

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

Statement made by:

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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.