

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

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| Reference Number:                                      | 3998   |
| Author:  | Primrose Alegre  |
| Department:  | Development and Growth   |
| Contact:   | Primrose Alegre<br>(Job Title: Finance Support Officer, Email: primrose.alegre@nottinghamcity.gov.uk, Phone: 64503)  |
| Subject:   | Transfer of Accountable Body Status from Nottingham City Council to Staffordshire County Council   |
| Key Decision (decision valued at more than £1million): | Yes  |
| Total Value:   | £5.219M (Type: Revenue)  |
| Decision Being Taken:                                  | <p>(1) Nottingham City Council (NCC), acting as Accountable Body on behalf of the Midlands Engine, seeks approval to transfer the Accountable Body status for the Midlands Engine to Staffordshire County Council and transfer all funds held by Nottingham City Council on behalf of the Midlands Engine to Staffordshire County Council up to the value of £5,219,000, comprising of:</p> <p>(i) £1,500,000 (Midlands Engine Capacity Grant and contributions received), from the Ministry of Housing, Communities and Local Government funding allocation for 2020/21 and contributions from Local Enterprise Partnerships and Local Authorities;</p> <p>(ii) £3,719,000 Mental Health (ref DD3470) 2020/21 allocation;</p> <p>(2) To delegate authority to the Corporate Director for Development and Growth to negotiate and sign all necessary legal agreements associated with the Accountable Body transfer.</p> |
| Reasons for the Decision(s)                            | <p>In November 2019, the Midlands Engine board agreed to transfer the Accountable Body (AB) function from Nottingham City Council to Staffordshire County Council.</p> <p>Nottingham City Council will cease to act as the Accountable Body for the Midlands Engine from 1st October 2020 and Staffordshire County Council will then assume duties and responsibilities as the new Accountable Body. We are therefore required to transfer AB responsibilities for the Midlands Engine to Staffordshire County Council, who will take over the responsibility, including existing contracts.</p>   |

**Other Options Considered:**

**Doing nothing. This option was rejected. Doing nothing is not an option in this case as the Government requires a single Accountable Body and the board has agreed for this to be transferred to Staffordshire County Council.**

**Background Papers:**

**Published Works:**

**Affected Wards:**

**Citywide**

**Colleague / Councillor Interests:**

**Any Information Exempt from publication:**

**Yes**

**Exempt Information:**

**An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972**

**1 - Information relating to any individual**

**The public interest in maintaining the exemption outweighs the public interest in disclosing the information because firstly, publishing these legal implications would clearly identify the employee in question; and secondly, the information sets out the legal risks inherent in the course of action proposed here, which the Portfolio Holder is arguably entitled to consider without Nottingham City Council's position being affected simply by the consideration of those risks**

**2 - Information which is likely to reveal the identity of an individual**

**The public interest in maintaining the exemption outweighs the public interest in disclosing the information because firstly, publishing these legal implications would clearly identify the employee in question; and secondly, the information sets out the legal risks inherent in the course of action proposed here, which the Portfolio Holder is arguably entitled to consider without Nottingham City Council's position being affected simply by the consideration of those risks**

**5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.** The public interest in maintaining the exemption outweighs the public interest in disclosing the information because firstly, publishing these legal implications would clearly identify the employee in question; and secondly, the information sets out the legal risks inherent in the course of action proposed here, which the Portfolio Holder is arguably entitled to consider without Nottingham City Council's position being affected simply by the consideration of those risks

**Documents exempt from publication:** Exempt Legal Advice.docx

**Consultations:** Those not consulted are not directly affected by the decision.

**Crime and Disorder Implications:** There are no crime and disorder implications arising from this decision

**Equality:** EIA not required. Reasons: This decision does not require an EIA as it doesn't affect policy.

**Relates to staffing:** Yes

**Decision Type:** Leader's Key Decision

**Subject to Call In:** Yes

**Call In Expiry date:** 05/10/2020

**Advice Sought:** Legal, Finance, Procurement, Human Resources

**Legal Advice:** This advice is exempt from publication and is contained within an exempt appendix

In addition to the exempt information the following advice is provided:

Nottingham City Council as the Accountable Body for the Midlands Engine has been responsible for the management of the partnership funds and the allocation of grants and awarding of contracts with service providers. The proposal that the Accountable Body status is now transferred to Staffordshire County Council (SCC) will mean that appropriate legal mechanisms are put in place for the novation of any contracts that have been entered into by NCC to become the responsibility of SCC. In addition to this written arrangements will be required to set out the responsibilities and obligations of the two councils in the transfer process.

Advice provided by Naomi Vass (Senior Solicitor) on 08/09/2020.

**Finance Advice:**

This decision seeks approval for Nottingham City Council (NCC) to handover the role of accountable body for the Midlands Engine partnership to Staffordshire County Council (SCC). The handover also requires the transfer of all partnership funds and the transfer of or cessation of any staff contracts acquired on the behalf of the partnership.

For budget year 20/21, approximately £50k had been allocated to NCC to fund accountable body administration and support costs. Two positions were allocated part time to administer the project - it is expected these positions will be redeployed or reallocated to emerging projects. The allocation also funded support provided in-house by legal and procurement, however the transfer isn't expected to cause any in year pressures for these departments as the transfer of accountable body had been planned to allow time for resources to be reallocated.

Historically Midlands Engine funding has been held in reserves and drawn to fund in year expenditure. In advance of the transfer any funds held in reserves must be transferred to the ledger. It is then expected for the whole amount to be paid over to SCC on receipt of an invoice. NCC project administrators must be careful to identify and retain sufficient funding to fund any outstanding balances to suppliers to avoid further administration or unfunded costs.

Advice provided by Chanelle Poyser (Commercial Business Partner) on 17/08/2020.

**Procurement Advice:**

There are no procurement implications in relation to this decision. Advice provided by Paul Ritchie (Lead Procurement Officer) on 06/08/2020.

**HR Advice:**

The transfer of Accountable Body status results in the 'TUPE' transfer of up to 4 employees of NCC, moving to the new accountable body at staffordshire. Appropriate consultation with colleagues affected and trade unions should be undertaken, prior to transfer. HR to support management in understanding the terms of the transfer, including supporting employees with the impact and legal position of TUPE, and facilitating sessions with the new employer to help integrate the affected employees with their new managers, colleagues and employer. Advice provided by Paul Slater (Service Redesign Consultant) on 16/09/2020.

**Signatures:**

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|---|
| David Mellen (Leader/ PH Regeneration, Schools, Communications) |
| SIGNED and Dated: 25/09/2020                                    |
| Chris Henning (Corporate Director for Development and Growth)   |
| SIGNED and Dated: 24/09/2020                                    |