

City Council - 11 July 2022

Report of the Leader of the Council

Corporate Director/ Director:

Mel Barrett, Chief Executive

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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/councils/2022-06-23-letter-to-the-chief-executive-nottingham-city-council)

Councillor David Mellen
Leader of the Council