

Appendix 1

Action Plan in response to the Report in the Public Interest

- All recommendations are accepted
- Recommendations R1 – R13 are recommendations from *The Report in the Public Interest*
- Recommendations NCC1 - NCC 3 are additional recommendations

The overall accountability for the action plan rests with the Leader of the Council and the Chief Executive designate

Recommendation 1

Using the current Strategic Review and other appropriate advice to assist with decision-making, the Council should urgently determine the future of Robin Hood Energy, with options properly evaluated and risks properly assessed. This assessment should also take into account the context of the Council's current financial position.

Portfolio Holder accountability: Councillor David Mellen – Leader

Action	Deadline	Accountability
<ul style="list-style-type: none">• At the June 2020 Executive Board Nottingham City Council agreed its full support for the strategic review launched by the Robin Hood Energy Board.	31/10/20	Corporate Director Development & Growth
<ul style="list-style-type: none">• The Strategic Review will report to the Robin Hood Energy Board and will be concluded shortly.	05/10/20	Corporate Director Development & Growth
<ul style="list-style-type: none">• Any consequences of the review for the Council's 2020/21 budget and its medium term financial outlook and plan will be reported to full Council as part of the October 5th interim budget report.	05/10/20	Strategic Director Finance

Andrew Rule

--	--	--

Recommendation 2
 The Council should review its overall approach to using Councillors on the boards of its subsidiary companies and other similar organisations. This should be informed by a full understanding of the role of and legal requirements for company Board members.

Portfolio Holder accountability- Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadline	Accountability
<ul style="list-style-type: none"> An audit and review of NCC’s approach to councillor membership of each subsidiary company board and any other similar organisations NCC Councillors are appointed to, will be undertaken. This review will fully involve the chief executives/chief officers of the Council’s companies, as well as the Chairs and members of the Company Boards and other subsidiary organisations. The report to be presented for recommendations and comment to the next Audit Committee meeting before the Report’s formal implementation. 	31/10/20	Director of Legal & Governance
<ul style="list-style-type: none"> As part of this review, the membership balance of the boards will be considered in aggregate in regard to best practice for achieving diversity, skill set, sectoral knowledge and NCC representation. 	31/10/20	Director of Legal & Governance
<ul style="list-style-type: none"> Those companies whose directors comprise entirely of, or a majority of councilors, will be reviewed as a priority. 	30/09/20	Director of Legal & Governance
<ul style="list-style-type: none"> Where the authority appoints councilors to the Boards of its companies it should be clear that councilors hold a non-executive position and they should be provided with training and guidance as how this role differs from an executive director. 	30/09/20	Director of Legal & Governance
	30/09/20	Director of Legal & Governance

Andrew Rule

<ul style="list-style-type: none">External guidance on best practice in regard to Councillor appointments on local authority companies will be soughtExternal guidance on defining the role and legal requirements for local authority company directors and guidance on skill set required will be sought. This should include ensuring that professional executive directors responsible for the day-to-day running are aware that running a company funded by public money carries with it a requirement to demonstrate value for money for the council tax payer is being achieved.	30/9/2020	Director of Legal & Governance
--	-----------	--------------------------------

DRAFT

Andrew Rule

Recommendation 3

Where it continues to use Councillors in such roles, it should ensure that the non-executives (including Councillors) on the relevant board have, in aggregate, the required knowledge and experience to challenge management. This is of particular importance where the company is operating in a specialised sector which is outside the normal experience of Councillors.

Portfolio Holder accountability- Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadline	Accountability
<ul style="list-style-type: none">The review of NCC councillor directors of boards in R2 will also establish the sectoral knowledge required to effectively hold the management of the different companies to account and assess the knowledge and skill set of the existing membership of the boards in relation to that sector or business area. This review will fully involve the chief executives or chief officers of the Council's companies, as well as the Chairs and members of Company Boards.	31/10/20	Director of Legal & Governance
<ul style="list-style-type: none">Proposals for remedying any identified gaps in knowledge and/or experience will be brought forward which will include a consideration of training and if necessary using interim additional expertise to ensure effective governance.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">Training will be devised to enable members to understand and practice effective director / board member interventions so as to appropriately challenge the management of the Council's companies and improve the robustness of Company accountability to the Council.	30/01/21	Director of Legal & Governance
<ul style="list-style-type: none">As a matter of best practice where Councillors appointed to chair the boards of council owned companies do not have any sectoral or technical experience in the company's area of activity they should as a minimal hold formal accountancy or legal qualifications to enable to them to discharge the extra duties expected of the reasonable company chair person.	With immediate effect	Director of Legal & Governance
<ul style="list-style-type: none">Essential training will be mandatory and retention of the director role for each councillor will rely on completion of the training on this recommendation. The training should		

Andrew Rule

<p>include the duties placed on non-executive directors, the directors to duty to protect the financial interests of the companies' shareholder(s) and the duties placed on a director when the company is financially insolvent and the personal financial consequences for failing to take appropriate action to safeguard the interests of creditors in an insolvent situation.</p> <ul style="list-style-type: none"> In addition to the above refresher training will be required on a yearly basis; or more frequently should there be any applicable regulatory or legal changes to the legal duties placed on directors. Members who fail to complete this training, within three months of it becoming due, will be formally removed from holding the office of director. The relevant NCC officials will continue to be available to offer advice to members on all aspects of their role on Council company boards. Advice will also be sought on the best way to assess the competence of Councillors fulfilling their roles as directors as part of effective company governance. The group whip for each political party or recognised group will have a role in this assessment process. The Council's constitution will be reviewed to appropriately reflect this requirement and it will be proposed at the 2021 Annual General meeting. 	<p>30/01/21</p> <p>Ongoing</p> <p>May 2021</p>	<p>Director of Legal & Governance</p> <p>Director of Legal & Governance</p> <p>Director of Legal & Governance</p>
---	--	---

Andrew Rule

Recommendation 4

Where Councillors are used in such roles, the Council should ensure that the Councillors are provided with sufficient and appropriate training, which is updated periodically.

Portfolio Holder accountability: Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadline	Accountability
<ul style="list-style-type: none"> • A review of the current training package offered to Councillors as directors on company boards and other similar organisations will be undertaken. 	30/10/20	Director of Legal & Governance
<ul style="list-style-type: none"> • External best practice and advice will be sought from both the Local Government Association and bodies in the private sector who advise on company governance and training for directors. 	30/10/20	Director of Legal & Governance
<ul style="list-style-type: none"> • This review will fully involve the chief executives/chief officers of the Council's companies, as well as the Chairs and governance of Council company Boards. 	30/01/21	Director of Legal & Governance
<ul style="list-style-type: none"> • New training packages will be devised and delivered on a mandatory basis for: <ul style="list-style-type: none"> > Initial training > Refresher training > Specialist training where required to understand a particular subject/field. • External sources will provide the specialist training and this training will be reviewed every two years to ensure it remains relevant and effective. 		
<ul style="list-style-type: none"> • Funding for the new training courses will need to be identified 		
<ul style="list-style-type: none"> • Only Councillors who have completed the requisite training will be able to remain as Council appointed directors. 	May 2021	Director of Legal & Governance

Andrew Rule

<ul style="list-style-type: none"> The Council's constitution will be reviewed to appropriately reflect this requirement and it will be proposed at the 2021 Annual General meeting. 		
---	--	--

Recommendation 5
The Council should ensure that all elements of its governance structure, including the shareholder role, are properly defined and that those definitions are effectively communicated to the necessary individuals.

Portfolio Holder accountability: Councillor David Mellen – Leader

Action	Deadline	Accountability
<ul style="list-style-type: none"> The Council's Constitution and Scheme of Delegation will be reviewed to identify the roles that perform a specific function in ensuring effective governance of the Council's delivery of its duties and its powers and its expenditure. 	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none"> As part of that review, the specific corporate role, definition and resources for the shareholder representative function will be examined. 	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none"> External advice and best practice will be sought to define officer roles / functions that communicate and safeguard the interest of the Council in relation to the effective corporate governance of individual council companies. 	30/01/21	Director of HR and Customer
<ul style="list-style-type: none"> This review will fully involve the chief executives/chief officers of the Council's companies, as well as the Chairs and governance of Council company Boards. 		
<ul style="list-style-type: none"> Once the role and resources have been determined, costings to implement the new function and an appropriate role description (s) will be produced and submitted for decision. 	31/10/20	Director of HR and Customer
	30/11/20	Director of Legal & Governance

Andrew Rule

<ul style="list-style-type: none"> • Whilst this review is underway the current shareholder representatives will be reviewed, any existing gaps filled and interim new role definitions will be drawn up as well as appropriate training provided. • In addition to individual roles being identified and re-defined from the review of the constitution, there are also Council bodies that perform a vital function for the Council's effective governance. The role of the Executive Board, Companies Governance Executive Sub-Committee, Overview and Scrutiny Committee and the Audit Committee's terms of reference will also be reviewed to ensure clarity on role and accountability for Council companies' governance across the Council. The Chairs of Overview and Scrutiny and the Audit Committee will be fully involved in this review. • Training will be offered to all members and chief officers on the roles of these bodies. 	<p>20/12/20</p> <p>30/01/21</p>	<p>Director of Legal & Governance</p> <p>Director of Legal & Governance</p>
---	---------------------------------	---

DRAFT

Andrew Rule

Recommendation 6

When allocating roles on Council-owned organisations to individual Councillors, the Council should ensure that the scope for conflicts of interest is minimised, with a clear divide between those in such roles and those responsible for holding them to account or overseeing them.

Portfolio Holder accountability: Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadline	Accountability
<ul style="list-style-type: none">The Council's constitution and the appointments process of Councillors onto Council company boards will be reviewed. A councillor may not be appointed to a council company board whose main activity lies within any executive portfolio they hold.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">The length of appointment tenure beyond a 12-month appointment period will be reviewed to enable consistency of membership of the board and to develop knowledge and experience	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">An amendment to the Constitution will be developed for formal consideration, so if a Councillor is appointed to the board of a council owned company, they are unable to be a member of the Audit Committee, the Overview and Scrutiny Committee or Company Governance Executive Sub-Committee thus avoiding any conflict of interest in these essential roles.	30/01/21	Director of Legal & Governance
<ul style="list-style-type: none">In addition, the Council will take steps to minimise any other possible conflicts of interest for directors on Council company boards by ensuring the improved training offer to be developed for members includes how to recognize and avoid any conflicts of interest for chairs and Councillor directors.	30/01/21	Director of Legal & Governance
<ul style="list-style-type: none">The access to formal advice from the Council's legal and democratic service for all councillors appointed to council company boards on conflicts of interest or any other matter will continue to be made available.	With immediate effect	Director of Legal & Governance

Andrew Rule

Recommendation 7

The Council should ensure that risks relating to its companies are considered for inclusion in its overall risk management processes, with appropriate escalation and reporting, rather than being seen in isolation.

Portfolio Holder accountability: Councillor Sam Webster Finance, Growth & the City Centre

Action	Deadline	Accountability
<ul style="list-style-type: none">The Council's high level risk register was created in May 2020 and was reviewed by the July 2020 Audit Committee. A number of Council company risks were included in that new risk register. This will continue to be developed and refined.	30/11/20	Strategic Director of Finance
<ul style="list-style-type: none">The Council's risk management framework has been reviewed to ensure the full incorporation of council company risks across all risk registers within departments and also in the new financial risk register. Council companies' risks will be separately considered and reported in such a way that explicitly draws out the risks to the Council that may arise from the financial (and other) performance of the various companies. This review will fully involve the chief executives/ chief officers of the Council's companies, as well as the Chairs and members of the Company Boards.	30/11/20	Strategic Director of Finance
<ul style="list-style-type: none">The reporting of risks to Council company boards will also be implemented as part of this action.	30/11/20	Strategic Director of Finance
<ul style="list-style-type: none">The regularity of the reporting of the high level risk register to the Audit Committee and the Executive Board and Overview & Scrutiny Committee will be reviewed as part of this action. The Chairs and members of these bodies will be fully involved in this action.	30/11/20	Strategic Director of Finance
<ul style="list-style-type: none">The reporting of companies' related risks will form part of the suite of reporting information presented to the Companies Governance Executive Sub-committee	With immediate effect	Strategic Director of Finance

Andrew Rule

Recommendation 8

As the new arrangements for monitoring companies are rolled out alongside the Companies Governance Executive Sub-Committee (CGESC), the Council should ensure that financial information is provided in accordance with its requirements and is fully understood by the Sub-Committee and others involved in holding the companies to account, and that robust action, with the oversight of the s151 officer, is taken if suitable information is not provided.

Portfolio Holder accountability: Councillor Sam Webster Finance, Growth & the City Centre

Action	Deadline	Accountability
<ul style="list-style-type: none">The Companies Governance Executive Sub-Committee (CGESC) has been meeting since 2019 and has established reporting requirements for all Council companies.A dedicated senior finance post provides additional capacity and capability to managing the financial reporting requirements on the Council's group of companies.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">The current role and remit of the CGESC will be amended to make it a stand alone Committee.	30/10/20	Director of Legal & Governance
<ul style="list-style-type: none">No member of the sub committee shall be a director of a council owned company.	30/10/20	Director of Legal & Governance
<ul style="list-style-type: none">Officer support is to be provided to offer full advice and analysis for members on CGECS, Audit Committee and Overview & Scrutiny Committee in relation to risks; annual reviews of & updates on business cases and plans; scheme of delegation; financial matters and overall delivery.	With immediate effect	Strategic Director of Finance
<ul style="list-style-type: none">The dedicated senior finance role will also be continually reviewed in the light of The Report in the Public Interest to ensure it is fulfilling the corporate function needed and that departments and Council companies understand their relationship and new ways of working on this matter.	30/11/20	Strategic Director of Finance
<ul style="list-style-type: none">The s151 Officer will make recommendations to CGESC regarding action to be taken in the event that Companies do not comply with the required reporting requirements. This should include the options and sanctions available to the Council as shareholder under	30/11/20	Strategic Director of Finance

Andrew Rule

the Companies Act 2006 to compel co-operation from the directors of council owned companies.

- Council company financial information reporting will be reviewed to see how more explicitly it can be referenced in the regular Council budget monitoring reports provided to the Executive Board on a quarterly basis
- This review will need to consider how to balance the transparency in the Council's budget reporting with the need to retain commercially sensitive information in the private part of any public meeting.

With immediate effect

With immediate effect

DRAFT

Andrew Rule

Recommendation 9

Within the new arrangements involving the Companies Governance Executive Sub-committee, the Council needs to ensure that responsibilities for scrutiny and risk management are given sufficient prominence, including giving the Audit Committee explicit responsibility for scrutiny of governance and risk management across the group.

Portfolio Holder accountability- Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadline	Accountability
<ul style="list-style-type: none">The Council will review the terms of reference for Companies Governance Executive Sub Committee (CGESC), Overview and Scrutiny Committee and the Audit Committee to ensure that roles and responsibilities are explicitly clear. The Chairs of all these bodies will be fully involved in this action.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">The Corporate Governance Committee be re-established as a stand alone committee. To remove the risk of conflict of interest its membership should not hold directorships of any council owned companies and be comprised of membership on a cross party basis; including representatives from all opposition parties.	30/10/2020	Director of Legal & Governance
<ul style="list-style-type: none">External advice will be sought on best practice in defining the roles between these bodies and on effective training for members to understand and work in these new defined roles and to achieve the prominence in practice.	30/11/2020	Director of Legal & Governance
<ul style="list-style-type: none">The training packages that will be offered will carry the same mandatory requirements for membership off these bodies to continue.		
<ul style="list-style-type: none">Specific training modules will be drawn up to explicitly support the chairs of these bodies in carrying out their new roles.	30/01/21	Director of Legal & Governance

Andrew Rule

Recommendation 10

In addition to those referred to in recommendations above, the Council should apply the lessons from Robin Hood Energy in a further review of its company governance arrangements, in particular to ensure that risks are appropriately flagged and managed, as well as successfully implementing the more robust monitoring agreed by the Companies Governance Executive Sub-Committee.

Portfolio Holder accountability: Councillor David Mellen – Leader

Action	Deadline	Accountability
<ul style="list-style-type: none">• The Council will draw together all the varying reviews and activity as outlined above into an overall picture of its governance arrangements and from that produce a unified report on the lessons to be learnt from Robin Hood Energy Ltd.• This learning lessons report will draw upon the effective practice of some of the other Council company boards to share those positive lessons across the group of council companies as well.• External support and advice will be sought on how best to draw together all the learning from the reviews.• This review will fully involve the chief executives/chief officers of the Council's companies, as well as the Chairs and members of the Company Boards.• This review will be made available to the Audit Committee for discussion and recommendations before final implementation.	20/12/20	Director of Legal & Governance

Andrew Rule

Recommendation 11

As part of this review, the Council should consider the appropriateness of the definition of the shareholder role adopted in the 2019 report and give it an emphasis on protection of the Council's financial interests alongside other elements.

Portfolio Holder accountability: Councillor David Mellen – Leader

Action – N.B. the actions below must be read alongside the actions for Recommendation 5	Deadline	Accountability
<ul style="list-style-type: none">The Council's Constitution and Scheme of Delegation will be reviewed to identify the roles that perform a specific function in ensuring effective governance of the Council's delivery of its duties and its powers and its expenditure.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">As part of that review, the specific corporate role and resources for the shareholder representative duty will be examined and in particular how it safeguards the Council's financial interests and how concerns about financial risks by the Council's S.151 officer are communicated to the Council's shareholder representative.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">External advice and best practice will be sought to define officer roles / functions that communicate and safeguard the interest of the Council in relation to the effective corporate governance of individual council companies.	30/01/21	Director of HR and Customer
<ul style="list-style-type: none">Once the role and resources for this function have been determined, costings to implement the new function and an appropriate role description will be produced and submitted for decision.	30/11/20	Director of Legal & Governance
<ul style="list-style-type: none">Whilst this review is underway the current shareholder representatives will be reviewed, any existing gaps filled and an interim new role definition be drawn up and training provided.	31/10/20	Director of HR and Customer

Andrew Rule

Recommendation 12

The Council should use the experience of owning RHE to consider whether there are any lessons for its wider governance, particularly in relation to the 'checks and balances' which need to be in place, including the need for a stronger monitoring and scrutiny function and moving to a culture in which challenge of political priorities and how they are being implemented is seen as a positive.

Portfolio Holder accountability: Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadlines	Accountability
<ul style="list-style-type: none">• An overarching review of the Council's wider governance arrangements will be commissioned following advice from the LGA and other relevant external bodies.• External advice and best practice models will be considered alongside an in-depth assessment of council practice to date• Where the Council awards contracts to Council owned companies, without tender, (or where it applies the TECAL principle) accompanying documentation should be provided as to how value of money for council tax payers has been ensured.	31/03/21 Immediate	Director of Legal & Governance Strategic Director of Finance

Andrew Rule

Recommendation 13

The Council should ensure that it reflects the financial pressures arising from RHE alongside those from covid-19, demand-led services and other areas to produce balanced and achievable financial plans for the current year and for the medium-term, without disproportionate, unsustainable reliance on one-off measures.

Portfolio Holder accountability: Councillor Sam Webster Finance, Growth & the City Centre

Action	Deadlines	Accountability
<ul style="list-style-type: none">• The construction of a refreshed Medium Term Financial Strategy (MTFS) is underway and due to be reported to Full Council in October 2020.• This will set out at a high level how the Council will balance its budget over the medium term and incorporates the financial implications for Council own companies for the overall Council budget.	05/10/20	Strategic Director of Finance
<ul style="list-style-type: none">• More detailed plans will be brought to Full Council in December 2020.	December 2020	Strategic Director of Finance

Andrew Rule

To further support the work necessary to fully respond to the findings in *The Report in the Public Interest*, there are some further actions for full Council to consider.

NCC 1. Review of Council’s approach to the ownership of companies.

The Council has a range of companies totally in its ownership and some owned jointly with others. These companies have developed over time and further are planned to be created during this period of office as outlined in the Council Plan. In the light of the findings of this report the overall approach of the Council to its relationship with its companies could benefit from a review.

Portfolio Holder accountability: Councillor David Mellen – Leader

Action	Deadlines	Accountability
<ul style="list-style-type: none"> • Establish the basis of ownership of the Council’s companies and the differing frameworks and legislative basis upon which they were created. • Seek out external advice on the best practice model of council ownership of local authority controlled companies and managing the risks and benefits they present. • Following that advice and review, construct a council framework of NCC’s company ownership with particular regard to risk management and accountability to the Council. • Review all existing companies against that framework and where there is divergence establish whether a business need exists to maintain the difference or agree changes to comply with the framework. • Any proposed additional council companies should be established using this new framework. 	<p>31/12/20</p> <p>March 2021</p> <p>April 2021</p> <p>With immediate effect</p>	<p>Director of Legal and Governance</p> <p>Director of Legal and Governance</p> <p>Director of Legal and Governance</p>

Andrew Rule

NCC 2. Review of effective governance practice in NCC companies

The Council has a number of companies which have had effective governance over a number of years and which have involved elected members on the boards. As part of this improvement work it is important to understand what has made those council companies and Boards effective and how any learning can be applied to other council companies and the other recommendations in this Action Plan.

Portfolio Holder accountability: Councillor Sally Longford – Energy, Environment & Democratic Services

Action	Deadlines	Accountability
<ul style="list-style-type: none">• Seek out external guidance on independently assessing effective company governance and use this to assess the governance practice of all Council owned companies.• Following that assessment, draw out any lessons or good practice that can be shared across all council companies.• Work with the chairs and chief executives / chief officers of Council companies to understand any self-assessment models they may use.• Companies Governance Executive Sub Committee, Executive Board and the Audit Committee to consider the findings of this review and its recommendations.	31/03/21	Director of Legal and Governance
	May 2021	Director of Legal and Governance
	June 2021	Director of Legal and Governance
	June 2021	Director of Legal and Governance

Andrew Rule

NCC 3. Review of membership of the Audit Committee

As a solution to the pressures from the reduction in public funding of services, the Council either owns or has a major interest in a considerable number of companies. It has also pursued a policy of in-house commercialisation of some services. As such the company and commercial trading risks it carries are more that would normally be expected for a local authority.

As such, the role that the Audit Committee plays in giving assurance to the Council on these commercial risks and trading outcomes is vital. In the light of the findings of the Report in the Public Interest, it is proposed that a review of the membership of the Audit Committee is undertaken to consider whether it is necessary to bring in additional expertise in a relevant capacity to further support the Committee.

Portfolio Holder accountability: Councillor David Mellen – Leader

Action	Deadlines	Accountability
<ul style="list-style-type: none">Review of the current membership of the Audit Committee.Seek out external advice of best practice models of Audit Committees in local government that could bring additional support to how the council is dealing with the risks it is facing	30/01/21	Strategic Director of Finance

Andrew Rule