challenge to the Council to improve its financial stability and its ability to meet future commitments without additional borrowing, including advising upon credible budget planning;
 - The power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty;
 - Providing advice and challenge to the Council on the governance and structure of its commercial portfolio.
- All functions relating to the appointment and dismissal of persons to positions, the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers, to include:
 - The functions of designating a person as a statutory officer and removing a person from a statutory office;
 - The functions under section 112 of the Local Government Act 1972 of appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.

Actions for the Authority

11. The proposed Directions also set out actions which the Authority must undertake to effect the changes which are needed as well as supporting and facilitating the work of the Commissioners.
12. To achieve and facilitate the objectives of the intervention, the Secretary of State proposes to direct the Authority in the first three months to re-appraise the Nottingham City Council Improvement Plan, to the satisfaction of Commissioners, with resources allocated accordingly and activities to implement the recommendations contained in the independent Penn and CIPFA reports, and as a minimum, the following components:

- Actions to ensure that a strategic and systematic approach to risk management, coupled with the appropriate scrutiny and governance of decision-making processes and procedures, is adopted and embedded across the Authority.
- Actions to deliver financial stability in the Authority, including investigation to establish accuracy and suitability of current financial accounts and management controls, rapid and sustainable improvements to its scrutiny function, financial and risk management, strengthening accounting processes and reporting arrangements.
- Actions to secure improvement in the governance and structure of the commercial portfolio.
- Actions to secure continuous improvement in all services.

13. The Secretary of State proposes further to direct the Authority to undertake the measures set out in the plan, under the direction of the Commissioners, and such other measures as the Commissioners require, and to provide the Secretary of State with progress reports, agreed with the Commissioners, at 6 monthly intervals following the start of the intervention.

14. In addition, the Secretary of State proposes to direct the Authority to undertake in the exercise of any of its functions any action that the Commissioners may reasonably require to avoid so far as practicable incidents of poor governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.

15. Furthermore, the Secretary of State proposes to direct the Authority:

- a) To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
 - i. to any premises of the Authority;
 - ii. to any document relating to the Authority: and
 - iii. to any employee or member of the Authority.
- b) To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require to carry out their functions and responsibilities under these Directions.
- c) To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
- d) To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.

- e) To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

Duration of intervention

16. The Secretary of State proposes that the Commissioners will be in place for an initial period of two years, and that this should only be extended if the Authority fails to make satisfactory progress in implementing and embedding the changes necessary to deliver Best Value in its governance and operations.

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7 July 2022

Dear Max

PROPOSED INTERVENTION – NOTTINGHAM CITY COUNCIL

Thank you for your letter of 23 June 2022 confirming the Secretary of State is minded to intervene in Nottingham City Council and outlining the terms of the proposed intervention package. Your letter also invited the council to make representations prior to a final decision being made and these representations are set out below.

Over the last 18 months the council has been undertaking a comprehensive organisation wide transformation and improvement programme, arising from the need to respond to the failures of governance in relation to Robin Hood Energy. We have understood that the seriousness of the issues and the need for improvement was not centred on a narrow technical issue of an individual company, but on the underlying way that we do things and we have sought to do this in an open and transparent way.

“Together for Nottingham” is our overarching improvement programme, which has benefitted from the input, support and challenge from our Improvement and Assurance Board (IAB), chaired by Sir Tony Redmond. Solid progress has been made including the development and adoption of a 4-year Medium Term Financial Plan, improved governance and decision making supported by greater clarity around member officer relationships, together with positive progress being made on our large scale transformation and improvement programmes. Whilst acknowledging there is more to do these significant achievements have been acknowledged by the IAB. We believe that the current support arrangements in place through the IAB are working well and it would be the council's preference that these arrangements remain in place.



Safer, cleaner, ambitious
Nottingham
A city we're all proud of

Cultural change in an organisation takes time, we believe the changes we have made (and will continue to make) show the organisation to be very different to the one it was a few years ago. The council identified the HRA issue and was immediately seized on the need to take prompt and serious action to put things right which it has done, and this is borne out by Richard Penn's Independent Investigation Report which states,

"This episode has of course been a disappointing setback for the Council on its improvement journey which has centred on improving strategic financial management and governance – poor examples of both have been identified through this investigation. Notwithstanding that the issue has been identified and dealt with by the Council itself, clearly demonstrates that the improvement journey is very much on track, and that there has been a sufficient shift in organisational culture that NCC senior officers have exposed the issue, spoken 'truth to power', and elected members have responded positively with a resolve to put things right as evidenced by the recommendations unanimously passed at the Extraordinary Full Council meeting held on 4 January 2022. The Council knows full well what 'good' looks like and has been determined to not put itself in the position of requiring the Improvement and Assurance Board or Commissioners to identify any wrongdoing and then put it right."

Through improved strategic financial management and resultant improved financial resilience, as evidenced through a strengthened reserves position, the council has identified an appropriate funding strategy to repay the HRA, and has recently sought the required Ministerial Direction to repay funds into the HRA. This has been achieved without seeking exceptional financial support from government.

In relation to council companies, the council's housing management function is now subject to strengthened governance and controls. Furthermore the council is working to an accelerated timescale which will bring housing management under the council's direct management by the end of this financial year. The council has recently completed the sale of Thomas Bow Limited, a highways management business it acquired a few years ago, and Enviroenergy the council's District Heating company was brought back in-house successfully earlier this year. These positive steps have reduced the council's risk exposure in relation to council controlled companies.

The council continues to work well with the IAB and whilst the council's preference would be to continue with this non-statutory IAB arrangement, in the event that government decides to appoint Commissioners to oversee the authority, the council would be supportive of Sir Tony Redmond being appointed Lead Commissioner for the reasons set out in your letter. Furthermore, the council would commit to working effectively with commissioners as we have done with the IAB, in order that the intervention can be as successful as possible, in as short a time as possible.

In closing, we would like to thank you for recognising in your letter the progress the council has made, and through the hard work of colleagues the buildings blocks for the Authority's recovery are in place, whilst acknowledging significant challenges lay ahead.

Yours faithfully

A handwritten signature in black ink, appearing to be 'MB', with a long horizontal stroke extending to the right.

Melbourne Barrett
Chief Executive
Nottingham City Council

A handwritten signature in black ink, appearing to be 'D. Mellen', with a long horizontal stroke extending to the right.

Cllr David Mellen
Leader of the Council
Nottingham City Council

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