



Department for Levelling Up,  
Housing & Communities

Mel Barrett  
Chief Executive  
By email

**Max Soule**  
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[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

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Dear Mel,

I wish to invite your Authority, if it wishes, to make to the Secretary of State representations about the intervention he is proposing, following receipt of the Nottingham City Council Improvement and Assurance Board's latest progress reports, alongside the Section 114 notice issued by the Authority on 29 November 2023. This letter proposing this intervention will be published on [www.gov.uk](http://www.gov.uk).

Nottingham City Council has been under intervention since the Improvement and Assurance Board was first appointed in January 2021. The intervention was escalated in September 2022 by the former Secretary of State with the issuing of statutory Directions compelling the Authority to follow the advice of the Board and to increase the momentum with which the necessary improvements were to be made. While the Authority has made efforts to address the recommendations issued by the Board in February this year, the Board's latest assessment is that the Authority is not acting at the required pace, particularly in addressing weaknesses in finance, transformation and the underlying culture of the organisation in respect to governance and the workforce. The precarious nature of the Authority's finances, and its effect on overall transformation, together with outstanding governance issues are causes of serious concern. It is now vital that the pace of improvement is increased.

The Secretary of State has considered carefully the evidence available, including that in the latest progress reports from the Improvement and Assurance Board ("the Reports") and the Section 114 notice issued by your Authority. He is satisfied that your Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the best value duty.

On that basis, he is considering exercising the powers of direction in the 1999 Act in relation to your Authority to secure its compliance with the best value duty. The package of measures which he is proposing to implement through appropriate Directions is set out in the attached Annex. He is minded to appoint three Commissioners, including a Lead Commissioner, a Commissioner for finance and a Commissioner for transformation, subject to representations received. The proposed move to the Commissioner model of intervention represents a significant change and

you will wish to reflect on the impact the proposed intervention package could have on your improvement plans moving forward and the way you would work with Commissioners, if they are appointed.

Your Authority is now invited to make such representations as it wishes about the Reports and the Secretary of State's proposal to issue the Directions (which are set out in the Annex) to your Authority under section 15(5) and (6) of the 1999 Act. For the avoidance of doubt, the Secretary of State proposes to also withdraw the Directions issued on 2 September 2022. All such representations should be sent by email to [interventions@levellingup.gov.uk](mailto:interventions@levellingup.gov.uk) or in hard copy to the address above marked for my attention, so as to be received on or before Tuesday 2 January. They will then be considered carefully by the Secretary of State. Ministers are clear that their expectation is that the Authority will continue to work with the Board to make the necessary improvements until a final decision is made.

I am copying this letter to the Authority's Section 151 Officer and Monitoring Officer.

Yours sincerely,

**Maxwell Soule**

Deputy Director, Local Government Stewardship

## PROPOSED INTERVENTION PACKAGE

1. The Secretary of State is considering further exercising his powers of direction under section 15 of the Local Government Act 1999 (“the 1999 Act”) in relation to Nottingham City Council (“the Authority”) to secure its compliance with the best value duty. He is doing so following consideration of the evidence presented in the latest reports by the Improvement and Assurance Board (“the Board”), alongside the Section 114 notice issued by the Authority on 29 November 2023.
2. Nottingham City Council has been under intervention since the Improvement and Assurance Board was first appointed in January 2021. The intervention was escalated in September 2022 by the former Secretary of State with the issuing of statutory Directions compelling the Authority to follow the advice of the Board and to increase the momentum with which the necessary improvements were to be made. While the Authority has made efforts to address the recommendations issued by the Board in February this year, the Board’s latest assessment is that the Authority is not acting at the required pace, particularly in addressing particular weaknesses in finance, transformation and the underlying culture of the organisation in respect to governance and the workforce. The precarious nature of the Authority’s finances, and its effect on overall transformation, together with outstanding governance issues are causes of serious concern. It is now vital that the pace of improvement is increased.
3. The Secretary of State has set out his proposals in order to assist the Authority to formulate any representations it may choose to make. He acknowledges that, save in cases of urgency, the Authority has a statutory right to make representations if the Secretary of State is considering making a direction. He will consider carefully those representations in deciding whether to make any, and if so what, Directions. He specifically reserves his ability to make further or revised Directions after implementing this, or any, intervention package (if that is what he decides to do).

### *Overall purpose and approach*

4. The starting point is the evidence, as set out in the latest assessments in the reports from the Improvement and Assurance Board (“the Reports”), which highlight serious concerns around finance, transformation, governance and the overall pace of improvement, alongside the Section 114 notice issued by the Authority due to its inability to balance the budget for 2023/24. The Secretary of State has concluded that, on the basis of this evidence, that an escalation of the current statutory intervention is necessary in order for the Authority to meet its best value duty. In particular, the Reports and S114 report include the following:

- On governance, the Board are not yet convinced that the application of the officer and member protocols under the Authority's constitution, which was adopted in September 2021, are fully embedded and are producing timely and efficient decision-making across all service areas. While the Board are satisfied that suitable appointments have been made to the boards of existing council run companies, there are some persistent governance issues which need to be addressed promptly, particularly in relation to Nottingham City Homes. While work remains underway to ensure risk management is understood and practised effectively at all levels of the Authority, the Board consider that embedding this across the Authority and its services must be tackled urgently.
- On financial governance, concerns have been present since the intervention started in 2021 and the precarious nature of the Authority's finances has now crystallised, with the Authority issuing a Section 114 notice due to its inability to balance the budget for 2023/24. As seen in the Section 114 report, the Authority currently reports a net in-year overspend of £23.4m, driven mainly by an increased demand, including around adults' and children's social care; non-delivery of transformation savings; increased costs, particularly in children's social care packages and temporary accommodation and broader provider inflationary pressures; nationally agreed pay agreement, above the 2023/24 budgetary provision; income shortfalls; and pressures relating to non-qualifying capital recharges. In their September report, the Board consider there to be an "ineffective culture of budget accountability departmentally and corporately" and cite the "position is made worse by a continuing high level of volatility and poor quality in budget forecasting especially (but not only) in respect of adults and children's social care". They also note that the strategic plan and service plans are integrated but are concerned by the mismatch between these and the medium-term financial plan.
- On culture and leadership, the Board report there is now "a much increased awareness of the need for members and officers to observe the protocol which underpins a healthy and effective member/officer interface" but that some issues remain and must be addressed. In their assessment, "the issue of achieving and embedding fundamental cultural change remains a key challenge for the Council" and "there is yet to be total commitment of all senior management to fundamental change in behaviours and ways of working"; outdated ways of working are jeopardising the Authority's delivery of its transformation agenda. The Board are particularly also concerned about the scale and pace of improvement in performance management and state the need to be more rigorous around removing any resistance to change.
- On services, the Board report that services have been restructured to incorporate 'best value' considerations but that they are not yet as resident-focussed as they should be. The Board acknowledge that due to significant overspending in both the financial year 2022/23 and the current year, that the Authority's transformation plan may be "severely compromised" if there isn't "significant improvement in resourcing, budget management and control". Adult social care and children's services are most negatively impacted, and this will hinder fundamental change and transformation in service provision. The Board

consider that mismatch between the Authority's strategic and service plans and the medium-term financial plan must be addressed immediately.

- On capacity or capability to improve, the Board report “positive progress in a number of areas of the Authority's Improvement and Recovery” but that there are “particular weaknesses in finance, transformation, and the underlying culture of the organisation in respect of governance and the workforce”. While the Authority has “increased its attention” to all outstanding issues following the Board's issuing of recommendations in February 2023, with officers and members having a “strong desire” to make the necessary changes, the Board concludes that progress remains “inadequate” and that “there is now no scope whatsoever for any further slippage in performance”.
5. The Secretary of State considers that, given the evidence of financial, transformational and governance concerns and the fact that changes to date are inadequate revealed by the Board's latest Reports, and the Authority's issuing of a Section 114 notice, a broad and wide-ranging intervention package would be necessary and expedient to address the circumstances of the Authority.
  6. The proposed intervention package would need to, and is designed to, cement and accelerate the progress that has been seen particularly over recent months. It recognises the building blocks that have been put in place, while also appreciating the scale of the challenge and how much improvement is necessary at pace for the Authority to deliver its best value duty. Such an intervention package would need:
    - To address systemic weaknesses in the Authority's governance function, to secure improvements in transparency and formal decision making.
    - To deliver financial sustainability, including by closing any short- or long-term budget gaps.
    - To ensure compliance with all relevant rules and guidelines relating to the financial management of the Authority.
    - To agree as necessary any changes needed to the Authority's operating model and redesign of council services to achieve value for money and financial sustainability.
    - To implement an improved officer structure and performance management framework for the Authority which provides sufficient resources to deliver the Authority's functions in an effective way.
    - To ensure that a strategic and systematic approach to risk management, with appropriate scrutiny and governance of the decision-making processes and procedures, is adopted and embedded across the Authority.
    - To address the serious failings and ensure conformity with the best value duty, thereby delivering improvements in services and outcomes for the people of Nottingham.

## *Commissioners*

8. The proposed intervention package accordingly involves putting in place a team of Commissioners to work closely with the Authority. It is important that the Authority continues to lead the recovery and increases the pace of the improvement. The Secretary of State is 'minded to' appoint a team of three Commissioners, including a Lead Commissioner, a Commissioner for finance and a Commissioner for transformation, subject to representations received on the independent reports and proposed intervention package.
9. The following Directions are proposed in relation to the Commissioners. The Secretary of State proposes to direct that the Authority's functions listed below are to be exercised by the Commissioners, who will act jointly or separately, and that the Authority is to provide the Commissioners with such assistance and information, including any views of the Authority's members on the matter in question, as the Commissioners may request. It is envisaged that in exercising any function the Commissioners will have regard to any views the Authority's members and officers arrived at through their normal processes of consideration. In particular, the Secretary of State is mindful that the Chief Executive and his team have taken steps to address the recommendations of the Improvement and Assurance Board and envisages that the Commissioners would build on the work they have started and work closely with them.
10. The Secretary of State proposes that this Direction to the Authority should be in place for up to two years. If the Secretary of State considers at any time that it would be appropriate to change the Direction or withdraw it, then he will do so. His concern will be to ensure that the Direction operates for as long, but only as long, and only in the form, as he considers it should operate in order to secure the objectives set out above.

## *Functions to be exercised by the Commissioners*

11. For the reasons set out above, the Secretary of State considers that the proposed scope of intervention needs to focus on the Authority's overall strategic approach to risk and financial management, to ensure that the appropriate procedures and processes are in place and that the Authority has the capacity and capability to fulfil its best value duty. Accordingly, he is proposing to direct that the following functions should be exercised by the Commissioners:
  - All functions associated with the governance, scrutiny and transparency of strategic decision making by the Authority, to include:
    - Overseeing the full range of the Authority's improvement activities, including its strategies to secure the medium to long term sustainability of the Authority, its plans to uncover all instances of poor governance, and its plans to transform front line services and the culture of the organisation.
  - All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority;

- The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs, and all functions associated with the strategic financial management of the Authority, to include;
  - Providing advice and challenge to the Authority to improve its financial stability and its ability to meet future commitments without additional borrowing, including advising upon credible budget planning;
  - Scrutiny of all in-year amendments to annual budgets;
  - The power to propose amendments to budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty;
  - Providing advice and challenge to the Authority on a sustainable scheme of delegations for financial decision-making; and
  - Ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.
- All functions associated with the Authority's operating model and redesign of the Authority's services to achieve value for money and financial sustainability;
- All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions;
- All functions relating to the appointment and dismissal of persons to positions, the holders of which are to be designated as statutory officers, and the designation of them as statutory officers, to include:
  - The functions of designating a person as a statutory officer and removing a person from a statutory office;
  - The functions under section 112 of the Local Government Act 1972 of appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.
- All functions to define the officer structure for the senior positions, to determine the recruitment processes and then to recruit the relevant staff.

### *Actions for the Authority*

12. The proposed Directions also set out actions which the Authority must undertake to effect the changes which are needed as well as supporting and facilitating the work of the Commissioners.
13. To achieve and facilitate the objectives of the intervention, the Secretary of State proposes to direct the Authority in the first three months to agree and appraise the Nottingham City Council Improvement Plan, to the satisfaction of Commissioners (which may include or draw upon improvement or action plans prepared in response to any recommendations issued by the Nottingham Board

before the date of these Directions), and as a minimum, the following components:

- Actions to ensure that a strategic and systematic approach to risk management, coupled with the appropriate scrutiny and governance of decision-making processes and procedures, is adopted and embedded across the Authority.
- Actions to deliver financial stability in the Authority, including investigation to establish accuracy and suitability of current financial accounts and management controls, rapid and sustainable improvements to its scrutiny function, financial and risk management, strengthening accounting processes and reporting arrangements.
- Actions to secure continuous improvement in all services.

14. The Secretary of State proposes further to direct the Authority to undertake the measures set out in the plan, under the direction of the Commissioners, and such other measures as the Commissioners require, and to provide the Secretary of State with progress reports, agreed with the Commissioners, at six monthly intervals following the start of the intervention.

15. In addition, the Secretary of State proposes to direct the Authority to undertake in the exercise of any of its functions any action that the Commissioners may reasonably require to avoid so far as practicable incidents of poor governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.

16. Furthermore, the Secretary of State proposes to direct the Authority:

- a. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
  - i. to any premises of the Authority;
  - ii. to any document relating to the Authority; and
  - iii. to any employee or member of the Authority.
- b. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require to carry out their functions and responsibilities under these Directions.
- c. To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
- d. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.



- e. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

*Duration of intervention*

17. The Secretary of State proposes that the Commissioners will be in place for an initial period of two years, and that this should only be extended if the Authority fails to make satisfactory progress in implementing and embedding the changes necessary to deliver Best Value in its governance and operations.