

22 FEBRUARY 2024 DIRECTIONS

These Directions replace the [Directions](#) issued on 2 September 2022 with immediate effect.

DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999

1. The Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State”) has carefully considered the following in respect of Nottingham City Council (“the Authority”):
 - i. The quarterly progress reports from the non-statutory Nottingham City Council Improvement and Assurance Board (as published on Gov.uk) including;
 - First Progress Report of 17 March 2021
 - Second Progress Report of 17 June 2021
 - Third Progress Report of 2 November 2021
 - Fourth Progress Report of 7 March 2022
 - Fifth Progress Report of 23 June 2022
 - Sixth Progress Report of 2 September 2022
 - ii. The quarterly progress reports from the statutory Nottingham City Council Improvement and Assurance Board (as published on Gov.uk) including;
 - First Progress Report of 2 February 2023
 - Second Progress Report of 18 May 2023
 - Third Progress Report of 13 December 2023
 - Fourth Progress Report of 13 December 2023
 - iii. The recommendations, in the form of instructions, of the Nottingham City Council Improvement and Assurance Board issued on 23 February 2023.
 - iv. The Section 114 notice issued by the Council on 29 November 2023.
 - v. All representations to the Secretary of State’s ‘minded to’ proposals of 13 December 2023. A total of 70 were received, including from the Authority, the Nottingham Labour Group, 16 Labour Councillors, local MPs, 35 from members of the public, four local businesses, two community leaders, UNISON, and eight partner organisations.
 - vi. All other developments since the Secretary of State’s ‘minded to’ proposals of 13 December 2023, including the recommendations, in the form of instructions, of the Nottingham City Council Improvement and Assurance Board issued on 18 January 2024, and the statutory recommendations issued to the Council by external auditors on 9 February 2024.
2. The Secretary of State is satisfied that the Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (“the 1999 Act”).
3. The Secretary of State, having considered the representations made by the Authority as required by section 15(9) of the 1999 Act, and those listed above, considers it necessary and expedient, in accordance with his powers under section 15(5) and (6) of the 1999 Act, to direct the Authority as set out below in order to secure the Authority’s compliance with the requirements of Part I of the 1999 Act, in particular:

- 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.
4. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs:
- i. The Authority to take the actions set out in Annex A to these Directions.
 - ii. That the functions of the Authority specified in Annex B to these Directions shall be exercised from the date of these Directions by the Commissioners acting jointly or severally; the Commissioners being persons nominated by the Secretary of State for the purposes of these Directions as long as those nominations are in force;
 - iii. That, from the date of these Directions, the Authority shall comply with any instructions of the Commissioners in relation to the exercise of the functions specified in Annex B, and shall provide such information and assistance as the Commissioners may require for the purpose of exercising the functions specified in Annex B.
5. These Directions shall remain in force for two years until 22 February 2026 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Signed on behalf of the Secretary of State for Levelling Up, Housing and Communities.

Maxwell Soule

Senior Civil Servant in the Department for Levelling Up, Housing and Communities

Date: 22 February 2024

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings –

“the Authority” includes the Leader of the Council, Cabinet Members, any committee or sub-committee; and any other person who has responsibility for the matter in question.

The actions to be taken by the Authority are:

1. 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 City Council Improvement and Assurance Board before the date of these Directions), and as a minimum, the following components:
 - a) 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.
 - b) 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.
 - c) Actions to secure continuous improvement in all services.
2. To report to the Secretary of State on the delivery of the Nottingham City Council Improvement Plan at six monthly intervals, or at such intervals as the Commissioners may direct and adopt any recommendations of the Commissioners with respect to the Improvement Plan and its implementation.
3. 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, poor financial 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.
4. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
 - a) To any premises of the Authority.
 - b) To any document relating to the Authority.
 - c) To any employee or member of the Authority.

5. 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 from time to time to carry out their functions and responsibilities under these Directions.
6. To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
7. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as Commissioners may reasonably request.
8. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS

In this Annex –

“the Authority” includes the Leader, the Cabinet, members of the Cabinet, any committee or subcommittee of the executive, any committee or subcommittee of the Council, any officer of the Council or any other person who has responsibility for exercising the function or other decision making in relation to the matter in question.

“Statutory Officer” means any of: the Head of Paid Service designated under section 4(1) of the Local Government and Housing Act 1989; the Chief Financial Officer designated as having responsibility for the administration of the Authority’s financial affairs under section 151 of the Local Government Act 1972; the Monitoring Officer designated under section 5(1) of the Local Government and Housing Act 1989; and the Scrutiny Officer designated under section 9FB of the Local Government Act 2000 (and the expressions “statutory officer” and “statutory office” are to be construed accordingly).

“Senior positions” are defined as the Chief Executive, direct reports to the Chief Executive and their direct reports – tiers one, two and three.

The Commissioners shall exercise:

1. All functions associated with the governance, scrutiny and transparency of strategic decision making by the Authority, to include:
 - a) 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.
2. All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority;
3. 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;
 - a) 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;
 - b) Scrutiny of all in-year amendments to annual budgets;
 - c) 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;

- d) Providing advice and challenge to the Authority on a sustainable scheme of delegations for financial decision-making; and
 - e) Ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.
4. All functions associated with the Authority's operating model and redesign of the Authority's services to achieve value for money and financial sustainability;
 5. All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions;
 6. 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 those persons as statutory officers, to include:
 - a) The functions of designating a person as a statutory officer and removing a person from a statutory office;
 - b) 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.
 7. All functions to define the officer structure for the senior positions, to determine the recruitment processes and then to recruit the relevant staff.