

## **CITY COUNCIL – 14 APRIL 2014**

### **REPORT OF THE LEADER**

#### **NOTTINGHAM CITY COUNCIL ACT 2013**

##### **1 SUMMARY**

- 1.1 The Nottingham City Council Act 2013 (“the 2013 Act”) received Royal Assent in February 2013. The Act confers powers on Nottingham City Council ‘for the better control of street trading in the city of Nottingham’. The Council needs to make arrangements for delegating the powers and duties conferred by the Act.

##### **2 RECOMMENDATIONS**

It is recommended that

- (a) Council agrees that the powers and duties contained in the Nottingham City Council Act 2013 be non-executive functions of Council.
- (b) the powers and duties under the Nottingham City Council Act 2013 be delegated to the Regulatory and Appeals Committee
- (c) that the relevant parts of the Constitution be amended to reflect (a) and (b) above and delegation 5 of the Scheme of delegation be amended to authorise the Markets and Events Service Manager and the Director of Community Protection to serve fixed penalty notices under the 2013 Act.

##### **3 REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)**

To enable the Council to fulfil its responsibilities under the Nottingham City Council Act 2013 it needs to agree where these should be delegated.

##### **4 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

No other options have been considered.

##### **5 BACKGROUND**

- 5.1 Following the resolution of Council Nottingham City Council introduced a Bill to Parliament in 2007 to amend the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) to allow the Council to better regulate street trading, alter the exemptions for Pedlars, allow the seizure of goods, and to serve fixed penalty notices. Similar Bills were promoted by Canterbury City Council, Leeds City Council and Reading Borough Council.
- 5.2 The Nottingham City Council Bill progressed through the Commons without amendment but in the 2010/2012 Parliamentary session the Nottingham City Council Bill and the other similar Bills were considered by a House of Lords Select Committee and they decided that the Bills should only be allowed to proceed with substantial amendments. The amendments were designed to ensure that the impact of the Bill was proportionate and that pedlars acting within the law are not prevented from carrying on their trade. Notably, the seizure and forfeiture provisions which were contained in the Bill were

deleted and are not in the Act.

5.3 The Nottingham City Council Act 2013 (“the 2013 Act”) received Royal Assent in February 2013 and the main provisions of the 2013 Act are:

- The definition of street trading is extended to include ‘the purchasing of or offering to purchase any ticket for gain or reward’.
- Pedlars still benefit from the exemption under paragraph 1(2)(a) of schedule 4 to the 1982 Act, although in ‘designated areas’ of the city there are additional provisions.
- The ‘designated areas’ will have to be advertised in a similar manner to the designation of streets for street trading purposes but only if there is reason to believe that it is necessary to do so to ensure road safety or to prevent obstruction of the highway.
- An authorised officer of the Council may offer a person who he has reason to believe may have committed an offence a fixed penalty in discharge of any liability to conviction for the offence.
- The level of fixed penalty notice must be set by the Council to take account of reasonable cost incurred in connection with the administration and enforcement of the 1982 Act. The Council must notify the Secretary of State of the level of the fixed penalty who, if he objects to the level, may make regulations setting the level of the fixed penalty.
- There is an obligation on the council to keep an account of income and expenditure in respect of the administration and enforcement of fixed penalties.
- The Council shall publish on its website the provisions of the 1982 Act as amended by the 2013 Act and its policies as to enforcement of these provisions.
- The Council may only authorise an officer to act for the purposes of the 2013 Act if they have received adequate training ensuring that those people trading lawfully in accordance with the 1982 Act are not prevented from doing so.

5.4 The Regulatory and Appeals Committee is currently responsible for street trading so would be the most appropriate body to designate areas where the amended definition of pedlar should apply and to set the level of fixed penalty notices. This requires an amendment to the terms of reference for the Committee.

5.5 The Scheme of Delegation in the Constitution already gives the Corporate Director for Communities the power to authorise officers to issue fixed penalty notices for offences which fall within his remit. It is proposed in addition to amend the scheme of delegations to give this power in relation to fixed penalties for offences under the 2013 Act to the Director of Community Protection and the Markets and Events Service Manager.

## **6 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)**

6.1 There are no direct financial implications to the amendments proposed to the Council’s Constitution.

## **7 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS)**

The Local Choice Functions table in the City Council’s Constitution states that any function under a local Act other than a function specified or referred to in Regulation 2

or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 is an executive function. The Regulatory and Appeals Committee is currently responsible for street trading and therefore appears to be the most appropriate Committee to be responsible for the powers and duties contained in the 2013 Act. However, this would require an amendment to the City Council's table of Local Choice Functions. The report therefore recommends that the powers and duties contained in the 2013 Act be non-executive functions of Council and that the table of Local Choice Functions be amended accordingly.

## **8 EQUALITY IMPACT ASSESSMENT (EIA)**

8.1 Has an EIA been carried out? ~~Yes~~/No

The report proposes an amendment to the Council's Constitution to make arrangements for delegating the powers and duties conferred by the Act and not the carrying out of those powers and duties.

## **9 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

9.1 None

## **10 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

10.1 The Nottingham City Council Act 2013

10.2 The Council's Constitution version 7.10

10.3 Council Reports 4 February 2008, 15 October 2007

**COUNCILLOR JON COLLINS  
LEADER OF THE COUNCIL**