

City Council - 31st October 2022

Report of the Leader of the Council

Corporate Director/ Director

Mel Barrett Chief Executive

Report Author and Contact Details

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Title Statutory Intervention and Refresh of the Together for Nottingham Plan

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 Directions to the Council that move the Improvement and Assurance Board to a statutory footing. This statutory intervention means that by law the Improvement and Assurance Board (IAB) now has the power to direct rather than to guide the Council's improvement activities.
- 1.2 This decision represents a revision of the draft Directions issued to the Council on the 23rd June 2022 whereby the Secretary of State for Levelling Up Housing and Communities had announced that he was 'minded to' intervene in Nottingham City Council through the appointment of Commissioners.
- 1.3 One of the Directions given to the Council by the Secretary of State was that within the first three months of the intervention that the Nottingham City Council Improvement Plan (known as the Together for Nottingham Plan) is amended to include additional actions in relation to the Council's improvement journey to the satisfaction of the Improvement and Assurance Board.
- 1.4 The report requests that Full Council approves the latest refresh of the Together for Nottingham Plan (Appendix Four).

2. Recommendations

- 2.1 That the Directions made by Secretary of State for Levelling Up, Housing and Communities, placing the Improvement and Assurance Board upon a statutory footing with the power to direct the council's improvement activities, are noted.
- 2.2 To approve the refreshed Together for Nottingham Plan as set out in Appendix Four.

3. Reasons for recommendations

- 3.1 The Directions given by the Secretary of State for Levelling Up, Housing and Communities to move the Improvement and Assurance Board to a statutory footing are extremely serious and have the potential to have a significant impact on the Council and its decision making.
- 3.2 The changes mean that as of the 2nd September 2022, the Improvement and Assurance Board are empowered to direct rather than guide the Council's improvement activities.
- 3.3 Given the importance of the Directions and their potential impact on the Council, it is important that all Councillors are aware of both the Secretary of State's announcement and its implications and that the Directions are formally noted by Full Council.
- 3.4 The requirement to amend the Together for Nottingham Plan within the first three months of the statutory intervention is set out in the Directions received by the Council on 2nd September 2022. As the Together for Nottingham Plan forms part of the Council's Policy Framework, changes to it can only be approved by Full Council.

4. Other options considered in making recommendations

- 4.1 The other option would be to not note the government's Directions with regards to the Improvement and Assurance Board. This would miss the opportunity to ensure that the Council has both formally noted those Directions and ensured that all Councillors are aware of their implications.
- 4.2 The Council could chose not to refresh the Together for Nottingham Plan within the three month timescale set out in the Directions. This would put the Council in breach of the Directions which are a legal requirement as set out in Section 15 of the Local Government Act 1999.

5. Consideration of Risk

- 5.1 Formally noting the Secretary of State's Directions does not have any risk implications directly associated with it.
- 5.2 The Together for Nottingham Plan continues to be managed on a programme management basis. This includes the identification and management of risk as part of the delivery plans which sit behind each theme and form the detail as to how the Plan is to be delivered.

6. Background (including outcomes of consultation)

Directions

- 6.1 On the 23rd June 2022 a written ministerial statement from the Minister for Equalities, Local Government, Faith and Communities was issued alongside a letter to the Council's Chief Executive.
- 6.2 These communications stated that the Secretary of State for Levelling Up, Housing and Communities was 'minded to' intervene in Nottingham City Council as he was satisfied that the Council was failing to comply with its Best Value Duty following the investigations made into the historic use of its Housing Revenue Account.
- 6.3 Prior to implementing the 'minded to' decision the Secretary of State did allow for a period in which representations could be made to him regarding a final decision.
- 6.4 Full Council noted the 'minded to' decision and that the Council had subsequently made representations to the Secretary of State at its meeting on 11th July 2022
- 6.5 On the 2nd September 2022 the Council's Chief Executive received a further letter from DLUHC (Appendix One) which confirmed that government considers that the council is in breach of its Best Value Duty and formally issued Directions to the Council with regards to improvement with immediate effect.
- 6.6 These Directions place the Improvement and Assurance Board on to a statutory footing, meaning that it is now empowered to direct, rather than guide, the Council's improvement activities in order to secure the Council's compliance with its Best Value Duty.
- 6.7 This arrangement is being implemented in the immediate term instead of the appointment of Commissioners as set out in the original 'minded to' decision. It has been made clear, however, that further consideration as to whether the appointment of Commissioners is necessary, will be reviewed after a report has been received by government setting out the extent of progress made on the Council's improvement journey after three months.
- 6.8 In the letter from DLUHC to the Council's Chief Executive the rationale for the change of approach was said to have been made in consideration of:

“ representations received that highlighted the close working between the Council and the Improvement and Assurance Board, the positive attitude of the Council towards the required improvement, and the capabilities of the Leader as displayed during the negotiation and agreement of the East Midlands Devolution Deal.”
(Appendix One)
- 6.9 The Secretary of State has however set out a very clear expectation that they need to see significant progress in the Council's improvement journey over the next three months and that he will again consider exercising his powers under the Local Government Act 1999, including the appointment of Commissioners, in the new year.
- 6.10 The context behind the Directions, a summary of the representations, the intervention package and the Directions themselves are contained in Appendix Two, Final Explanatory Memorandum Nottingham City Council Directions under Section 15 (5) of the Local Government Act 1999.

6.11 Given their importance, the Directions themselves are further listed in Directions under Section 15 (5) of the Local Government Act 1999 as set out below (and contained in Appendix Three):

“The actions to be taken by the Authority are:

1. In the first three months to agree and amend the Nottingham City Council Improvement Plan, to the satisfaction of the Improvement and Assurance Board. This may include or draw upon improvement or action plans prepared before the date of these Directions. Resources will need to be allocated by the Authority accordingly to implement the recommendations contained in the independent Penn and CIPFA reports, and as a minimum, the following components:

a. Actions to ensure that a strategic and systematic approach to risk management is adopted and embedded across the Authority, coupled with the appropriate scrutiny and governance of decision-making processes and procedures.

b. Actions to deliver financial stability in the Authority, including: moving to sustainable long term budget setting; an investigation to establish the accuracy and suitability of current financial accounts and management controls; rapid and sustainable improvements to the council’s scrutiny function, and financial and risk management; and strengthening its accounting processes and reporting arrangements.

c. Actions to secure improvement in the governance and structure of the council’s commercial portfolio.

d. Actions to secure continuous improvement in all services.

2. To report to the Secretary of State on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as the Improvement and Assurance Board may direct and adopt any recommendations from the Improvement and Assurance Board with respect to the Improvement Plan and its implementation.

3. To allow the Improvement and Assurance Board at all reasonable times, such access as appears to the Improvement and Assurance Board to be necessary, including:

a. To any premises of the Authority.

b. To any document relating to the Authority.

c. To any employee or member of the Authority.

4. To provide the Improvement and Assurance Board at the expense of the Authority, with such reasonable amenities and services and administrative support as the Improvement and Assurance Board may reasonably require from time to time to carry out its functions and responsibilities under these Directions.

5. To pay the Improvement and Assurance Board reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.

6. To provide the Improvement and Assurance Board with such assistance and information, including any views of the Authority on any matter, as the Improvement and Assurance Board may reasonably request.

7. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions” (Appendix Three)

- 6.12 The Directions will remain in force until the 1st September 2024 unless the Secretary of State decides that sufficient progress has been made which would allow them to be revoked or amended beforehand or if ongoing concerns remain, then the Directions could be extended further.
- 6.13 In order to assess progress the Secretary of State will receive reports at six monthly intervals (or at other times if deemed appropriate), with the first report expected as soon as practicable within the first three months of the intervention.
- 6.14 As the Directions are made under Section 15 (5) of the Local Government Act 1999 compliance with them is now a legal requirement, which in turn means that they will take precedence over the Council’s constitution should the two conflict at any time.
- 6.15 The change in the status of the Improvement and Assurance Board from guiding to having the power to direct, will mean that changes will have to be made to the Council’s internal processes for decision making to ensure that decisions can be made with full visibility to the Improvement and Assurance Board, in accordance with the Directions, whilst also noting the requirement placed upon the council to accelerate its pace of improvement.

Refresh of the Together for Nottingham Plan

- 6.16 The Directions contained a requirement to amend the Together for Nottingham Plan to the satisfaction of the Improvement and Assurance Board within the first three months of the Intervention.
- 6.17 The Directions relating to the refresh of the Together for Nottingham Plan are contained in paragraph 6.11 1 of this report. In addition to this request the Council has also included further items requested by the Improvement and Assurance Board.
- 6.18 A draft of the refreshed Together for Nottingham Plan has been shared with the Improvement and Assurance Board for final comment prior to being submitted to Full Council in order to ensure that the revised Plan will meet their requirements.
- 6.19 The refresh of the Together for Nottingham Plan is contained as Appendix Four to this report. Due the document being part of the Council’s Policy Framework it is being put to Full Council, via this report, for approval.

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

- 7.1 The current approved Medium-Term Financial Plan (MTFP) includes **£0.300m** per annum to meet the costs of the IAB for 2022/23 and 2023/24.
- 7.2 New Directions will remain in force until the 1st September 2024 unless the Secretary of State decides to revoke or amend them beforehand. This timeframe is outside the

budgeted provision for the Improvement Board and therefore an additional cost for the Improvement Board will be need to be included within the 2023/24 budget and MTFP to include **£0.125m** (£0.300m pro-rated for 5 months) in 2024/25. This will be kept under review in the light of expenditure needed for the Board to fulfil its duties.

- 7.3 The Council will be required to pay for the fees and expenses in relation to the additional actions resulting from this Direction. This will require a full resource plan and may result in addition costs for temporary staff and consultants over the period of 2022/23 through to 2024/25. Any further resourcing which is in addition to the already approved **£0.300m** budgeted cost will be subject to separate approval processes in line with the Council's Constitution.
- 7.4 In Quarter 3 2022/23 the Executive Board will consider the draft MTFP for 2023/24 to 2026/27 which will include updated cost assumptions for the Improvement Board and the Statutory Intervention. Any additional costs falling within the current year will be included as a budget variance and be included within the Quarter 2 budget monitoring report which will be presented to December 2022 Executive Board.

Debbie Middleton, Interim Director of Finance (Deputy S151) – 6 September 2022

8. Legal colleague comments

- 8.1 The legal issues that arise out of the directions issued by the Secretary of State are set out in the body of the report. The Council is now under a statutory obligation to comply with those directions by virtue of section 15 (6) (b) of the Local Government Act 1999 and to provide such assistance as may be required in order to ensure that the directions are complied with.

Malcolm R. Townroe – Director of Legal and Governance 14 October 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 Directions received from the Secretary of State for Levelling Up Housing and Communities. With regards to the refresh of the Together for Nottingham Plan, this collates activity over a variety of themes. Actions from these themes will be brought forward separately for approval as required and any crime and disorder implications will be assessed at this level.

11. Social value considerations (If Applicable)

- 11.1 Not applicable – this report concerns the formal noting of Directions received from the Secretary of State for Levelling Up Housing and Communities. With regards to the refresh of the Together for Nottingham Plan, this collates activity over a variety of themes. Actions from these themes will be brought forward separately for approval as required and any social value implications will be assessed at this level.

12. Regard to the NHS Constitution (If Applicable)

12.1 Not applicable – this report concerns the formal noting of Directions received from the Secretary of State for Levelling Up Housing and Communities. With regards to the refresh of the Together for Nottingham Plan, this collates activity over a variety of themes. Actions from these themes will be brought forward separately for approval as required and any NHS constitution implications will be assessed at this level.

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 Directions received from the Secretary of State for Levelling Up Housing and Communities. With regards to the refresh of the Together for Nottingham Plan an EIA is not required because the report, and attached Together for Nottingham Plan, does not in itself contain any changes to spending and/ or policy decisions. The further work that will be triggered by the Plan will require separate approvals in some instances and Equality Impact Assessments for these will be provided as necessary

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 Directions received from the Secretary of State for Levelling Up Housing and Communities. With regards to the refresh of the Together for Nottingham Plan, a DPIA is not required because the Together for Nottingham Plan does not in itself require a Data Protection Impact Assessment. Instead, the work that it has led to and will continue to be developed will be assessed individually as appropriate.

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 Directions received from the Secretary of State for Levelling Up Housing and Communities. With regards to the refresh of the Together for Nottingham Plan a Carbon Impact Assessment is not required because the Together for Nottingham Plan does not in itself require a Carbon Impact Assessment. There will be certain activity within it, for example around the Capital Programme, where these assessments will be required and these will be provided as part of any specific report brought forward in these areas.

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-minded-to-decision)

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/correspondence/2022-07-11-nottingham-city-council)

17.3 Proposed Statutory Intervention – City Council Report 11th July 2022

[Agenda for City Council on Monday, 11th July, 2022, 2.00 pm - Nottingham City Council](https://www.nottinghamcitycouncil.gov.uk/Agenda-for-City-Council-on-Monday-11th-July-2022-2.00-pm)

17.4 Letter to Nottingham City Council Chief Executive, regarding statutory directions – 2nd September 2022 (Appendix One)

[Nottingham - letter to Chief Executive \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/letters/correspondence/2022-09-02-nottingham-city-council)

17.5 Explanatory Memorandum to the Directions made under Section 15 (5) of the Local Government Act 1999- 2nd September 2022 (Appendix Two)

[Nottingham City Council: Explanatory Memorandum \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/letters/correspondence/2022-09-02-nottingham-city-council)

17.6 Nottingham City Council: Directions made under Section 15 (5) of the Local Government Act 1999 – 2nd September 2022 (Appendix Three)

[Nottingham City Council: Directions made under the Local Government Act 1999 \(2 September 2022\) \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/letters/correspondence/2022-09-02-nottingham-city-council)

Councillor David Mellen
Title: Leader of the Council