

DRAFT Independent auditor's report to the members of Nottingham City Council

Report on the Audit of the Financial Statements

Disclaimer of opinion

We were engaged to audit the financial statements of Nottingham City Council (the 'Authority') and its subsidiaries (the 'Group') for the year ended 31 March 2020, which comprise the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Movement in Reserves Statement, the Cash Flow Statement, the Housing Revenue Account Income and Expenditure Statement, the Movement on the HRA Statement, the Collection Fund Statement, the Group Comprehensive Income and Expenditure Statement, the Group Balance Sheet, the Group Movement in Reserves Statement and the Group Cash Flow Statement and notes to the financial statements, including a summary of significant accounting policies. The notes to the financial statements include the Expenditure and Funding Analysis, Notes to the Core Statements, Policies and Judgements, Notes to the Housing Revenue Account Statement, Notes to the Collection Fund Statement and Notes to the Group Accounts. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2019/20.

We do not express an opinion on the accompanying financial statements of the Authority or the Group. Because of the significance of the matters described in the basis for disclaimer of opinion section of our report, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

Basis for disclaimer of opinion

The Accounts and Audit (Amendment) Regulations 2024 ('the Regulations') require the Authority to publish audited financial statements for the year ended 31 March 2020 by 13 December 2024 ('the backstop date'). The backstop date has been put in law with the purpose of clearing the backlog of historical financial statements. We have not been able to obtain sufficient appropriate audit evidence by the backstop date to conclude that the Authority's or the Group's financial statements for the year ended 31 March 2020 as a whole are free from material misstatement. We were also unable to obtain sufficient appropriate evidence for the corresponding figures due to the historical nature of the Housing Revenue Account (HRA) breach which came to light during 2019/20. We have therefore issued a disclaimer of opinion on the financial statements. This enables the Authority to comply with the requirement in the Regulations that they publish audited financial statements for the year ended 31 March 2020 by the backstop date. We have concluded that the possible effects on the financial statements of undetected misstatements arising from this matter could be both material and pervasive.

Furthermore, in December 2021, the Section 151 Officer issued a report under s114 (2) of the Local Government Act 1998, revealing that the Authority had unlawfully breached the ring-fencing requirement for the Housing Revenue Account (HRA) over a seven-year period, including the 2019-20 financial year.

The Authority initiated an independent review to investigate the potential misuse of ringfenced funds, which identified a high risk of controls being circumvented through management override but was unable to conclusively establish whether management override had occurred. This review also concluded that there was an ineffective audit trail and a high incidence of issues in the tested transactions, which is consistent with the findings from our testing of journal transactions posted during the year.

Subsequent to management's decision not to undertake a forensic investigation, we have been unable to establish whether management override of control was the cause of the breach of the HRA ringfencing requirement in 2019/20 and prior years, and whether other similar instances of both non-compliance with laws and regulations or management override of control could have occurred.

As a result of these matters, we are unable to appropriately respond to potential non-compliance with laws and regulations identified during the audit, obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations, and perform specified audit procedures to identify instances of non-compliance with other laws and regulations or management override of control that may have a material effect on the financial statements.

The independent review referenced above also highlighted an ineffective audit trail and high incidence of issues in the transactions tested, and this has been corroborated by the testing undertaken by the audit team. In particular, we have been unable to gain sufficient and appropriate audit evidence on the operating expenditure of the Council due to the volume of errors identified. Given the findings from the review, further sample testing is unlikely to gain the necessary level of assurance and therefore we have been unable to conclude that this balance is free from material misstatement.

We have concluded that the possible effects on the financial statements of undetected misstatements arising from these matters could be both material and pervasive.

Other information we are required to report on by exception under the Code of Audit Practice

Because of the significance of the matter described in the basis for disclaimer of opinion section of our report, we have been unable to consider whether the Annual Governance Statement does not comply with the 'delivering good governance in Local Government Framework 2016 Edition' published by CIPFA and SOLACE or is misleading or inconsistent with the information of which we are aware from our audit. We are not required to consider whether the Annual Governance Statement addresses all risks and controls or that risks are satisfactorily addressed by internal controls.

Opinion on other matter required by the Code of Audit Practice

The Corporate Director, Finance and Resources is responsible for the other information. The other information comprises the information included in the Statement of Accounts, other than the Authority's and group's financial statements and our auditor's report thereon. Because of the significance of the matter described in the basis for disclaimer of opinion section of our report, we have been unable to form an opinion, whether based on the work undertaken in the course of the audit of the financial statements and our knowledge of the Authority gained through our work in relation to the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources, whether the other information published together with the financial statements in the Statement of Accounts for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which we are required to report by exception

Under the Code of Audit Practice, we are required to report to you if:

- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make a written recommendation to the Authority under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014, in the course of, or at the conclusion of the audit.

We have nothing to report in respect of the above matters except on 11 August 2020 we issued a report in the public interest under section 24 of the Local Audit and Accountability Act 2014 in relation to significant weaknesses in the Authority's governance arrangements for its companies, with particular reference to Robin Hood Energy Ltd.

Responsibilities of the Authority, the Corporate Director, Finance and Resources and Those Charged with Governance for the financial statements

As explained more fully in the Statement of Responsibilities, the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs. In this authority, that officer is the Corporate Director, Finance and Resources is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2019/20, for being satisfied that they give a true and fair view, and for such internal control as the Corporate Director, Finance and Resources determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Corporate Director, Finance and Resources is responsible for assessing the group's and the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention by government that the services provided by the Authority will no longer be provided.

The Audit Committee is Those Charged with Governance. Those charged with governance are responsible for overseeing the Authority's financial reporting process.

Auditor's responsibilities for the audit of the financial statements

Our responsibility is to conduct an audit of the Authority's and group's financial statements in accordance with International Standards on Auditing (UK) and to issue an auditor's report. However, because of the matter described in the basis for disclaimer of opinion section of our report, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on those financial statements.

We are independent of the Authority and group in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements.

Report on other legal and regulatory requirements - Conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources

Adverse Conclusion

On the basis of our work, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, because of the significance of the matters described in the basis for adverse conclusion section of our report, we are not satisfied that, in all significant respects, Nottingham City Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2020.

Basis for adverse conclusion

In considering the Authority's arrangements for securing efficiency, economy and effectiveness in its use of resources, we identified the following matters:

Financial sustainability

During 2019/20, it was clear that the Authority had low levels of reserves and was facing a challenging financial outlook. Arrangements were not developed to integrate group

companies appropriately into its financial monitoring processes, and the financial strategy was too reliant on its commercialism agenda. Our adverse opinion in 2018/19 highlighted the impact that failure of Robin Hood Energy had on the financial strategy, the impact of the Covid-19 pandemic and the high levels of debt held by the Authority following unconstrained capital expenditure. Our 2018/19 was delayed until April 2021. The timing of events meant that the Authority had not had the opportunity to make the necessary improvements during 2019/20, and therefore we consider that a pervasive weakness exists in the Authority's financial planning arrangements for 2019/20.

Company governance

We issued a Report in the Public Interest in August 2020 in respect of the Authority's arrangements for governance of its companies and in particular Robin Hood Energy (RHE). We found that:

- The operation of RHE was hugely risky for the Authority, and these risks were not fully understood and managed;
- There was a lack of clarity of roles within the Authority's governance arrangements;
- The Authority was not adequately monitoring the financial performance of RHE;
- The Authority had a very strong desire for RHE to succeed, which led to institutional blindness to its deteriorating financial position and the level of risk the Authority was being exposed to; and
- Lessons needed to be learned across the Authority's companies and in relation to its wider culture and, in particular, the negative view that was taken of challenges to political priorities.

These matters highlight pervasive weaknesses in the Authority's arrangements for governance of its companies.

Management of significant projects

Our 2018/19 work identified weaknesses in the Authority's application of its arrangements for significant projects, which were apparent in respect of the decision-making around the Broad Marsh refurbishment. In particular:

- The central finance function, including the s151 officer, were given very limited time to consider the decision-making report, in the context where the decision had to be taken to a very tight timescale.
- The forecasting methodology used in the business case for the development was not carried on an appropriate discounted basis.
- Echoing our concerns in relation to RHE, it appeared that the scheme was seen as a 'must do' and that any challenge of it, or the process followed, was viewed very negatively.

The weaknesses in the application of the Authority's arrangements for significant projects led to a level of risk being taken (and debt being taken on) which the Authority's financial situation could not support. Our 2018/19 was delayed until April 2021. The timing of events meant that the Authority had not had the opportunity to make the necessary improvements during 2019/20, and therefore we consider that a pervasive weakness exists in the Authority's arrangements for managing significant projects for 2019/20.

The above matters highlight pervasive significant weakness at the Authority in financial planning, governance of companies and managing significant projects. We concluded that these matters were evidence of weaknesses in the Authority's arrangements for informed decision making, and include weaknesses in proper arrangements for:

- planning finances effectively to support the sustainable delivery of strategic priorities and maintain statutory functions,
- acting in the public interest through demonstrating and applying the principles and values of sound governance,

- understanding and using appropriate and reliable performance information to support informed decision making and performance management, including business cases supporting significant investment decisions, and
- working with third parties effectively to deliver strategic priorities.

Responsibilities of the Authority

The Authority is responsible for putting in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

Auditor's responsibilities for the review of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to be satisfied that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We are not required to consider, nor have we considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

We have undertaken our review in accordance with the Code of Audit Practice, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2024, as to whether in all significant respects the Authority had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people. The Comptroller and Auditor General determined this criterion as that necessary for us to consider under the Code of Audit Practice in satisfying ourselves whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2020.

We planned our work in accordance with the Code of Audit Practice. Based on our risk assessment, we undertook such work as we considered necessary to be satisfied that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Report on other legal and regulatory requirements - Certificate

We certify that we have completed the audit of the financial statements of the Nottingham City Council in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice.

Use of our report

This report is made solely to the members of the Authority, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 and as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

[Signature]

Andrew Smith, Key Audit Partner
for and on behalf of Grant Thornton UK LLP, Local Auditor
Birmingham

[x] November 2024