

Slough Borough Council

Report To: Council

Date: 26 January 2023

Chief Officer: Stephen Taylor, Monitoring Officer

Ward(s): All

PART I **FOR DECISION**

CHANGES TO TERMS OF REFERENCE OF CABINET COMMITTEE FOR ASSET DISPOSALS

1. Summary and Recommendations

- 1.1 This report sets out proposals to extend the remit of the Asset Disposals Cabinet Committee to include responsibility for progressing Direction 6 of the Directions to the Council by the Secretary of State for Levelling Up, Housing and Communities which relates to council companies of the authority (except Slough Children First), and report accordingly to Cabinet.

Recommendations:

Council is recommended to:

1. Extend the Terms of Reference of the Asset Disposal Cabinet Committee, as set out in paragraph 2.5 of this report;
2. Agree that the consequential amendment to the Constitution will come into effect on the day following the Council meeting;
3. Authorise the Monitoring Officer to amend the Constitution accordingly.

Reason: The amended terms of reference will enable a more detailed member focus on progressing Direction 6.

Commissioner Review

There is no current Member body where the Directors of the Council's subsidiary companies are required to report to give an account of their activities nor for the Directors of these companies are held to account for their financial stewardship. The proposals in this report fill that gap and contribute to the Council's compliance with the Direction. It should be noted that every subsidiary body will be required to report as necessary, the exception in the Direction relating to Slough Children's First prohibits the Council deciding to liquidate the company as it is established as a consequence of a DfE Direction. In all other circumstances, the Council appointed Directors and the financial stewardship should be treated in the same way as all other subsidiary bodies.

Commissioners support the recommendations.

2. Report

Introductory paragraph

2.1 Direction 6 of the Directions to the Council by the Secretary of State for Levelling Up, Housing and Communities states that:

“Following the review by the Authority of their companies within 6 months consider the roles and case for continuing with each subsidiary company of the Authority (except Slough Children First). For those companies that it is agreed to continue, make sure that the Directors appointed by the Authority are appropriately skilled in either technical or company governance matters to make sure each Board functions effectively under the terms of an explicit shareholder agreement and a nominated shareholder representative. For those companies which it is determined not to continue with in this form, to establish a plan to internalise, close or sell as appropriate.”

This report proposes a way forward as to how members can better engage in that process, and satisfy one of the key priorities in its Corporate Plan 2022-2025 which is to deliver best value for tax payers and service users.

Background

2.2 Cabinet considered an Improvement and Recovery update report at its meeting on 11 November 2022. Included in that report was summary of the current position in relation to council companies. The term ‘council company’ refers to a company that is owned (with shares) or controlled (by influence and/or decision making control - but not owned) and includes subsidiaries, JVs/ partnerships (LLPs and Ltd companies), associates (mainly for accounting purposes and 20-50% ownership) and companies limited by guarantee.

2.3 In essence, of the 11 companies formerly owned by the Council, 6 have been closed leaving the following - GRE5 (a company limited by shares which manages Nova House); SUR (a limited liability partnership established to manage and deliver regeneration schemes); JEH (a company limited by shares established to acquire and hold housing properties); Development Initiative Slough Housing (DISH - a company limited by shares to lease and manage 54 properties) and Slough Children First (SCF) which was established under the statutory direction of the Secretary of State for Education to manage the provision of Childrens Services. Further information which was included in the Improvement and Recovery update report is attached at **Appendix 1**.

2.4 Direction 6 requires the Council to review its subsidiary companies and their governance arrangements. As already stated, considerable work has already been done on that. Going forward, however, it is considered important that a small group of members be tasked to do this and be able to develop the expertise necessary to fulfil the requirements of the Direction. Many authorities already have either such a committee Shareholder Panel in place.

2.5 To that end, it was considered whether the current Asset Disposal Cabinet Committee carry out that work or whether another Cabinet Committee be formed. On balance, as two Cabinet Committees may well have been an overlap of members, it was thought more efficient and effective if the terms of reference of the Asset Disposal Cabinet Committee be extended to include the work set out in Direction 6 and make recommendations to Cabinet or Council as necessary. This will be reviewed at least annually at the Annual Meeting of Council and if a separate Cabinet Committee is thought

to be more effective because the workload of the Asset Disposal Cabinet Committee has grown too great, then one can be established at that time.

Proposal

2.6 Part 3.5 of the Constitution sets out the reserved functions for Cabinet and the terms of reference of any cabinet committee. The proposed amendment is to add the following to the terms of reference of the Asset Disposal Cabinet Committee to address the issues raised in Direction 6 and empower the Cabinet Committee to exercise the necessary oversight of subsidiary companies:

- (1) To consider the roles and case for continuing with each company of the Authority (except Slough Children First);
- (2) To ensure that the Directors appointed by the Authority are appropriately skilled in either technical or company governance matters and that each Board functions effectively under the terms of an explicit shareholder agreement and a nominated shareholder representative;
- (3) To approve shareholder agreements, or changes to current agreements, on behalf of the Council;
- (4) To receive a report on their activities and performance, at least annually and in person, from any/all of the Directors, appointed by the Council to any council company under their remit;
- (5) To mandate the Council's shareholder representative to act in particular ways such as voting on resolutions;
- (6) To require the directors and officers of any council company to attend meetings of this Cabinet Committee to report on the current financial health and prospects of their company; and
- (7) To establish a plan to internalise, close or sell as appropriate any council company which it is decided not to continue in its current form.

2.7 On the assumption that the terms of reference of the Asset Disposal Cabinet Committee are amended as suggested, the Cabinet Committee will be asked to consider a future work programme and the frequency of meetings.

3. Implications of the Recommendation

3.1 Financial implications

3.1.1 There are no specific financial implications for this decision. Any additional officer time associated with supporting the cabinet committee will be managed within the Democratic Services team.

3.2 Legal implications

3.2.1 There are no specific legal implications. Local Partnerships has produced guidance on local authority companies. This includes details of the role of the Council as shareholder or owner of the entity, including the following

- oversight of any decisions that can only be made by the shareholder, rather than left to the entity (known as "reserved matters"). These may cover areas such as approval of annual business plan, key appointments, setting up subsidiaries, borrowing money, giving guarantees or winding up
- a mechanism to review the implementation and development of the council's commercial approach through the entities it influences and owns

- the necessary oversight from a shareholder’s perspective that the parameters, policies and boundaries that the council has established are being adhered to
- an articulation of what success looks like in terms of achieving social outcomes and/or a return on investment
- effective and systematic engagement between the Chair/CEO and shareholder role to assure effective performance against strategy and governance
- a mechanism to communicate the shareholder’s views to the entity
- a means to evaluate the effectiveness of the company board and the delivery of the company performance against strategic objectives and the business plan
- a regular review of whether the entity provides the most effective vehicle to deliver the outcomes it requires and whether there are viable alternative models which might offer a more effective means of delivering its priorities
- a holistic review of risk to the council offered by all active entities

3.3 Risk management implications

3.3.1 The establishing of a member body with specific responsibility for the oversight of subsidiary companies as set out in Direction 6 is part of a wider programme to improve the Council’s governance processes and risk management.

3.4 Environmental implications

3.4.1 There are no specific environmental implications arising from this proposed decision.

3.5 Equality implications

3.5.1 There are no specific equality implications.

4. Comments of other Committees

Details of the proposed changes were circulated to councillors on the Member Panel on the Constitution for comment. Members sought assurance that non-executive councillors would have the opportunity to attend and ask questions on matters relating to the company governance. It is confirmed that Members are able to attend and speak at Cabinet Committee meetings as the relevant section of the Executive Procedure Rules (Section 2.3) applies to Cabinet Committees in the same way as they apply to Cabinet.

5. Appendices

Appendix 1 – Extract from the Improvement and Recovery update report to Cabinet on 11 November 2022.

6. Background Papers

None