

## Council Owned Companies Governance

To: Assets and Procurement Committee

Meeting Date: 17th July 2024

From: Service Director: Legal and Governance

Electoral division(s): All

Key decision: No

Forward Plan ref: Not applicable

Executive Summary: The report considers governance arrangements in respect of the Council's shareholding function of Council companies.

Recommendation: To establish arrangements for strengthened oversight by the Assets and Procurement Committee on Council owned companies.

To recommend to Constitution and Ethics Committee to establish a Shareholder sub-committee of the Assets and Procurement Committee to oversee Council Owned Companies with terms of reference as outlined in the report at para 3.9.

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# 1. Creating a greener, fairer and more caring Cambridgeshire

1.1 The report relates to governance of Council owned companies, and whilst indirectly impacts on the Council's Strategic objectives through the business cases of the companies, does not directly relate.

## 2. Background

2.1 The Council is a shareholder in several companies.

2.2 The Council's role as the shareholder of its company is to safeguard the public money the Council has in it and to ensure that the company is performing against its business plan to deliver the Council's objectives.

2.3 The shareholder function is the representation and operational effect of the Council's ownership of the company, and as such concerns the overview and control of the company, the mechanisms through which it is exercised and in turn, the mechanisms through which the exercise of the function is itself scrutinised.

2.4 The shareholder function is provided for in the Constitution and in the shareholder agreements (this Committee holds the shareholder role for those companies where no other committee or officer does). Arrangements between the Council and the companies should be and are in most cases, provided through a shareholder agreement which together with the company's articles of association, form the company's principal governance documents.

2.5 A shareholder agreement is an agreement between the company and the Council which includes provisions for managing the relationship, the company's reporting to the shareholder and shareholder decision-making. As such, the shareholder agreements include a list of those matters that can only be determined by the shareholder. These 'reserved matters' include the approval/variation of the company's business plan, the appointment/dismissal of directors, the admission of new shareholders, land acquisitions/disposals, and borrowing/lending.

2.6 Currently this role is performed by shareholder representative (for three of the companies) and there is limited reporting to the Assets and Procurement Committee and other committees and Full Council in terms of oversight of decisions made by the shareholder.

2.7 Following the issue and a review of the Statutory Best Value Guidance (2024), the Local Partnerships Local Authority Review Guidance (2023) and the SOLACE/CIPFA/LLG Code of Practice on Good Governance for Statutory Officers (2024) and in particular, the Best Value Guidance which states "*Proper member oversight (as shareholders) of companies and partnership bodies, in accordance with the [Local Authority Company Review Guidance](#), and their existence is regularly and independently reviewed*", it is considered by the Statutory Officers that the current reporting arrangements do not represent optimal governance arrangements.

2.8 The recommendation in the report strengthens the governance function of the Committee in relation to Council owned companies.

### 3. Main Issues

- 3.1 The Local Partnerships Local Authority Company Review Guidance states; “*The council should have a clear, systematic framework which underpins arrangements for overseeing and engaging with entities to ensure its interests are safeguarded.*”
- 3.2 The Council is currently a 25% or more shareholder in the companies set out in the Table below with the attendant governance relationships

Related Company	Company number	CCC ownership %	Activity	Council nominated directors	Shareholder Representative	Oversight Body
<b>Council controls 25% or more</b>						
This Land Limited (and subsidiaries)	10237292 11210538 11208138 11210011 11210522 13050993 (g)	100%	Housing development	Executive Director of Place and Sustainability Cllr Neil Gough	Executive Director of Finance and Resources	Assets and Procurement (A&P) Committee
Pathfinder Legal Services Ltd	09067468	50%	Legal Services / Advice	Service Director: Finance and Procurement	Service Director: Legal and Governance in consultation with a member appointed by Strategy Resources and Performance Committee	None specifically identified (A&P Committee)
Light Blue Fibre Ltd	11966302	50%	Digital infrastructure	Connecting Cambridgeshire Programme Director; Service Director: Finance and Procurement; Assistant Director: Climate Change and Energy Services	Executive Director of Place and Sustainability	None specifically identified (A&P Committee)
Swaffham Prior Community Heat Network Ltd	13277304	100%	Heat piping infrastructure	Assistant Director: Climate Change and Energy Services; Head of Finance	None currently	Environment and Green Investment Committee
The Walks Huntingdon (no1.) Management Company Ltd	05431946	50%	Property – Scott House related	[No CCC director since 2016 or 2022]		None specifically identified (A&P Committee)

- 3.3 Members will note that in some cases shareholder representatives are appointed, and for some companies there are none. In the cases where there is a shareholder representative, there is delegated authority to take decisions. This is not subject to any reporting to Committee; equally Council owned companies reporting is inconsistent and does not provide effective oversight of decisions made or the performance of the company.
- 3.4 The Council needs to ensure that there is a clear line of communication and reporting between the company and the Council to ensure that the Council has the information necessary to make informed shareholder decisions and effectively scrutinise the company's performance.
- 3.5 Care must be taken to identify and guard against (potential) conflicts of interest arising in arrangements for the exercise of the shareholder function. Those advising the shareholder or making shareholder decisions should not also be involved in advising the company or making company decisions and should be careful if also advising the local authority as the landlord, funder, commissioner or customer of the company.
- 3.6 The company's governance arrangements should provide for reporting on the exercise of the shareholder function and the holding to account of the body or person to which it has been delegated. The scrutiny of the shareholder function also provides for the wider local authority's overview of the company's performance.
- 3.7 The Local Partnerships Guidance states *"For councils with a committee system, a designated committee, such as a resources committee, will be responsible for approving the establishment of a new entity. As part of their overview role within that committee Members will also advise on and scrutinise the decisions relating to the entity which are made on the council's behalf."*
- 3.8 To achieve the outcomes described above, it is recommended that shareholder decisions are given oversight by a service and policy committee of the Council. Constitutionally, the Assets and Procurement Committee are responsible for the shareholder functions of the Council's companies where none are identified, and for This Land Ltd, so it is logical that the responsibility for oversight would sit with that Committee.
- 3.9 In line with the Local Partnerships Guidance the role of the committee in relation to oversight of Council owned companies should be as follows;
- Approval of the business plan and any other shareholder functions including any delegated decisions made by the shareholder representative.
  - Monitoring key performance indicators for each company emerging from the Business Plan.
  - Reviewing risks relating to commercial investments, tolerance for risk, ownership of risks and processes for managing risk.
  - Reviewing the governance of the company.
- 3.10 Conflicts of interest will need to be managed appropriately in relation to elected Members who are appointed to the Board of the companies as identified above at paragraph 3.5 and for this reason and because of the specialist nature of the shareholder function it is proposed that a politically balanced sub-committee of 5 be established to discharge the oversight function of the shareholder function.

- 3.11 These governance arrangements provide oversight and scrutiny by members of the Council owned companies in accordance with the statutory and non-statutory guidance identified at paragraph 2.7.
- 3.12 These proposals are supported by the Statutory Officers.

#### 4. Conclusion and reasons for recommendations

- 4.1 To strengthen governance around a key risk area for the Council.

#### 5. Significant Implications

##### 5.1 Finance Implications

No direct implications

##### 5.2 Legal Implications

No direct implications

##### 5.3 Risk Implications

The proposal should mitigate a key corporate risk.

##### 5.4 Equality and Diversity Implications

None identified

#### 6. Source Documents

[Best value standards and intervention: a statutory guide for best value authorities - GOV.UK \(www.gov.uk\)](#)

[LATCo guidance 2023 edition - Local Partnerships](#)