

# Nottingham City Council Delegated Decision



**Nottingham**  
**City Council**

<b>Reference Number:</b>	<b>3630</b>
<b>Author:</b>	<b>Leon McLean</b>
<b>Department:</b>	<b>Development and Growth</b>
<b>Contact:</b>	<b>Leon McLean</b> <b>(Job Title: Partnership Officer, Email: leon.mclean@nottinghamcity.gov.uk, Phone: 01158765055)</b>
<b>Subject:</b>	<b>Approval of revised articles of association for Nottingham City Homes</b>
<b>Total Value:</b>	<b>Nil (Type: Nil)</b>
<b>Decision Being Taken:</b>	<b>To delegate authority to the Portfolio Holder for Housing, Planning and Heritage to act as the representative for the City Council, as the sole member of Nottingham City Homes Ltd, to sign the written resolution to approve the revised Articles of Association of Nottingham City Homes Ltd (in the form attached to this report).</b>
<b>Reasons for the Decision(s)</b>	<b>Nottingham City Homes (NCH) has carried out a wide ranging review of its governance structures. The final proposal recommended that a new Group structure is created with a smaller, more strategic Group Board supported by an Arms' Length Management Organisation (ALMO) Board. The proposal to introduce an "ALMO" or more tenant focused Board is aimed at giving tenants a greater say in the running of key services such as repairs and maintenance and tenancy and estates management at a time when the Company is also expanding into new areas. This proposal was agreed by the NCH Board at its meeting of 27th July, and the company will transition to its new structure at its annual general meeting on September 12. The Nottingham City Homes governance structure requires a revised articles of associations. The City Council has approved the revised article attached to this report.</b>
<b>Briefing notes documents:</b>	<b>Articles of Association - NCH FINAL.docx</b>
<b>Other Options Considered:</b>	<b>To not approve the articles of association: rejected as this would not allow the new NCH Group governance structure to be implemented</b>
<b>Background Papers:</b>	<b>None</b>

<b>Published Works:</b>	None
<b>Affected Wards:</b>	Citywide
<b>Colleague / Councillor Interests:</b>	None
<b>Consultations:</b>	Those not consulted are not directly affected by the decision.
<b>Crime and Disorder Implications:</b>	None
<b>Equality:</b>	EIA not required. Reasons: An EIA has been carried out by NCH for the new governance structure. This decision is to approve the articles of association to enable the structure to be implemented. There are no equalities implications for the articles.
<b>Decision Type:</b>	Portfolio Holder
<b>Subject to Call In:</b>	<p>No</p> <p>The call-in procedure does not apply to the proposed decision because the delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The Chair of the Overview and Scrutiny Committee (or Vice-Chair) in his/her absence has been consulted and agreed both that the decision proposed is reasonable in all circumstances and that it should be treated as a matter of urgency.</p>
	Person Consulted: Cllr Anne Peach, Chair of O&S
	Consultation Date: 04/09/2019
	To enable the proposals to be submitted for approval at the NCH Annual Meeting.
<b>Advice Sought:</b>	Legal, Finance

Nottingham City Homes Ltd (NCH) is a company limited by guarantee and the City Council is the sole member. This report seeks the approval of the City Council in its capacity as the sole member to agree the changes to NCH's Articles of Association. The Articles of Association set out the constitution of the company and how it is governed and managed by its board of directors and by the City Council as the sole member. In addition there is a 'Partnership Agreement' in place between the City Council and NCH which sets out the ALMO functions delegated to NCH and the services and works to be undertaken by NCH. The Partnership Agreement includes terms and conditions which supplement the provisions set out in the Articles of Association. The City Council and NCH are currently revising and updating the Partnership Agreement in accordance with an earlier Executive approval.

It is understood that the purpose of the changes to the Articles of Association is to update and streamline the governance of NCH. However the City Council remains as sole member and continues to have the powers of the member as set out in the Companies Act 2006 - that includes the power to remove the Board of directors and to change the articles by resolution. The Board of NCH is to be reduced from twelve directors to no less than five. The City Council will have the right to nominate two directors. No more than three directors can be tenant board members and no more than five can be independent board members. There is no restriction on the Council directors from being tenants of the City Council. As per the previous Articles the City Council does not have a majority of directors on the board of NCH. Decisions of the Board are taken collectively with the Chair having a casting vote. The quorum is four but there is no requirement for Council appointed directors to be present. A new article has been included which permits board meetings to be held even though the directors are not all together provided they can communicate with each other.

It is understood that the reduction in the number of directors is to enable the board to focus on strategic decision making and the Standing Orders have been updated to provide for an ALMO board to focus on tenant issues. The Standing Orders set out the terms of reference for the ALMO board. The Standing Orders also set out terms of reference for an Audit Committee and a Governance and Selection Committee. Delegation of powers from the Board of NCH as set out in the Standing Orders is permitted by the Articles of Association.

The City Council is subject to the procurement duties set out in the Public Contracts Regulations 2015. These regulations require the City Council to undertake competitive tenders where contracts for supplies, works and services are above a certain financial threshold. There are exemptions from the requirement to carry out a competitive tender and NCH currently benefits from an exemption which permits the City Council to award contracts directly to NCH without advertising the tender. This is usually referred to as the 'Teckal' exemption and NCH is often referred to as a 'Teckal company'. To maintain NCH's 'Teckal' exemption the City Council must ensure it has control over the strategic objectives and significant decisions of NCH. This control is currently effected through a combination of the provisions set out in the Articles of Association and the Partnership Agreement. The updated Partnership Agreement will need to include the necessary controls to ensure NCH continues to benefit from the Teckal exemption.

It should be noted that the City Council is currently undertaking a review of the governance arrangements for its subsidiary companies. The outcome of that review may require further changes to be proposed to be made to the Partnership Agreement and NCH's Articles of Association. Advice provided by Andrew James (Team Leader Contracts and Commercial) on 03/09/2019.

**Finance Advice:**

**The City Council is currently undertaking a review of the governance arrangements for its subsidiary companies. This review may require changes to be made to the Partnership Agreement and NCH's Articles of Association.**

**A 'Partnership Agreement' is in place between the City Council and NCH which sets out the ALMO functions delegated to NCH and the services and works to be undertaken by NCH. The City Council and NCH are currently revising and updating the Partnership Agreement, which will include the arrangements for the safeguarding of the Teckal exemption.**

**Advice provided by Theresa Channell(Head of Strategic Finance) on 04/09/2019.**

**Signatures**

<b>Linda Woodings as Portfolio Holder (PH Housing, Planning and Heritage)</b>
<b>SIGNED and Dated: 04/09/2019</b>
<b>Chris Henning (Corporate Director for Development and Growth)</b>
<b>SIGNED and Dated: 04/09/2019</b>