

Slough Borough Council

Report To:	Audit and Corporate Governance Committee
Date:	14 th December 2022
Subject:	Slough Children First Governance Review – Update on Progress
Chief Officer:	Stephen Brown – Chief Executive
Contact Officer:	Sarah Wilson – Principal Lawyer
Ward(s):	All
Exempt:	NO
Appendices:	Appendix 1 – SBC update on progress against SCF Governance Review – November 2022 Appendix 2 – SCF Governance update 1 December 2022

1. Summary and Recommendations

This report sets out a summary of the progress made on actions recommended following a governance review of Slough Children First (SCF).

Recommendations:

Committee is recommended to:

- (a) Review and comment on the progress made as set out in Appendix 1 and Appendix 2.
- (b) Decide the frequency of updates to be given to the Committee.

Reason:

1.1 Improvements in company governance are an important part of the Council's recovery plans. Issues in governance arrangements were highlighted by the external auditors in May 2022 and in the DLUHC commissioned Governance Review. The latter led to the issue of statutory directions and the appointment of commissioners to oversee progress on improvements and recovery.

2 Alternative options considered and not recommended

2.1 Whilst there is no legal requirement to undertake a formal governance review, based on concerns raised from external sources and the importance of good governance to overall performance and financial management, officers undertook a review in the Summer of 2022 and reported this to Cabinet in October 2022. Cabinet recommended that Audit and Corporate Governance Committee be responsible for receiving six monthly updates on progress against the recommendations contained in the Governance Review. This is the first update.

- 2.2 The Committee may decide that it requires more frequent updates, particularly at the beginning when it is envisaged that more focus is needed on the pace of improvement.
- 2.3 By publicly reporting on progress on the governance review recommendations, elected members have an opportunity to comment and question whether the focus is right and the pace of change is appropriate. Members can also consider the learning from this review when reviewing risks arising from other Council companies.

Commissioner Review

The Direction regime imposed under the Best Value legislation specifically excludes consideration of Slough Children First continued existence from its scope as the establishment of the company is mandated by a Direction from the Secretary of State for Education. However, the Best Value Directions do apply to the way in which the Council's interaction with its subsidiary company is handled. Much improvement is required in this area, particularly ensuring that the Board is held to account for its financial performance and also ensuring that the Council appoints Directors who are suitably skilled and experienced to ensure that the Company delivers its goals. This report therefore needs to be seen in the context of the plans and actions required from the Council in meeting its Direction obligations.

3 Background

- 3.1 SCF became wholly owned by the Council on 1 April 2021 as a result of a change in the Articles of Association. Prior to that it was an independent trust. SCF delivers statutory children's services under a statutory direction of the Secretary of State for Education. Cabinet received a report in October 2022 providing an annual report from SCF and the findings of a governance review undertaken by the Council's Principal Lawyer using the Local Partnerships framework. Local Partnerships is an entity jointly owned by the Local Government Association, HM Treasury and the Welsh Government. Its purpose is to help public organisations manage the challenges of meeting rising demand for services with shrinking budgets. As part of this work, Local Partnerships published a Local Authority Company Review Guidance toolkit for undertaking strategic and governance reviews of wholly or partly owned council commercial entities. This has picked up on learning from failures in company governance in other areas, in particular the rapid review undertaken for Nottingham City Council.
- 3.2 Good governance arrangements for council owned entities should seek to achieve the following:
- The entity should have sufficient freedoms to achieve its objectives
 - The council should have sufficient control to ensure that its investment is protected, appropriate returns on investment can be obtained and that the activities of the entity are aligned with the values and strategic objectives of the council
 - The entity continues to be relevant and required (in its existing form) and, if not, appropriate steps are taken (for example, amending constitutional documents or changing form or terminating the vehicle).
- 3.3 It is important to note the reason for SCF existing. This is succinctly set out in the introductory paragraphs of the DLUCH commissioned Governance Review of the Council by Jim Taylor dated September 2021, which is published on the DLUHC website.

“In 2011 Slough Children’s Services received an inadequate rating from OFSTED. In November 2013, following a further OFSTED inspection, from February 2014 the council was subject to intervention from the Department for Education. There were ‘serious systematic failures’ and ‘longstanding and serious concerns about the leadership, management, and governance of Children’s Services in Slough’. Slough Children’s Services Trust was subsequently established. An OFSTED inspection of November 2015, published in February 2016, again found Children’s Services to be inadequate. It was only in 2019 that the OFSTED inspection rating began to improve to ‘requires improvement to be good’.

Such a failure in children’s services, over this length of time, reflects on whole council leadership. For a failing children’s services department to achieve success within a council, all council services must be marshalled together to help with the improvement. The fact that it took so long to demonstrate any significant improvement indicates that the council has been unable to improve a statutory service at the pace required.”

3.4 This is not to say that there are not good leaders and officers working across the Council and SCF. SCF employs many highly experienced and competent staff who are supporting children and families daily to assist with many challenges that life brings. These staff are all committed to protecting children and young people and supporting families to improve the wellbeing of these individuals.

3.5 However there have also been concerns in relation to the financial cost of the services and whether the focus for support is appropriately targeted. The Council’s best value duty as set out in the Local Government Act 1999 requires the Council to “secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.” The Governance Review is aimed as ensuring the Council keeps this duty at the forefront in the way it governs its companies.

3.6 An update on recommended actions is attached at Appendix 1. This is reporting against the original Governance Review which was appended to the Cabinet report in October 2022. The table below shows the split of RAG rated actions:

Red		Amber		Green	
September 2022	November 2022	September 2022	November 2022	September 2022	November 2022
11	8	20	22	14	15

3.7 The red rated risks relate to lack of assurance evidence to demonstrate effective performance management and evaluation of effectiveness of board directors, the business planning processes and approval mechanisms, scope of directors’ authority and internal scheme of delegation, risk management procedures, financial management and medium-term financial planning,

3.8 The SCF board are fully engaged and supportive of the governance review and an independent non-executive director is leading on the governance improvements required. Appendix 2 provides a narrative from the board on next steps. Monthly meetings are being set up between SBC’s Principal Lawyer, who acts as the member representative (equivalent of a shareholder representative) and SCF’s lead for governance. In addition, the Principal Lawyer will attend board meetings on a quarterly basis in the future. This is in addition to the contract manager role, which is exercised by the AD – People Strategy and Commissioning and the finance lead.

There is close working between these officers to ensure SCF is appropriately governed. This is also in addition to the role of the Council nominated director, whose role is partly to ensure that the Council's interests and priorities are understood by the board and that the local context of Slough is considered. The Council is in the process of reviewing the Articles of Association in relation to board composition, which if approved, will provide greater flexibility to bring in further external expertise to strengthen the board.

3.9 Children's social care services in Slough remain under statutory intervention of the Department for Education and there is an appointed DfE commissioner. The commissioner changed in October 2022 and there have been meetings between key individuals in the Council and the DfE commissioner, as well as the establishment of close links between the DfE commissioner and the DLUHC commissioners. The lead member for children's services continues to be closely involved in strategic management of the service and steps have been taken to review the various meetings that are taking place to ensure they are purposeful and unnecessary duplication is avoided.

3.10 The role of the member representative (SCF is a company limited by guarantee, however this is equivalent to a shareholder representative) is as follows:

- Oversight of any decisions that are reserved to the Council, as sole owner of SCF. This does not mean that decisions are made by this individual, as many of the decisions are reserved to cabinet, for instance approval of the business plan and approval of in-year funding requests over certain limits;
- Reviewing how SCF achieves its strategic aims and how this links to the Council's priorities;
- Oversight to ensure that decisions are taken in accordance with contractual requirements, the Articles of Association, the Governance Side Agreement and other relevant policies and procedures;
- Engagement with the Chairman, Board and chief executive of SCF to ensure effective performance against strategy and governance;
- Ensuring that the Council's views are captured and effectively communicated to the SCF board;
- Evaluating the effectiveness of the board and delivery of performance against strategic objectives and the approved business plan;
- Working with officers, elected members, commissioners and the DfE to review the effectiveness of the vehicle to deliver the outcomes required and whether more viable alternative models might offer a more effective means of delivering on priorities;
- Reviewing risk and how this is monitoring and reported on.

3.11 In the last year there has been an increased level of reporting and involvement of elected members. This has included cabinet reports on approval of the business plan, in-year funding requests, annual report and governance review, the setting up of a scrutiny task and finish group to review the draft business plan and make recommendations to Cabinet on a key area within this and a recommendation on the role of Audit and Corporate Governance Committee in relation to reviewing progress against the recommended actions in the SCF Governance Review.

4. Implications of the Recommendation

4.1 *Financial implications*

The agreed contract sum for SCF in 2022/23 was £31.435m. Two in-year requests for increased funding have been submitted, with the second one being considered by Cabinet in December 2022. Next year's contract sum will be set as part of the business planning approval process. SCF was given a working capital loan and it has used this to fund deficits that have arisen in 2021/22 and 2022/23. The loan is repayable at the end of the contract term and SCF and the Council will need to agree further funding of SCF taking this into account.

4.2 *Legal implications*

4.2.1 The Secretary of State for Education has powers to issue a direction in relation to specified social services functions relating to children under s.497A of the Education Act 1996. Various directions have been issued in relation to statutory functions in Slough since 2014. The sixth statutory direction was issued in April 2021. This requires that the Council secures that prescribed children's services functions are performed by SCF and the Council jointly and other prescribed children's services functions are performed by SCF on behalf of the Council. The Council was also directed to enter into a new service agreement to implement the discharge of these functions and continue to comply with any instructions of the Secretary of State, his representatives and the Children's Services Commissioner in relation to

- i. ensuring that the Council's children's social care functions are performed to the required standard;
- ii. the terms of the Service Agreement that require the Secretary of State's consent or approval;
- iii. the operation of the Direction.

4.2.2 The intention behind SCF becoming wholly owned by the Council was to clarify the roles and responsibilities of the Council and the DfE, on the basis this will give the Council greater control over the strategic direction of the Company, whilst ensuring operational independence for day to day functions. The reserved matters set out in the Articles allow the Council to make certain high level decisions, however these matters are also subject to consultation and consent rights of the Secretary of State for Education, as set out in a separate Governance Side Agreement.

4.2.3 The governance review was undertaken using the Local Partnerships guidance on local authority companies. This recommends that key documents are reviewed as follows:

- (a) Articles of Association – these were re-written and adopted in April 2021 and are being reviewed at present;
- (b) Financial agreements – the service delivery contract and support services contract have been reviewed as have existing contractual arrangements;
- (c) 12 months of minutes for board meetings and any shareholder groups and engagement between shareholder groups and board members – some minutes for meetings have been provided, although more have been requested. There is a formal corporate oversight group of SBC officers and meetings have an agenda and written notes. Improvements are to be made to the meetings between the member representative and board members.

(d) Key executive and scrutiny reports – since the review improvements have been made in the role of cabinet, audit and scrutiny in governing SCF.

(e) SCF business plan and other key documents which document performance – the detail is covered in the appendix and this is a key area of improvement.

(f) Governance and structure charts and descriptions of key roles – work is underway to review and improve the board structure and update terms of reference for board committees.

(g) Terms of reference for the member role, the board and the audited accounts. The member role is set out above, however as part of wider company governance further guidance will be produced on this. The role of the board and reserved matters are clearly set out in the articles.

(h) Risk logs – further information is set out in Appendix 1 and whilst there are improvements, further work is required.

(i) Policies and procedures to manage conflicts of interest – these exist for council officers and the joint SCF chief executive and Executive Director of People. Further information is required from SCF on management of conflicts of interest.

(j) Training plans for board members – further information is required on this.

4.3 *Risk management implications*

4.3.1 The risks of failure of a company delivering statutory children's services are high and must be carefully managed. If appropriate funding is not provided, SCF will not be able to deliver effective services and this will put children and families at risk of harm. Good governance is intrinsically linked to high performance and it is important to ensure that this is given an appropriate focus both within SCF and by the Council. This also linked with compliance with the Council's best value duty as set out above.

4.4 *Environmental implications*

4.4.1 None

4.5 *Equality implications*

4.5.1 SCF provides social care services to protect some of Slough's most vulnerable children and to support families from a diverse background. If SCF fails to adequately deliver its services this will impact on children and working age adults with children to a greater extent than the wider population. In addition, it will negatively impact on children and parents with disabilities who are more likely to need the support of SCF. Certain ethnic groups and gender are disproportionately represented within the community supported by SCF and will therefore be disproportionately impacted by any change in the delivery of services.

5. Background Papers

None.