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Dear Cllr. Williams

Nottingham City Council: Conclusion of the audit for 2020/21, 2021/22 and 2022/23 – letter to those charged with governance on the application of the local authority backstop

As you will be aware, on 30 September 2024 parliament approved the Accounts and Audit (Amendment) Regulations 2024. These Regulations set a publication date for financial statements up to and including 2022/23 of 13 December 2024. The new National Audit Office Code which was approved on 14 November 2024 also requires that where auditors are unable to conclude their work, they should issue either a qualified audit opinion or a disclaimer of opinion by this date, known as the 'statutory backstop date'.

As discussed with your Corporate Director, Finance and Resources, and for reasons which I set out in more detail below, it will not be possible for us to complete our audit for the 2020/21, 2021/22 and 2022/23 financial years by the statutory backstop date.

We are required under Auditing Standards to report certain matters to the Audit Committee, including our responsibilities as auditor, the scope of the audit, independence, audit fees and any matters arising from the audit. I set out more details in relation to the audit below. Information regarding our responsibilities, the scope of the audit and fees are included in the Appendix.

Outcome of our audit for 2020/21, 2021/22 and 2022/23 – Disclaimer of the opinion on the financial statements

For reasons set out below, it will not be possible for us to undertake sufficient work to support an audit opinion by the statutory deadline of 13 December 2024. This means that the limitations of scope imposed by the backstop are pervasive and therefore we have been unable to form an opinion on the financial statements by the due date. We therefore plan to issue a disclaimer of the audit opinion. A draft copy of this disclaimer, for each relevant financial year is attached within the 29 November 2024 Audit Committee papers as a separate agenda item.

Years ended 31 March 2021 and 31 March 2022 - The Accounts and Audit Regulations 2015 required the Authority to make its financial statements for the year ended 31 March 2021 and 31 March 2022 available for public inspection by the first working day in June 2021 and June 2022 respectively. However, the Authority did not make these financial statements available for public inspection until 12 September 2024.

Year ended 31 March 2023 - The Accounts and Audit Regulations 2015 required the Authority to make its financial statements for the year ended 31 March 2023 available for public inspection by the first working day in June 2023. However, the Authority did not make these financial statements available for public inspection until 8 October 2024.

In light of the above publication dates, discussions were held with the Finance Commissioner, Chair of Audit Committee, and Corporate Director, Finance and Resources to discuss the resourcing implications. It was agreed that it was no longer feasible to complete the audit of the above financial years ahead of the backstop date, leading to a decision to prioritise resources on the recovery of assurance, starting with the audit of the Council's 2023/24 financial statements. As a result, we did not have enough time before 13 December 2024 to obtain sufficient appropriate audit evidence to conclude that these financial statements as a whole are free from material misstatement.

Outcome of our audit for 2020/21, 2021/22 and 2022/23 - Value for Money work and other work under the National Audit Office Code of Audit Practice

In relation to the financial year 2020/21 :

- On 25 February 2022, we identified a significant weakness in the Authority's arrangements for financial sustainability. During 2020/21, the Authority's finances faced several challenges. This situation was not helped by the Covid pandemic, but the Authority was in a difficult position because of its previous strategy of reliance on income from its companies and commercial properties. The failure of Robin Hood Energy Ltd exacerbated the situation and led to the Authority requesting a £35m capitalisation direction. We recommended as part of its continuing efforts to achieve financial sustainability the Authority ensures additional saving schemes are identified to bridge remaining gaps in its Medium Term Financial Strategy, work to build up and assess the business cases for savings is continued at pace, and the reasons for wide variations in in-year reporting are investigated and actions taken to improve forecasting in the relevant areas to prevent recurrence.

- On 25 February 2022, we identified a significant weakness in the Authority's governance arrangements. This was in relation the Authority's company governance arrangements. We identified the Authority's governance arrangements for its companies as a risk in prior years and this risk was confirmed through our report in the Public Interest on Robin Hood Energy Ltd in August 2020. Since then, and particularly since January 2021, the Authority has started a wide-ranging programme to improve company governance arrangements and to strategically review it companies. While the Authority has taken some important steps to improve its company governance arrangements, there remained much to do at the end of the 2020/21 financial year and the extent of this work reinforces the deep-seated issues which previously existed in this area. We recommended the Authority should maintain the momentum it has now achieved in rationalising its company arrangements and improving governance by:

    - Ensuring that the planned increase in resources in this area, particularly in the form of the shareholder team, is effective and sufficient.

    - Continuing efforts to ensure that the Authority is appropriately represented on the boards of its subsidiaries and associates and that its representatives fully understand their role as directors and their responsibilities towards the company and,

    - Putting in place an overall strategy for its involvement in companies, building on the guiding principles which have recently come into use.

- On 25 February 2022, we identified a significant weakness in the Authority's governance arrangements. This was in relation to delays to the production of the Authority's financial statements for 2020/21. We recommended the Authority ensures it has sufficient resources and priority are given to the accounts preparation process, commensurate with the Authority's complexity and challenges. Officers should also strengthen arrangements to ensure that there can be no repeat of the loss of crucial valuation records, which resulted in delays to the accounts and the incurring of significant sums on a repeat valuation process. On 24 February 2023, we identified this risk continued and further recommended that the Authority ensure external audit queries and issues are resolved at the earliest opportunity. The Authority should then ensure that sufficient resources and priority are given to the accounts preparation process, commensurate with an Authority of Nottingham City Council's complexity and challenges.

- **On 24 February 2023, we identified a significant weakness in the Authority's governance arrangements in relation to unlawful transfers between the General Fund and the Housing Revenue Account. Decision-making that is unlawful represents a significant weakness in the Authority's governance arrangements. We recommended that arrangements for returning misappropriated funds to the Housing Revenue Account should be finalised and accounted for. The Authority should continue its work to bring Nottingham City Homes Limited's housing function back in-house. A structured approach for managing, closing or disposing of the residual company and its subsidiaries is required. In-house housing functions arrangements need to be clarified at the earliest opportunity.

In relation to the financial year 2021/22 we reviewed the Authority's progress in implementing recommendations from 2020/21 and concluded that insufficient progress had been made by the Authority in addressing the significant weaknesses identified, therefore the 2020/21 significant weaknesses in arrangements remained in place.

Additionally, we identified the following new significant weaknesses on 24 February 2023:

- A significant weakness in the Authority's arrangements for financial sustainability. In particular, how the Authority plans and manages its resources to ensure it can continue to deliver its services. This was in relation to the extent of unaddressed budget gaps which threaten delivery from 2023/24 to 2026/27. We recommended that the Authority should revisit the Medium-Term Financial Plan at the earliest opportunity. Business cases should be developed to support additional savings plans to fully address the budget gaps in the medium term.

- A significant weakness in the Authority's governance arrangements. Governance failings and £40 million historic accounting errors were uncovered with one subsidiary and the Authority were to complete strategic reviews of the other companies. We recommend that the Authority efforts to review strategic purpose and the financial needs of companies should be continued. The Council should be mindful that risk within subsidiaries could increase with coming inflation and that skilled accountants are required as business partners for companies as well as for core Council financing reporting roles.

- A significant weakness in the Authority's governance arrangements in relation to significant inconsistencies between budgetary information and the final outturn. We recommended that the Council needs to review budgets across the Council, ideally adopting a zero-based budgeting approach to rebase and justify all expenditure. Efforts to recruit skilled Finance resources should be continued. To resolve the management accounting weaknesses which led to inconsistencies in budgetary information, the Council should be mindful that skilled accountants are required as business partners for service lines and companies as well as for core financial reporting roles.

- A significant weakness in the Authority's governance arrangements. Due to recruitment and retention within corporate and key services, there is a lack of management capacity. We recommended that the Authority should continue to prioritise recruitment and should seek longer-term certainty where interim posts are shortly expiring. Additionally, the Authority needs to review its pay policy to ensure it is able to recruit and retain talent.

- A significant weakness in the Authority's arrangements for improving economy, efficiency and effectiveness. This was in relation to Ofsted findings from an unannounced inspection of Nottingham City Council's Children's Service in July 2022 where an 'inadequate' grade for 'overall effectiveness'. Ofsted first identified weakness in service performance in 2019 and the 'inadequate' rating represents a failure to take appropriate action. We recommended that the Council's Improvement Plan and associated actions for Children's Services should be agreed at the earliest opportunity. Working with the Improvement and Assurance Board and other appointed partners will be essential for securing better outcomes for children going forward.

- A significant weakness in the Authority's arrangements for improving economy, efficiency and effectiveness as the Authority was not able to demonstrate best value through procurement. We recommended that the Authority needs to implement the recommendations from the independent review of its procurement function, which aims to develop a new operating model as soon as possible. The Authority needs to put a combination of measures, including education, filling vacancies within procurement, tightening of procedures, stricter review and approval of dispensations and increased personal consequences for non-compliance. It will be important that the levels of compliance continue to be closely monitored, and these measures be enhanced if necessary.

In relation to the financial year 2022/23 we reviewed the Authority's progress in implementing recommendations from 2020/21 and 2021/22. We concluded one recommendation has been completed in relation to misappropriation of funds (marked ** above). Insufficient progress had been made by the Authority in addressing the remaining significant weaknesses identified, therefore with the exception of the one recommendation, 2020/21 and 2021/22 recommendations remain relevant significant weaknesses in arrangements for the 2022/23 financial year.

Additionally, we identified the following new significant weakness on 22 March 2024:

- A significant weakness in the Authority's arrangements for financial sustainability. The Authority was overseen by an Improvement and Assurance Board between January 2021 and February 2024 (three years). Although there were areas of improvement, the government decided in February 2024 to appoint Commissioners. We recommended that the Authority should engage fully and at pace with the improvement and intervention plans developed by Commissioners. Whilst we made a Statutory Recommendation around savings plans on 9 February 2024, it will be important that the Authority works proactively with Commissioners to deliver the full range of improvements highlighted in our previous auditor reports and highlighted by the Improvement and Assurance Board across the organisation.

Statutory powers or duties

We are also required to report by exception if we have applied any of our statutory powers or duties.

We wish to highlight the following information for your attention:

- 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 the Authority's governance arrangements for its companies, with particular reference to Robin Hood Energy Ltd.

Independence

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention and consider that an objective reasonable and informed third party would take the same view. We have complied with the Financial Reporting Council's Ethical Standard and confirm that we, as a firm, and each covered person, are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

Management letter of representation

We have asked management to provide a letter of representation in respect of the financial statements for each financial year, 2020/21, 2021/22 and 2022/23. Each letter requested has been tabled as a separate agenda item for the 29 November 2024 Audit Committee.

Looking ahead

The circumstances resulting in the application of the local authority backstop are clearly extremely unusual. The government has signalled its intent that where backstops have been applied, local authorities and their auditors work together to recover the position over subsequent years. We will follow relevant guidance including from the NAO and the FRC to work with you over the coming year, as we seek to rebuild audit assurance.

Yours sincerely

Andrew Smith

For Grant Thornton UK LLP

Cc: Corporate Director, Finance and Resources

Attached as separate agenda items: Draft Disclaimer of Opinion 2020/21, 2021/22 and 2022/23

Appendix

Responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of Nottingham City Council. We draw your attention to both of these documents.

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the Council and group's financial statements that have been prepared by management with the oversight of those charged with governance (the Audit committee); and we consider whether there are sufficient arrangements in place at the Council and group for securing economy, efficiency and effectiveness in your use of resources. Value for money relates to ensuring that resources are used efficiently in order to maximise the outcomes that can be achieved.

The audit of the financial statements does not relieve management or the Audit Committee of its responsibilities. It is the responsibility of the authority to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the authority is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the authority's business and is risk based.

Audit Plan

Due to delays in the completion of prior year audits, we were unable to issue an audit plan in respect of the 2020/21, 2021/22 and 2022/23 audit years.

Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

Due to delays in the completion of prior year audits, we were unable to determine a materiality level for 2020/21, 2021/22 or 2022/23.

Key financial reporting and audit issues identified during the audit

As we have not undertaken any detailed work in respect of the 2020/21, 2021/22 and 2022/23 financial statements audit, there are no issues we need to draw to your attention.

Going Concern

As auditors, we are required to obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern (ISA (UK) 570).

In performing our work on going concern, we have had reference to Statement of Recommended Practice – Practice Note 10: Audit of financial statements of public sector bodies in the United Kingdom (Revised 2020). The Financial Reporting Council recognises that for particular sectors, it may be necessary to clarify how auditing standards are applied to an entity in a manner that is relevant and provides useful information to the users of financial statements in that sector.

Practice Note 10 sets out the following key principles for the consideration of going concern for public sector entities:

- the use of the going concern basis of accounting is not a matter of significant focus of the auditor's time and resources because the applicable financial reporting frameworks envisage that the going concern basis for accounting will apply where the entity's services will continue to be delivered by the public sector. In such cases, a material uncertainty related to going concern is unlikely to exist, and so a straightforward and standardised approach for the consideration of going concern will often be appropriate for public sector entities.

- for many public sector entities, the financial sustainability of the reporting entity and the services it provides is more likely to be of significant public interest than the application of the going concern basis of accounting. Our consideration of the authority's financial sustainability is addressed by our value for money work, which is covered elsewhere in this report.

Practice Note 10 states that if the financial reporting framework provides for the adoption of the going concern basis of accounting on the basis of the anticipated continuation of the provision of a service in the future, the auditor applies the continued provision of service approach set out in Practice Note 10. The financial reporting framework adopted by a local authority meets these criteria, and so where undertaking work on your audit, we would normally expect to apply the continued provision of service approach. In doing so, we would consider and evaluate:

- the nature of the authority and the environment in which it operates

- the authority's financial reporting framework

- the authority's system of internal control for identifying events or conditions relevant to going concern

- management's going concern assessment.

As we have been unable to form an opinion on the financial statements for 2020/21, 2021/22 and 2022/23, we are unable to draw a conclusion in this area.

Design effectiveness of internal controls

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify any control weaknesses, we will report these to management.

We have nothing to report in respect of the above.

Other matters which we are required to report on to those charged with governance

We are required to confirm the following:

- We have not been made aware of any incidents of fraud in the period and no issues have been identified during the course of our audit procedures.

- We are not aware of any related party transactions which have not been disclosed.

- We are not aware of any significant incidences of non-compliance with applicable laws and regulations.

Matters in relation to the Group audit

In respect of the group engagement, we are required to report on:

- The scope of work on components

- The involvement of group auditors in significant component audits,

- Any concerns over quality of component auditors' work

- Limitations of scope on the group audit, and
- Fraud or suspected fraud

We have no matters to report in this respect.

Audit fees and non audit fees

PSAA set a scale fee for the 2020/21 audit of £132,531, a scale fee for the 2021/22 audit of £141,531 and a scale fee for the 2022/23 audit of £141,531. The scale fees for each year agree to the draft financial statements for each financial year.

Given the unusual circumstances of the backstop, we are awaiting a determination from PSAA as to the appropriate fee to be charged for this audit year. At present we propose a final fee for each year as follows:

2020/21 £50,000

2021/22 £37,500

2022/23 £37,500

We have also undertaken the following non audit work in respect of the 2020/21, 2021/22 and 2022/23 financial years.

Audit Service	Proposed Fee	Final Fee
2020/21 CFO Insights	£10,000	£10,000
2020/21 Teachers Pensions Certification	£5,000	£5,000
2021/22 CFO Insights	£10,000	£10,000
2021/22 Teachers Pension Certification	£7,500	£7,500
2022/23 CFO Insights	£10,000	£10,000

The fees do not reconcile to the financial statements, so we have provided a reconciliation:

	31 March 2021	31 March 2022	31 March 2023
Teachers pension and CFOi financial statements	£15,000	£15,000	£8,000
Accrual underestimated	£0	£2,500	£2,000
Total fees per above	£15,000	£17,500	£10,000

The level of these recurring fees taken on their own is not considered a significant threat to independence in comparison to the total fee for the audit of £50,000 in 2020/21, £37,500 in 2021/22 and £37,500 in 2022/23 and in particular relative to Grant Thornton UK LLP's turnover overall. Further there is no contingent element to it. These factors all mitigate any perceived self-interest threat to an acceptable level.