

# City Council - 18 December 2023

## Report of Melbourne Barrett, Chief Executive

### Report Author and Contact Details:

James Rhodes, Acting Director of Policy, Performance and Communications and Assistant Chief Executive

[james.rhodes@nottinghamcity.gov.uk](mailto:james.rhodes@nottinghamcity.gov.uk)

### Title: Response to Section 114 Report – Financial Recovery 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:

Green, 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"/>
Living Well in our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>

## 1. Summary

- 1.1 On 29 November 2023, the Section 151 Officer issued a report under Section 114 (3) of the Local Government Finance Act 1988, formally notifying the Council that in his opinion the Council is unable to meet its statutory requirement to deliver a balanced budget in 2023/24. The Council is required to hold a meeting within 21 days to determine whether it agrees or disagrees with the views contained in the report and what action, if any, it proposes to take in consequence of it.
- 1.2 The purpose of this report is to provide an effective response to the Section 114 (3) report, which it recommends is accepted. The response is framed as a Financial Recovery Plan and incorporates a number of measures as set out in this report.
- 1.3 Following consideration of this report and decisions made by Council, the Section 151 Officer will undertake a further assessment of the Council's ability to meet its statutory requirement to balance its budget in 2023/24.
- 1.4 Difficult decisions are required to be made and the council will leave no stone unturned to achieve financial sustainability, to provide a stable platform to support the city and its people, in accordance with its statutory Best Value duty.

## **2. Recommendations**

That Full Council:

- 2.1 Agrees to accept the section 114 (3) report issued by the Section 151 Officer on 29 November 2023, which is attached at Appendix 1.
- 2.2 Agrees that the Council take immediate steps to mitigate the forecast 2023/24 overspend through the implementation of the Financial Recovery Plan, as set out in paragraphs 6.5 to 6.12 below, including:
  - The continuation of the Spend Control Policy introduced by the Section 151 Officer to remain in place until the 31 March 2025, subject to review after the 2023/24 budget outturn, and after Period 2 and Period 6 budget monitoring in 2024/25. The practical arrangements of operating the Spend Control Policy over an extended period will be kept under review by the Section 151 Officer, in consultation with the Head of Paid Service and Monitoring Officer
  - The continuation of actions under the existing Financial Improvement Plan, monitored by the Improvement and Assurance Board, in relation to systems improvement, improved forecasting and income maximisation.
  - The review of the capital programme will be carried out as set out in paragraph 6.9.
- 2.3 Endorses the Section 151 Officer's intention to seek to secure Exceptional Financial Support from the Department for Levelling Up, Housing and Communities (DLUHC) for 2023/24
- 2.4 Notes that the setting of a balanced budget for 2024/25 and Medium-Term Financial Plan for 2024/25 to 2027/28, in the context that very significant savings will be required, forms a key part of the Financial Improvement Plan.

## **3. Reasons for recommendations**

- 3.1 In line with their statutory responsibilities the Section 151 Officer issued a section 114 (3) report (Appendix 1) because the expenditure of the authority incurred (including expenditure it proposes to incur) in the 2023/24 financial year is likely to exceed resources available to it to meet that expenditure. Adopting the measures incorporated in the Financial Recovery Plan are intended to reduce the risk of the Section 151 Officer considering the necessity for a further Section 114 (3) report in 2023/24.
- 3.2 The environment the Council is operating in continues to present significant financial challenges both in the current year of 2023/24 and through into 2024/25. It will be essential for the Corporate Leadership Team to continue to exercise firm financial management throughout this year and for the forthcoming year through the close monitoring of budgets and, in particular, the Financial Recovery Plan, alongside previously approved savings. The Spend Control Policy will most likely need to continue to be in place for the foreseeable future.

## **4. Other options considered in making recommendations**

- 4.1 The alternative to the acceptance of the section 151 Officer's report and approval of a measures set out in the Financial Recovery Plan set out in this report, would require the Section 151 Officer to undertake a further assessment in relation to the Council

meeting its statutory duty to achieve a balanced budget, which could include the issuing a further Section 114 (3) report.

- 4.2 It should also be noted that in addition to briefing the Executive, the Section 151 Officer engaged with the Improvement and Assurance Board, the External Auditor and the Department for Levelling Up Housing and Communities as relevant external stakeholders in advance of issuing the Section 114 (3) report. In addition to any further action that the Section 151 Officer may consider in the event of the recommendations in this report not being supported, the option would be open to these stakeholders to take further action.

## **5 Consideration of Risk**

- 5.1 The Financial Improvement Plan is an immediate response to the risks outlined in the Section 114 (3) Report.

## **6 Background**

### **Report issued under Section 114 (3)**

- 6.1 The current context for upper tier and unitary local authorities with social care responsibilities, like Nottingham City Council, is very stark. Councils are facing the most challenging financial environment that anyone can recall, and across the country there has been significantly increased demand for adults and children's social care. In addition, cities are receiving significantly increased homelessness presentations. On top of this, whilst all organisations are managing the effects of significant cost and pay inflation, this was not provided for in our previous finance settlement from government.
- 6.2 Although not the cause of the overspend in the current year, the situation in Nottingham is further compounded by the council's reduced financial resilience because we have had to use significant financial reserves to cover the historic losses from the failure of the council's arm's length company Robin Hood Energy which ceased trading in 2020. The council has also needed to make good Housing Revenue Account funds historically unlawfully used to support the council's General Fund for several years from 2014/15 until 2019/2020. This means that we have less reserves available to mitigate the current financial pressures experienced compared to others.
- 6.3 In March, the council had set a balanced budget and medium-term financial plan. However, the increased service pressures since then have led to a significant projected overspend, despite a number of management and corrective actions put in place as part of the council's Financial Intervention Strategy. This has included reducing non-essential spending, non-pay spending and managing staff vacancies, which have reduced the projected overspend as at the end of Period 6 from £57 million to £23 million, nevertheless a substantial projected overspend remains.
- 6.4 On 29 November 2023, the Section 151 Officer issued a report to all members under section 114 (3) of the Local Government Finance Act 1988. This report is attached at Appendix 1 and the Council is required to confirm whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.

### **Financial Recovery Plan**

- 6.5 This Financial Recovery Plan provides the required response to the Section 114 (3) report, and its purpose is to reduce the council's underlying level of revenue

expenditure on an ongoing basis to achieve financial sustainability. This will include strict spending controls overseen by the Section 151 Officer, the requesting of exceptional financial support from government, setting a balanced budget for 2024/25 and Medium Term Financial Plan for 2024/25 to 2027/28, together with a revised policy framework reduced in scope to match the resources available, together with a continuation of the measures already underway as part of the Financial Improvement Strategy already in place.

### Spending Controls

6.6 In response to Instructions received from the Improvement and Assurance Board, the council had introduced spending controls as part of the Financial Improvement Plan (FIP). Whilst this has mitigated some financial pressures it has not proved sufficient and strengthened arrangements through the Spending Control Policy have been introduced as part of the Section 114 (3) report. The Spend Control Policy introduced by the Section 151 Officer on 29 November 2023 has had a material impact in reducing the rate of spend during the Prohibition Period of the Section 114 (3) report. The Spend Control Policy incorporated the provisions of Section 115 of the Act which states that the Section 151 Officer may only approve spending that (i) prevents the situation that led to the issuance of the Section 114 (3) report worsening, (ii) improves the situation and (iii) prevents it from recurring. The Spend Control Policy also provides that 'Allowable spending' will be approved where the Section 151 Officer is satisfied that spending is either:

- Essential to meet the Council's legal duties at the minimum level, or to meet existing legal commitments
- Externally funded spending, where the Council would lose external funding if approval were not given, and
- Spend where there is a robust business case will be considered by the Spend Control Board chaired by the Section 151 Officer

6.7 It should be expected that the Spend Control Policy will reduce the level of spending in 2023/24 and in so doing contribute to reducing financial pressures that would otherwise impact upon 2024/25. Given the seriousness of the position it is proposed that the Spending Controls continue in force until 31 March 2025, subject to reviews to be carried out by the Section 151 Officer at the end of the Period 2 and Period 6 budget monitoring periods in 2024/25. The practical arrangements of operating the Spend Control Policy over an extended period will be kept under review by the Section 151 Officer, in consultation with the Head of Paid Service and Monitoring Officer.

6.8 In addition, other measures incorporated within the council's Financial Improvement Plan (FIP) including the maximisation of transformation savings and improving collection rates etc. will continue. The FIP is structured around the following eight themes:

- 1) Strengthening financial leadership.
- 2) Improving the approach to managing and governing the capital programme.
- 3) Enhancing financial systems to meet user needs.
- 4) A well designed and robust system of internal financial control.
- 5) Embedding professional accounting practice.
- 6) Capacity building and training.
- 7) Enhancing financial strategies.
- 8) Understanding and effectively managing its finances (social care).

### Review of Capital Programme

- 6.9 The capital programme will be reviewed to assess the extent to which borrowing can be stopped or delayed and where borrowing costs can be reduced including through the sale of assets currently owned by the Council. The review will include:
- a) All spend from capital will need to be reviewed including committed programmes to identify what can be paused or stopped without significant additional cost.
  - b) Finance will undertake a review of borrowing to determine whether there are any options to refinance and reduce interest costs.
  - c) Review all assets to identify further assets that can be sold and add them to the current planned asset disposals.
  - d) The reviews will be led by Finance but will require collective ownership by all members of the Corporate Leadership Team as well as input from Executive Councillors.

#### Exceptional Financial Support

- 6.10 The Section 151 Officer will engage with the Department for Levelling Up Housing and Communities (DLUHC) to request Exceptional Financial Support for the current financial year 2023/24. In practical terms this will be to seek permission to capitalise revenue expenditure so that it is treated as capital expenditure and can be met from the Council's capital resources. Having regard to the Council's existing voluntary debt cap this will require the amount capitalised to be funded by asset sales. This is likely to require a greater quantum of asset sales to be identified and progressed through the Council's Capital Board. DLUHC Officials have confirmed that any Exceptional Financial Support is only normally offered "for the residual funding amount" once a council has demonstrated a plan to reduce the amount required through savings proposals, asset sales and other activities as part of its Financial Recovery Plan.

#### Setting and Delivery of a Balanced Budget

- 6.11 Having regard to the extent of demand pressures currently being experienced, notwithstanding the mitigations underway and further proposed by the Spend Control Policy, it is clear that the scale of required savings to set a balanced budget in 2024/25 will be significant. Budget proposals will be informed by the findings from our Duties and Powers Review (a methodology that allows for service provision to be discharged in line with minimum legal requirements to be costed resulting in the identification of savings options) that has been undertaken which brings forward significant savings proposals for Members' consideration at Budget Council in February 2024.
- 6.12 At the same time the Council will be required to articulate its revised policy framework demonstrating that its plans for delivery align with the reduced resources available. This will require the articulation of a revised core offer stating clearly the services it offers and those it does not, and put in place the necessary arrangements to deliver the changes required. This will include significantly reducing the number of employee posts at the council.

### **6 Finance colleague comments (including implications and value for money)**

Financial Issues are the subject of this report and are addressed in the body of the text above

*Shabana Kausar – Director of Finance and Deputy Section 151 Officer – 12 December 2023*

## **7 Legal colleague comments**

- 7.1 The issuance of the report by the section 151 officer under section 114 (3) of the Local Government Finance Act 1988 is a mandatory statutory requirement placed on him in circumstances where it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure. In issuing the section 114 (3) report the section 151 officer has formed that opinion in relation to the 2023/24 financial year and is therefore discharging the statutory duty placed on him.
- 7.2 The obligation now placed on the authority under section 115 (2) of the Local Government Finance Act 1988 is to consider the report at a meeting where it shall decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it.
- 7.3 If the authority agrees with the views contained in the report then the statutory spend restrictions contained in section 115 (6) fall away on the first business day after the meeting. However, it would be seen as both rational and prudent for non-statutory spend control policies to remain in, or be put, in place in order to assist the section 151 officer in delivering reductions in the authority's expenditure.
- 7.4 In the event that the authority disagrees with the report then the section 151 officer would have to consider the issuance of a further section 114 (3) report which would then have the effect of reintroducing statutory spend restrictions for a further prohibition period of up to 21 days whilst another meeting was arranged to consider the response to the further report.

*Malcolm R. Townroe – Director of Legal and Governance and Monitoring Officer – 8  
December 2023*

## **8 Other relevant comments**

- 8.1 None

## **9 Equality Impact Assessment (EIA)**

- 9.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because the impact of any future changes to service delivery will be assessed, including those being put forward as budget proposals for 2024/25.

## **10 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

None

## **11 Published documents referred to in this report**

- Period 6 Budget Monitoring Report to Executive Board 21 November 2023
- Finance Improvement Plan Update to Audit Committee 24 November 2023