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Nottingham
City Council

Nottingham City Council Standards and Governance Committee

Date: Thursday, 18 April 2024

Time: 4.00 pm

Place: Ground Floor Committee Room - Loxley House, Station Street, Nottingham,
NG2 3NG

Councillors are requested to attend the above meeting to transact the following business

Director for Legal and Governance

Governance Officer: Laura Wilson

Direct Dial: 0115 8764301

- | | | |
|----------|--|-----------|
| 1 | Apologies for absence | |
| 2 | Declarations of interests | |
| 3 | Minutes
To confirm the minutes of the meeting held on 22 June 2023 | 3 - 6 |
| 4 | Decisions taken under Urgency Procedures
Report of the Director of Legal and Governance | 7 - 12 |
| 5 | Councillor Complaints - Update
Report of the Director of Legal and Governance | 13 - 18 |
| 6 | Whistleblowing Monitoring Update
Report of the Director of Legal and Governance | To follow |
| 7 | Arrangements for Commissioner Engagement in Decision Making
Report of the Director of Legal and Governance | 19 - 22 |

If you need any advice on declaring an interest in any item on the agenda, please contact the Governance Officer shown above, if possible before the day of the meeting

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Nottingham City Council

Standards and Governance Committee

Minutes of the meeting held at Loxley House on 22 June 2023 from 4.03 pm - 4.25 pm

Membership

Present

Councillor Kirsty L Jones (Chair)
Councillor Angela Kandola (Vice Chair)
Councillor Imran Jalil
Councillor Sulcan Mahmood
Councillor Sarita-Marie Rehman-Wall
Councillor Maria Watson

Absent

Councillor Saj Ahmad
Councillor Nayab Patel
Nigel Cullen – Independent Person

Colleagues, partners and others in attendance:

Dawn Cafferty - Commercial Systems and Strategy Manager
Malcolm Townroe - Director of Legal and Governance
Laura Wilson - Senior Governance Officer

1 Appointment of Vice Chair

Resolved to appoint Councillor Angela Kandola as Vice-Chair of this Committee for this municipal year (May 2023 to April 2024).

2 Apologies for absence

Councillor Saj Ahmad – unwell
Councillor Nayab Patel – personal

Nigel Cullen

3 Declarations of Interests

None.

4 Minutes

The Committee confirmed the minutes of the meeting held on 5 February 2021 as a correct record and they were signed by the Chair.

5 Amendments to the Constitution

Laura Wilson, Senior Governance Officer, introduced the report, outlining the following points:

- (a) The Committee is being asked to consider, and recommend to Council, proposed amendments to Article 15 – Councillor Code of Conduct and Article 18 – Contract Procedure Rules of the Constitution.

- (b) It is proposed to amend paragraph 15.42 Local Provisions of Article 15 so that it is the Chief Executive rather than the Corporate Director for People who can designate training as mandatory. This amendment is proposed because mandatory training could relate to any area of Council business and not just those relating to People Services.
- (c) Following the introduction of the Council's new operating model for Commercial, Procurement and Contract Management, several amendments to Contract Procedure Rules (Article 18) are proposed. These update terminology and responsibilities to reflect the new model, introduce a new oversight process and clarify some existing procedures.

Dawn Cafferty, Commercial Systems and Strategy Manager, highlighted the following substantial changes to the Contract Procedure Rules:

- (d) Inclusion of the Commercial Oversight Board approval route for high risk/value projects (18.11 & 18.53), for improved corporate oversight of commercial activity and management of risk.
- (e) Introduction of a rule specifying procedures for below-threshold concession contracts (18.20). This states turnover values above which a quotation or tender process is required. A competitive process improves value for money outcomes from these contracts.
- (f) Introduction of a rule covering below-threshold contracts meeting the 'Teckal' criteria (18.31). These are exempted from competitive procedures.
- (g) Amended terminology and additional detail on the Delivery Model Assessment (former 'make-or-buy') process (18.21-18.29). This introduces periodic review of services overseen by the Commercial Oversight function, and completion of a Delivery Model Assessment, before developing or extending in-house provision.
- (h) Introduction of processes for managing Accreditation Schemes/Any Qualified Provider Frameworks (18.36-40). Specific to the health and care sector, this specifies circumstances under which non-competitive accreditation schemes may be established. i.e.: where a) the Council has no choice/discretion over service provider, b) an external regulatory body determines qualification of providers and c) all qualified providers are admitted.
- (i) Addition of the Negotiated procedure as a recognised procurement route with appropriate authority for above-threshold contracts. Use of this procedure is to be recorded using the Exemptions process (18.65, 18.94, 18.95 and Exemptions form).
- (j) Addition of statement that where we are unable to estimate the value of a scheme we must assume that the relevant 'above-threshold' procedure applies (18.65) – reflects recent change to Central Government guidance.
- (k) In addition, there are minor amendments which clarify current practice, which include:

- updates to job titles and terminology to align to the new operating model;
- clarity of existing procedures/governance including requirement for formal approval to spend prior to procurement, responsibility for contract management, added references to Dynamic Purchasing Systems and the 'Light Touch' regime;
- removal of reference to 'Use of Consultants' Form which is no longer in use and now part of the delegated decision-making process; and
- addition to the section on extension and variation of contracts to refer to below-threshold arrangements, reflecting current practice.

During the subsequent discussion, the following points were raised:

- (l) 'Above-threshold' and 'below-threshold' refer to the relevant monetary thresholds above which procedures detailed in the Public Contracts Regulations 2015, Concession Contracts Regulations 2016 and Utilities Regulations 2016 apply.
- (m) The appropriate decision making route is followed dependent on the value of a decision – officer, Portfolio Holder or Executive Board/Committee.
- (n) The default position is to go out to tender/competition, dependent on the value of the contract, which details the requirements and tenders are assessed against those before a contract is awarded.

Resolved to recommend to Council that it

- (1) amends Article 15 – Councillor Code of Conduct of the Constitution to replace the Corporate Director for People with the Chief Executive as the individual who can designate training as mandatory;**
- (2) approves a revised Article 18 – Contract Procedure Rules of the Constitution, as set out in Appendix A of the report.**

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Standards and Governance Committee – 18 April 2024

Title of paper:	Decisions taken under Urgency Procedures	
Director(s)/ Corporate Director(s):	Malcolm Townroe, Director for Legal and Governance	Wards affected: All
Report author(s) and contact details:	Jane Garrard, Senior Governance Officer jane.garrard@nottinghamcity.gov.uk	
Other colleagues who have provided input:	None	
Date of consultation with Portfolio Holder(s) (if relevant)	Not applicable	
Does this report contain any information that is exempt from publication? No		
Relevant Council Plan Outcome:		
Green, 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"/>	
Living Well in our Communities	<input type="checkbox"/>	
Keeping Nottingham Moving	<input type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Serving People Well	<input checked="" type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):		
<p>The Council’s Constitution requires that decisions taken under urgency provisions within the Overview and Scrutiny Procedure Rules (Article 11) and Access to Information Procedure Rules (Article 13) are reported to Full Council and the Standards and Governance Committee.</p> <p>This report informs the Committee of decisions that have been taken under these provisions since 1 May 2023. During that period there have been four decisions taken under urgency provisions within the Overview and Scrutiny Procedure Rules and no decisions taken under the special urgency provisions within the Access to Information Procedure Rules.</p>		
Recommendation(s):		
1	To note that four decisions have taken under urgency provisions within the Overview and Scrutiny Procedure Rules (Article 11) of the Constitution since 1 May 2023, details of which are set out in Appendix A.	
2	To note that no decisions have been taken under the special urgency provisions within the Access to Information Procedure Rules (Article 13) of the Constitution since 1 May 2023.	

1. Reasons for recommendations

- 1.1 The Council’s Constitution requires that decisions taken under urgency provisions within the Overview and Scrutiny Procedure Rules (Article 11) and Access to Information

Procedure Rules (Article 13) are reported to the next available meeting of the Standards and Governance Committee.

2. Other options considered in making recommendations

2.1 None. It is a constitutional requirement that the Standards and Governance Committee is informed of approved exemptions from standard decision-making processes including call-in and Executive notices.

3. Consideration of Risk

3.1 Consideration of the risks associated with each of the decisions taken under these provisions was published as part of those decisions.

4. Background (including outcomes of consultation)

4.1 Decisions taken under the Call-in and Urgency provisions of the Overview and Scrutiny Procedure Rules

4.1.1 The call-in procedure set out in Article 11 of the Constitution does not apply where the decision taken is urgent. A decision is urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. A decision can only be taken under this urgency provision if the Chair of the Corporate Scrutiny Committee (or in the absence of the Chair, the Vice Chair; or in the absence of both, the Chief Executive) agrees that the proposed decision is reasonable in all circumstances and that the reasons for urgency are valid.

4.1.2 Since 1 May 2023, there have been four decisions taken under these urgency provisions. A summary of these decisions is set out in Appendix A, and the decisions are available on the Council's website.

4.2 Decisions taken under the Special Urgency provisions of the Access to Information Procedure Rules

4.2.1 Where it is impractical to give at least five clear working days notice of the intention to take a Key Decision, that decision may only be made in accordance with the special urgency provisions set out in the Access to Information Procedure Rules (Article 13 of the Constitution). These special urgency provisions require agreement from the Chair of the Corporate Scrutiny Committee (or in the absence of the Chair, the Lord Mayor as Chair of Council; or in the absence of both, the Sheriff as Vice Chair of Council) that the decision is urgent and cannot reasonably be deferred.

4.2.2 Since 1 May 2023, there have been no decisions taken under these urgency provisions.

4.3 The agenda of every ordinary Council meeting includes a report informing Council of any decisions taken under these urgency procedures since the previous report. These regular reports evidence a positive trend of a significant reduction in the use of urgency procedures since the adoption of the new Constitution in October 2021, and associated strengthened training and guidance for officers and councillors.

Number of exemptions from standard governance processes					
	Period (Municipal Year)				
	2019/20	2020/21	2021/22*	2022/23	2023/24^
Exemption from Call-in	16	27	12	10	4
Special Urgency	6	14	4	2	0

*new constitutional arrangements introduced 1 October 2021

^ to 27 March 2024

5 Finance colleague comments (including implications and value for money)

- 5.1 The recommendation in this report relates to decisions that were taken under urgency provisions for which finance comments were provided at the time the decisions were taken. Consequently, there are no additional financial implications resulting from this recommendation.

Alfred Ansong, Strategic Finance Business Partner

6 Legal colleague comments

- 6.1 The relevant legislation and sections of the constitution are set out in the body of the report.

Beth Brown, Head of Legal, 28 March 2024

7 Other relevant comments

- 7.1 None

8 Crime and Disorder Implications (If Applicable)

- 8.1 Not applicable

9 Social value considerations (If Applicable)

- 9.1 Not applicable

10 Regard to the NHS Constitution (If Applicable)

- 10.1 Not applicable

11 Equality Impact Assessment (EIA)

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

No



An EIA is not required because the report does not contain recommendations for changes to policies, services or functions. Where required, Equality Impact Assessments were published alongside each of the decisions referred to in the report.

12 Data Protection Impact Assessment (DPIA)

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

No



A DPIA is not required because the report does not contain any recommendations involving the use of personal or sensitive data. Where required, the data protection implications of the decisions referred to in this report were assessed and, where appropriate, details published as part of those decisions.

13 **Carbon Impact Assessment (CIA)**

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

No



A CIA is not required because the report does not contain any recommendations for changes to policies, services or functions. Where required, the carbon impact of the decisions referred to in this report were assessed and, where appropriate, details published as part of those decisions.

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

14.1 None

15 **Published documents referred to in this report**

15.1 Nottingham City Council Constitution – Article 11 Overview and Scrutiny Procedure Rules and Article 13 Access to Information Procedure Rules

15.2 The committee reports and minutes, and records of delegated decisions referred to in this report (references detailed in Appendix A).

Appendix A – Decisions taken under the Call-in and Urgency provisions of the Overview and Scrutiny Procedure Rules since 1 May 2023

Decision reference	Date of decision	Subject	Decision taker	Consultee on urgency	Reason for urgency
4996	27/07/23	Lease of Highwood House to Nottingham City Homes Registered Provider Ltd	Portfolio Holder for Housing	Chair of Corporate Scrutiny Committee	Delay would have had onward implications for other disposals including those with statutory timeframes, and potential to severely delay the new lease being activated.
5006	09/08/23	Purchase of Nottingham City Homes Fleet	Leader of the Council	Chair of Overview and Scrutiny Committee	To enable the vehicles to be used for service provision and payment made to Nottingham City Homes enabling financial year-end closedown procedures to be completed as soon as possible.
Minute reference: 92	13/02/24	HRA Business Plan 2024-2053, MTFP 2024-2028, Budget 2024/25 including rent setting and public sector housing capital programme 2024-2029	Executive Board	Chair of Corporate Scrutiny Committee	To enable the required 28 days notice of a rent increase to be given to tenants.
5106	14/03/24	Acceptance of grant funding from the Department for Transport	Leader of the Council	Chair of Corporate Scrutiny Committee	The acceptance letter had to be returned by 15 March 2024 and Government confirmed that the funding would not be available if that deadline was missed.

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Standards and Governance Committee – 18 April 2024

Title of paper:	Councillor Complaints - Update	
Director(s)/ Corporate Director(s):	Malcolm Townroe, Director of Legal and Governance	Wards affected: All
Report author(s) and contact details:	Nancy Barnard, Head of Governance	
Other colleagues who have provided input:		
Date of consultation with Portfolio Holder(s) (if relevant)	N/A	
Does this report contain any information that is exempt from publication? No		
Relevant Council Plan Outcome:		
Green, 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"/>	
Living Well in our Communities	<input type="checkbox"/>	
Keeping Nottingham Moving	<input type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Serving People Well	<input checked="" type="checkbox"/>	
Summary of issues (including benefits to citizens/service users): The Committee has a role in monitoring complaints that Councillors or Co-opted Members have breached the Code of Conduct. This report provides a summary of complaints made about Councillors since the last election for information.		
Recommendation(s):		
1	That the Committee considers and notes the monitoring information.	

1. Reasons for recommendations

1.1 The terms of reference of the Standards and Governance Committee require the Monitoring Officer to submit regular reports on complaints made about councillors to inform any work the Committee might carry out in relation to Councillor Standards and the Code of Conduct.

2. Other options considered in making recommendations

2.1 The Committee’s terms of reference place a responsibility on the Committee to consider a Monitoring Officer report on Councillor Complaints. Therefore no other options were considered.

3. **Consideration of Risk**

3.1 Any risk to the Council will be determined as part of the response to the individual complaint and escalated to this Committee in accordance with the published Complaints procedure.

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

4.1 Appendix A to this report summarises the nature and outcome of complaints made against councillors since the local government elections in May 2023. None of the complaints reached the formal stage of consideration to date and are either in train or have been resolved informally. All complainants are offered the opportunity to escalate the complaint if they are not satisfied with the outcome. In addition to appendix A, further complaints have been received by the Monitoring Officer. These will be reported verbally at the meeting and recorded in the minutes.

4.2 The Committee is asked to note the information contained in the appendix.

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

5.1 This report is a monitoring report and has no financial implications.

6. **Legal colleague comments**

6.1 This report is a monitoring report and has no legal implications.

7. **Other relevant comments**

7.1 None

8. **Crime and Disorder Implications (If Applicable)**

8.1 None

9. **Social value considerations (If Applicable)**

9.1 None

10. **Regard to the NHS Constitution (If Applicable)**

10.1 None

11. **Equality Impact Assessment (EIA)**

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

No



An EIA is not required because

An EIA is not required because the report does not propose a change to council policy or service. Equality matters may be taken into account as part of consideration of individual complaints.

12. Data Protection Impact Assessment (DPIA)

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

No



A DPIA is not required because the report does not propose a change to council policy or service.

13. Carbon Impact Assessment (CIA)

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

No



A CIA is not required because the report does not propose a change to council policy or service.

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

14.1 None

15. Published documents referred to in this report

15.1 Councillor and Co-opted member complaints procedure - [Councillor Conduct - Nottingham City Council](#)

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Date Complaint Received	Summary of Allegations	Action Taken	Outcome of Complaint
21/07/23	Councillor not responding to correspondence	Discussion with Councillor, oversight acknowledged and citizen contacted.	Case Closed
24/08/23	Councillor not responding to correspondence	Discussion with Councillor, oversight acknowledged and citizen contacted.	Case Closed
04/12/23	Potentially discriminatory language used at an event	Further information requested from the complainant regarding the nature of the allegations and the event at which they took place. No response from the complainant. Unable to investigate further	Case Closed
22/12/23	Concern regarding language used at a formal meeting	Discussed with independent person and referred to an external investigator.	Investigation ongoing
11/02/24	Innappropriate behaviour at a meeting with Councillors and officers present	Further information sought from the complainant and the subject of the complaint.	Investigation ongoing

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Standards and Governance Committee – 18 April 2024

Title of paper:	Arrangements for Commissioner Engagement in Decision Making	
Director(s)/ Corporate Director(s):	Ross Brown, Corporate Director for Finance and Resources Malcolm Townroe, Director of Legal and Governance and Monitoring Officer	Wards affected: All
Report author(s) and contact details:	Nancy Barnard, Head of Governance Nancy.barnard@nottinghamcity.gov.uk	
Other colleagues who have provided input:		
Date of consultation with Portfolio Holder(s) (if relevant)	28 March 2024	
Does this report contain any information that is exempt from publication? No		
Relevant Council Plan Outcome:		
Green, 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"/>	
Living Well in our Communities	<input type="checkbox"/>	
Keeping Nottingham Moving	<input type="checkbox"/>	
Improve the City Centre	<input type="checkbox"/>	
Better Housing	<input type="checkbox"/>	
Serving People Well	<input checked="" type="checkbox"/>	
Summary of issues (including benefits to citizens/service users):		
<p>Following their appointment, the Government appointed Commissioners require access to certain decisions and reports at the appropriate point in order for them influence or exercise their powers should they feel it appropriate.</p> <p>In the interests of transparency this report outlines the changes to Nottingham City Council's decision making processes in order to accommodate this requirement.</p>		
Recommendation(s):		
1	To note the changes to decision making processes.	
2	To note that the changes will be reviewed two months after implementation and any significant subsequent changes will be reported to this Committee.	

1. **Reasons for recommendations**

- 1.1 To provide transparency regarding the changes to internal processes required prior to the making of formal decisions.

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

- 2.1 As this is a requirement of the Commissioners, no other option was considered.

3. **Consideration of Risk**

- 3.1 There is a risk that the extension of decision making workflows to accommodate the Commissioners' requirement may impact on the timeliness of decisions. This has been mitigated through the agreement of a three working day turnaround for Commissioner comments, providing clarity around required timelines, and will be managed via communication with those responsible for drafting reports and decisions. The process will be reviewed two months after implementation and the impact on decision timelines will form part of this review.

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

- 4.1 Following their appointment, the Commissioners require decisions involving significant levels of spend or changes to policy to be considered by them to enable them to influence or exercise their powers in relation to the decisions being taken as they see fit. It has been agreed that the following decisions will be shared with Commissioners as a matter of course:
- a) Portfolio Holder Decisions
 - b) Leader's Key Decisions
 - c) Reports to Executive Board
 - d) Reports to Commissioning and Procurement Executive Committee
 - e) Reports to Full Council.
- 4.2 Reports involving significant levels of spend or policy changes proceeding through other Committees may also require Commissioner consideration but these will be addressed on an ad hoc basis.
- 4.3 None of the reports/ decisions outlined above can proceed without the Commissioners' explicit consent and the inclusion of any comments they wish to make. This is in accordance with the powers they have been granted by the Secretary of State to support the council's improvement.
- 4.4 It has been agreed that decisions and reports will be shared with Commissioners following Corporate Director sign off but prior to Councillor Authorisation or publication for consideration by a Committee. Report and decision templates have been amended to reflect the new requirements.

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

- 5.1 This report relates to the amendment of an internal decision making process and therefore does not have direct financial implications. All decisions made under these processes will be subject to proper financial consideration as part of our usual governance arrangements and those arrangements put in place in response to the 114 notice.

6. **Legal colleague comments**

- 6.1 This report outlines changes to the Council's internal decision making work flows prior to formal, constitutional and legal processes for approving decisions of the authority.

Directions made by the Secretary of State on 22 February 2024 under section 15 of the Local Government Act 1999 give the Commissioners wide power to exercise all functions associated with the governance, scrutiny and transparency of strategic and financial decision making by the Authority.

The changes set out in the body of the report are required to provide the Commissioners with oversight of Council decision making at an appropriate point in the process to enable them to discharge their responsibilities.

Beth Brown, Head of Legal, 09 April 2024

7. **Other relevant comments**

- 7.1 None

8. **Crime and Disorder Implications (If Applicable)**

- 8.1 None

9. **Social value considerations (If Applicable)**

- 9.1 None

10. **Regard to the NHS Constitution (If Applicable)**

- 10.1 None

11. **Equality Impact Assessment (EIA)**

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

No



An EIA is not required because this report relates to internal decision making workflows. EIAs will continue to be a requirement for individual decisions taken through these processes.

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

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

No



A DPIA is not required because this report relates to internal decision making workflows. DPIAs will continue to be a requirement for individual decisions taken through these processes.

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

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

No



A CIA is not required because this report relates to internal decision making workflows. CIAs will continue to be a requirement for individual decisions taken through these processes.

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

14.1 None

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

15.1 The Council's Constitution: [Nottingham City Council's constitution - Nottingham City Council](#)