

City Council – 8 July 2024

Report of the Chair of the Health and Wellbeing Board

Corporate Director/ Director:

Beth Brown, Director of Legal and Governance

Report Author and Contact Details:

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Title: Amendments to the Constitution

Does the report form part of the Budget or Policy Framework?

Yes No

Commissioner Consideration

Has this report been shared with the Commissioners' Office? Yes No

Any comments the Commissioners wish to provide are listed below.

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 Council can establish committees to discharge some of its non-executive functions, and determines the functions they may exercise and their terms of reference and their composition and makes appointments to them. It has established a Health and Wellbeing Board, as required by the Health and Care Act 2012, to bring key local leaders together to improve the health and wellbeing of the population of Nottingham and reduce health inequalities. The terms of reference for the Board are set out in Article 9 Non-Executive Functions and Committees of the Constitution. Council is asked to approve amendments to the terms of reference for the Board.
- 1.2 Council is responsible for amending the Constitution. Therefore, Council is also asked to update Article 9 of the Constitution to reflect the changes to the terms of reference for the Health and Wellbeing Board.
- 1.3 The Director of Legal and Governance has delegated authority to make amendments to the Constitution that relate to decisions that only have to be noted by Council e.g. Executive changes made by the Leader. Council is also asked to note that the

Constitution has been amended to reflect a change made by the Leader of the Council to the terms of reference for the Companies Governance Executive Committee.

2. Recommendations

- 2.1 To amend the terms of reference for the Health and Wellbeing Board to:
 - i) replace the Corporate Director for People and Director for Adult Health and Care with the Corporate Director for Children and Education (director of children's services) and Corporate Director for Adult Social Care and Health (director of adult social services) as voting members of the Board; and
 - ii) change objective (f) to "agree and oversee delivery of the Better Care Fund, including discharge of all functions that are the responsibility of the Health and Wellbeing Board as set out in the Section 75 Agreement".
- 2.2 To amend Article 9 Non-Executive Functions and Committees of the Constitution to reflect these changes to the Health and Wellbeing Board Terms of Reference.
- 2.3 To note that the Leader of the Council has amended the terms of reference for the Companies Governance Executive Committee to remove the requirement for a specific Executive Member to chair the Committee and appoint Councillor Ethan Radford to replace Councillor Linda Woodings as Chair; and that Article 10 Executive Arrangements of the Constitution has been amended to reflect this change.

3. Reasons for recommendations

- 3.1 Council can establish a committee to discharge some of its non-executive functions and determines the functions they may exercise and their terms of reference and their composition and make appointments to them. Amendments to these arrangements can only be made by Council.
- 3.2 Adopting and amending the Constitution are functions that can only be exercised by Council. Delegation 77 enables the Director of Legal and Governance to make amendments to the Constitution that relate to decisions that only have to be noted by Council e.g. Executive changes made by the Leader, but the Constitution requires that these changes are reported to Council.

4. Other options considered in making recommendations

- 4.1 Approval of amendments to the Health and Wellbeing Board terms of reference - The discharge of functions by committees is regularly reviewed. Reasons for proposed changes and not continuing with same arrangements as previously are set out in section 7 of this report.
- 4.2 Noting the amendment to the Companies Governance Executive Committee terms of reference - The decision to amend the terms of reference has been made by the Leader of the Council, and Council is required to note that the Constitution has been amended to reflect this change.

5. Consideration of Risk

- 5.1 It is important that the nature and extent of delegations of non-executive functions by Council and the arrangements for the delegation of executive functions by the Leader of the Council are clearly articulated in the Council's Constitution to ensure clarity

about their discharge and roles and responsibilities within the Council's governance framework.

6. **Best Value Considerations**

- 6.1 The report sets out proposals to amend the terms of reference for the Health and Wellbeing Board to ensure efficient and effective discharge of functions that are the responsibility of the Board.

7. **Background (including outcomes of consultation)**

7.1 **Non Executive Amendments to the Constitution – Amendments to the terms of reference for the Health and Wellbeing Board**

Council can establish committees to discharge some of its non-executive functions. Details of the committees it establishes and the functions delegated to each committee can be found in Article 9 Non-Executive Functions and Committees of the Constitution. In establishing non-executive committees, Council determines the functions they may exercise and their terms of reference; their composition and makes appointments to them; and appoints the chairs of those committees (unless otherwise specified in an individual committee's terms of reference).

- 7.2 As required by the Health and Social Care Act 2012 the Council has established a Health and Wellbeing Board to share leadership on the strategic approach to improving the health and wellbeing of local communities. The purpose of the Board is to bring key local leaders together to improve the health and wellbeing of the population of Nottingham and reduce health inequalities.

- 7.3 The Act requires that the membership of the Board must include the director of adult social services and the director of children's services as voting members. For a number of years, both of these roles have been held by the Corporate Director and therefore the Corporate Director for People has been a member of the Board exercising the director of children's services vote and the Director of Adult Health and Care has been a member of the Board exercising the director of adult social services vote. Now that the role of Corporate Director for People is being replaced by a Corporate Director for Children and Education (holding the statutory role of director of children's services) and a Corporate Director for Adult Social Care and Health (holding the statutory role of director of adult social services) these two post holders will be the voting members of the Board. Council is asked to amend the terms of reference for the Board to reflect this.

- 7.4 As set out in legislation, one of the roles of the Health and Wellbeing Board is to oversee the Better Care Fund (BCF). The Better Care Fund was established in 2015 to pool budgets between the NHS and local authorities, aiming to reduce the barriers often created by separate funding streams, and the Council and Nottingham and Nottinghamshire Integrated Care Board have a Section 75 Partnership Agreement in place relating to the commissioning of health and social care services within the BCF. In previous years the Board has established a Sub-Committee to act as the Programme Board for the Fund. The need for, and operation of this Sub-Committee has been reviewed and, based on the findings of that review, at its meeting on 29 May 2024 the Board agreed to discontinue the Sub-Committee and carry out all functions relating to the BCF that are the responsibility of the Health and Wellbeing Board directly. The current terms of reference for the Board state that the Board will "oversee the Better Care Fund". In order to provide clarity on its role the Board supports an amendment of its terms of reference to: "agree and oversee delivery of

the Better Care Fund, including discharge of all functions that are the responsibility of the Health and Wellbeing Board as set out in the Section 75 Agreement". Council is asked to amend the terms of reference for the Health and Wellbeing Board accordingly.

7.5 Executive Amendments to the Constitution – Amendment to the terms of reference for the Companies Governance Executive Committee

The Companies Governance Executive Committee is an Executive Committee established by the Leader of the Council to ensure that the Council's strategic objectives are met across the group of companies or other entities in which the Council has an interest. The terms of reference for the Committee are set out in Article 10 Executive Arrangements of the Constitution. On 5 June 2024 the Leader of the Council amended the terms of reference for the Committee to remove the requirement for the Committee to be chaired by the Executive Member for Finance and Resources and enable the Chair to be appointed from any of the Committee's members; and appointed Councillor Ethan Radford to replace Councillor Linda Woodings as Chair of the Committee. Council is asked to note that Article 10 has been amended by the Director of Legal and Governance under delegation 77 to reflect this change.

8. Commissioner comments

8.1 Commissioners agree with the recommendations.

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

9.1 In relation to the recommendation (1) in this report, the replacement of the Corporate Director for People and Director for Adult Health and Care with the Corporate Director for Children and Education and Corporate Director for Adult Social Care and Health does not attract any allowances. In addition, overseeing delivery of the Better Care Fund does not affect the current funding envelope.

9.2 In relation to the second recommendation, the chair of the Companies Governance Executive Committee does not receive an allowance.

9.3 Overall, the recommendations do not have any financial implications.

Alfred Ansong, Interim Strategic Finance Business Partner

10. Legal colleague comments

10.3 The recommendations contained in this report raise no significant legal issues. It is an essential element of good governance that the Council has a clear, concise and up to date Constitution that sets out in a very transparent manner how the Council conducts its business.

Beth Brown, Director of Legal and Governance

11. Other relevant comments

11.1 None

12. Crime and Disorder Implications (If Applicable)

12.1 Not applicable

13. Social value considerations (If Applicable)

13.1 Not applicable

14. Regard to the NHS Constitution (If Applicable)

14.1 Not applicable

15. Equality Impact Assessment (EIA)

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

No



An EIA is not required because the proposals do not relate to a new or changing policy, service or function.

16. Data Protection Impact Assessment (DPIA)

16.1 Has the data protection impact of the proposals in this report been assessed?

No



A DPIA is not required because the proposals do not involve use of personal or sensitive data.

17. Carbon Impact Assessment (CIA)

17.1 Has the carbon impact of the proposals in this report been assessed?

No



A CIA is not required because the proposals do not have any significant carbon impact.

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

18.1 None

19. Published documents referred to in this report

19.1 Report to and minutes of the meeting of the Health and Wellbeing Board held on 29 May 2024

19.2 Article 9 Non-Executive Functions and Committees of the Council's Constitution

19.3 Article 10 Executive Arrangements of the Council's Constitution

19.4 Health and Social Care Act 2012

Councillor Pavlos Kotsonis

Chair of Health and Wellbeing Board/ Executive Member for Adult Social Care and Health