

Nottingham City Council Commercial Strategy

Background

The Council aspires to be a leading exponent of best practice in its approach to governing its wholly owned and controlled companies and more widely in its commercial ventures. The creation and maintenance of this commercial strategy exemplifies that ambition and is a requirement of the Governance Handbook.

The continuing application and development of both the Governance Handbook and this strategy will allow the Council to become an example of best practice amongst its peers.

This strategy is owned by the Commercial Director who is responsible for its production, updating and implementation. The Council's Corporate Leadership team and Executive has responsibility for approving the strategy.

The Public Interest Report concerning Robin Hood Energy (RHE), published in August 2020, raised serious concerns over the governance arrangements that the Council had in place. These concerns are summarised in the report as follows:

- There was an insufficient appreciation within the Council (as a corporate body) of the huge risks involved in ownership of, and investment in, RHE
- There was insufficient understanding within the Council of RHE's financial position, partly due to delays in the provision of information by RHE and the quality and accuracy of that information
- There was insufficient sector (or general commercial) expertise at non-executive Board level
- There was a lack of clarity in relation to roles within the governance structure
- The arrangements did not establish an appropriate and consistent balance between holding to account and allowing the Company freedom to manage, and this worsened as levels of trust decreased and the financial position deteriorated.

The Council has responded positively and purposefully to the PIR report and this strategy and the Governance Handbook were developed to address all weaknesses identified and to adopt prevailing best practice from across the public and private sectors.

The Governance Handbook was approved by the City Council's Executive on the 20 September 2022 and now forms part of the Governance Framework Documents which, alongside the Constitution, set out the rules by which the Council operates.

1. Purpose

1.1 The purpose of this strategy is to ensure that the requirements of the Governance Handbook are fully implemented and that all commercial ventures are demonstrably aligned to the Council's prevailing, high-level, strategic priorities. At the time of writing, these strategic priorities may be found in the

Nottingham City Council's Strategic Council Plan 2021-23. These may be summarised as follows:

- Clean and Connected Communities
- Keeping Nottingham Working
- Carbon Neutral by 2028
- Safer Nottingham
- Child-Friendly Nottingham
- Healthy and Inclusive
- Keeping Nottingham Moving
- Improve the City Centre
- Better Housing
- Financial Stability
- Serving People Well

1.2 Many commercial ventures will link to other Council strategies. Where this is the case, those links will be clear and auditable.

1.3 This strategy will allow the Council to demonstrate it is fulfilling its Best Value duty (as it applies to the scope of this strategy) in the follow terms:

- Having arrangements in place to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness
- Consideration of economic, environmental, and social value impacts

1.4 Continuous improvement will be demonstrated through the historic performance of commercial ventures through business plans and periodic strategic reviews which will test commercial ventures against alternative delivery models.

1.5 This strategy provides a set of principles with which all commercial ventures, including proposed ventures or arrangements, must comply. The principles take into account prevailing council strategies and other constitutional requirements such as the Governance Handbook.

1.6 As the Council delivers its strategies and its strategic focus changes, commercial ventures must be able to demonstrate continuous improvement. In many cases that will be achieved through delivery of the annual business plan.

2. Scope

2.1 At this stage, this strategy does not include procurement or contract management. However, future iterations of this strategy will include both areas of activity, being a very significant area of the council's spend and service delivery. There is an existing procurement strategy – Procurement Strategy 2018 – 2023 which also deals with contract management. Similarly, a new Commercial, Procurement and Contract Management Operating Model has been created. When the Procurement Strategy is revisited in 2023, it will form part of a new, more widely scoped, Commercial Strategy.

- 2.2 The first part of the Workplan in Section 7 is concerned with operationalising the Governance Handbook. This is critical for the delivery of the rest of this strategy.
- 2.3 This strategy applies to all commercial ventures provisionally listed in Appendix A to this document. Commercial ventures are included in Appendix A on the basis of their potential impacts and risks by applying the evaluation model in Appendix B. As a full evaluation of all commercial ventures is completed, Appendix A will move from provisional to confirmed. The commercial director may subsequently add or remove commercial ventures in Appendix A in consultation with the relevant portfolio holder(s).
- 2.4 For the purposes of this strategy, a Commercial Venture is defined as an activity or activities that seek payment for goods or services provided, from another person or entity, whether those ventures are for profit or otherwise, whatever form the ventures may take. For example, limited companies with shares, companies limited by guarantee or other arrangements that are established as part of the City Council without their own distinct legal personality. For example, the district heating business that has moved back in-house and school catering.
- 2.5 In common with the requirements of the Governance Handbook, this strategy requires a 'comply or explain' approach. This allows deviations from the strategy where this can be justified as being in the interests of the City Council. Any deviations must be approved by the Commercial Director and recorded for audit purposes. This record will also include the date of a review to ensure the deviation is still justified or that it is no longer appropriate or required. The reviews will also be recorded.
- 2.6 The requirements of this strategy will be applied annually to all commercial ventures in Appendix A to ensure these commercial ventures continue to support the wider strategic objectives of the council. Where an annual business plan is produced, the requirements of this strategy will be considered as part of the business planning process.
- 2.7 Similarly, whenever the Council is carrying out delivery model assessments, the requirements of this strategy must be followed if a commercial venture is being considered as a means of service delivery.

3. Principles

- 3.1 For clarity, this strategy is entirely neutral on the form and method of service delivery and whether that delivery is fulfilled through a commercial venture or not. This is a matter for the directorates and leadership of the Council to determine. The Commercial Function will play a coordinating and advisory role on delivery model assessment.

3.2 Whilst evaluation of impacts and of risk are of critical importance, there are additional principles that the Council wishes to apply to commercial activity. These are:

- (i) **A focus on core purpose and supporting the Council's priority outcomes:** Commercial ventures must demonstrably contribute to improved outcomes for the people and communities the Council serves. Commercial investments or activities outside Nottingham, which cannot demonstrate a direct contribution to delivering the Council's strategies, will be avoided
- (ii) **Compliance:** commercial ventures must be consistent with statutory duties and strategies
- (iii) **Commercial discipline:** our commercial ventures must demonstrate robust governance, performance management, financial performance and appropriate controls
- (iv) **Governance and structures:** proportionate governance and structures to provide oversight of substantial in-house commercial ventures and to support good, evidence based decision making
- (v) **Learning and risk management:** we will achieve a sensible balance of risk and opportunity across the Council's commercial portfolio, assess and manage performance robustly, and capture learning from commercial ventures
- (vi) **Commercial ventures will be required to evaluate and forecast impacts** in the following areas:
 - a. Financial impacts for the City Council including
 - i. Investment required
 - ii. Revenue costs and returns over time
 - iii. Movement in net asset value over time (where applicable) and
 - iv. Impact on the local economy and local businesses
 - b. Environmental impacts including
 - i. Net carbon dioxide emissions reduction / increase
 - ii. Changes to the natural environment through land use / enhancement including changes to biodiversity and habitats
 - iii. Changes to flood risks and
 - iv. Air quality impacts
 - c. Social impacts including
 - i. Clear, demonstrable links to the delivery and support of the Council's core purpose and contribution to improved outcomes
 - ii. The number of individuals and communities in Nottingham impacted
 - iii. The number and magnitude of the impacts

- iv. Equality, diversity and inclusion
 - d. Benefits to the local economy including
 - i. Employment
 - ii. Skills and work-related training
 - iii. Transport
 - iv. Digital inclusion
- (vii) **Any new commercial ventures will also be required to produce a business case** and follow the HM Treasury Guide to Developing the Project Business Case, often referred to as the [five case model](#). This requires the following areas to be addressed, proportional to the scale of risks and impacts:
- a. Provides strategic fit and is supported by a compelling case for change. This dimension of the five cases focuses on business planning and is the 'strategic case' section within the Project Business Case.
 - b. Will maximise public value to society through the selection of the optimal combination of components, products and related activities. This dimension of the five cases focuses on options appraisal and the identification of the preferred option and is the 'economic case' section within the Project Business Case.
 - c. Is commercially viable and attractive to the supply side. This dimension of the five cases focuses on the development and procurement of the potential Deal and is the 'commercial case' section within the Project Business Case.
 - d. Is affordable and is fundable over time. This dimension of the five cases focuses on the whole life costs of the proposed Deal and is the 'financial case' section within the Project Business Case.
 - e. Can be delivered successfully by the organisation and its partners. This dimension of the five cases focuses on the implementation arrangements for the proposal and is the 'management case' section within the Project Business Case.
- (viii) Decision making that flows from the implementation of this strategy will be carried out in accordance with the council's Constitution. The Commercial Director has a duty to ensure that the requirements of this strategy, the Governance Handbook and wider Constitutional and legal requirements (as far as they apply to activity under her/his leadership) are observed. In practice, the Commercial Director will advise colleagues where requirements are not being observed or where there are concerns, with a view to resolving them. If this is unsuccessful the Commercial Director will refer to the Corporate Director for Finance and Resources or the Chief Executive as appropriate.

4. Objectives

4.1 The overall objective of this strategy is to ensure and to demonstrate, transparently and openly, that the City Council's commercial activities are aligned to its core strategic aims. This supported by the following enabling objectives:

- (i) That the strategic fit of commercial activities is reviewed annually or whenever a significant change is proposed (see Governance Handbook Section on Strategic Review)
- (ii) To maintain a register of all commercial ventures to which this strategy applies
- (iii) To create and deliver a workplan of commercial strategy reviews for all existing commercial ventures
- (iv) To create a review process along with a process for addressing any non-compliance or shortfalls with the principles above
- (v) To fully implement the requirements of the Governance Handbook

5. Risks and impacts

- 5.1 All commercial ventures must comply with the Governance Handbook's requirements on risk and, in the case of commercial ventures that are entirely within the Council (that is to say are not a separate legal entity), the council's Risk Management and Policy Framework must also be followed.
- 5.2 The approach to commercial risks must be balanced against potential opportunities and reward with an emphasis on being risk aware, not risk averse. Risks need to be managed continuously from the earliest conception of an idea for a project or opportunity and for all the time they are live. The Commercial Director will be responsible for overseeing the management of commercial risks.
- 5.3 In the case of novel commercial ventures, where performance or benchmark information is not available, a higher level of risk awareness is required.
- 5.4 The overall balance of risks across the portfolio of the Council's commercial ventures must also be considered in aggregate as well as individually. This is to ensure that exposure to common risks among the commercial ventures is understood and appropriately managed.
- 5.5 Similarly, the impacts of the commercial ventures should be considered in aggregate as well as individually. By doing so, the overall contribution to delivering the Council's strategic objectives can be understood. Once this is understood, the focus for each commercial entity can be refined so as to create the biggest impact at lowest cost for the Council.
- 5.6 The Commercial Director will report on aggregated risks and impacts on a quarterly basis.

6. Review

5.1 This Strategy will be kept under regular review every twelve months. The next review is due in November 2023.

7. Workplan

Deliverable	Description	Target completion date
Part A	Operationalising the Governance Handbook (GH)	
1	Recruitment of a Commercial Director	30/11/2022
2	Fully resourced shareholder unit in place with governance, finance and legal officers (CH)	30/11/2022
3	Shareholder unit, shareholder representatives and Council company directors training in the Governance handbook	30/11/2022
4	Council Board Member competency self-assessments	30/11/2022
5	Options developed for revised structure of NCH and subsidiaries	30/11/2022
6	Review of both subsidiary and non-subsidiary NCC companies	30/11/2022
7	Implementation of GH requirements for conflicts of interest as they apply to Council appointed board members	31/12/2022
8	Learning and development plan for Council appointed board members	31/12/2022
9	Learning and development plan for Council shareholder reps	31/01/2023
10	Pipeline of future shareholder reps created	31/01/2023
11	Check that COEs have carried out an external board competency evaluation within the last three years and that annual board evaluations are taking place	28/02/2023
12	Work with COE's to agree annual business planning process as set out in GH	28/02/2023
13	Work with COE's to implement reporting cycle and content required by GH	28/02/2023
14	Confirm COEs risk management policy satisfies the GH requirements, agree any remedial actions with the Chair of the respective COE	31/03/2023
15	Implementation of GH requirements for conflicts of interest as they apply to Boards	31/03/2023
16	Comprehensive Strategic Reviews for each COE in line with the GH requirements will be scheduled and agreed with each COE's board.	30/06/2023
17	Pipeline of future board members created	31/07/2023
18	Review the prevailing guidance and best practice provided by the FRC (in future the Audit, Reporting and Governance Authority) CIPFA, LLG and the IOD and propose any changes to the GH	30/09/2023
19	Carry out an internal evaluation of the shareholder unit and staff and plan for an external review in 2025	30/09/2023
20	Review and revise the Governance handbook and Commercial Strategy as necessary	31/10/2023

Part B	Strategic principles applied	
1	Create a definitive list of all commercial ventures with which the City Council is involved.	31/12/2022
2	Apply the Impacts and Risks Evaluation (see Appendix B) and determine to which ventures this strategy must be applied.	31/01/2023
3	Evaluate in-scope commercial ventures against the Principles in section 6 with respective commercial ventures' personnel	31/03/2023
4	Creation of quarterly report format and content to report on risks and impacts	31/03/2023
5	Create a comprehensive report based on the evaluation, above, with recommendations for the Executive to consider and an action plan based on the report's findings for their approval	30/05/2023
6	Implementation of the action, plan likely to include: <ul style="list-style-type: none"> - Re-alignment of commercial venture activities and objectives - Improved governance - Improved reporting arrangements - Changes to delivery models and structures 	30/09/2023
7	Work with commercial ventures to agree annual business plans	01/12/2022 to 30/11/2023

Appendix A

Commercial Ventures to which this strategy applies [provisional list, subject to amendment when the risks and evaluation matrix is applied to all NCC commercial ventures]

Bridge Estate Trust

Nottingham City Homes Ltd

Nottingham City Transport Ltd

Nottingham Ice Centre Ltd

Nottingham Revenues and Benefits

Blueprint Limited Partnership

Futures Advice, Skills and Employment Ltd

Nottingham Castle Trust

[other trusts delivering leisure based services to be added]

Theatre Royal

Royal Concert Hall

Enviroenergy

Commercial Waste

Nottingham Catering

Cleaning services

Services provided to schools and academies

Appendix B

Impacts and risks evaluation

Impacts and risk evaluation for:	Critical	Significant	Important	Not significant	Marginal
How important is this commercial venture for the Council to achieve its strategic objectives?					
What financial impacts does this venture bring the City Council?					
What environmental impacts does this venture bring the City?					
What social impacts does this venture have on the City?					
To what extent does this venture impact the local economy?					
To how much risk does this venture expose the City Council?					

Any commercial venture that has a critical or significant impact or risk, will be included in Appendix A. Any commercial venture that has more than two important impacts or risks will also be included.

Those that have less than two important impacts or risks and no critical or significant risks, will be reviewed annually or when any significant change occurs.