



Buckinghamshire Shareholder Committee agenda

Date: Wednesday 10 January 2024

Time: 2.00 pm

Venue: The Paralympic Room, Buckinghamshire Council, Gatehouse Road, Aylesbury
HP19 8FF

Membership:

J Chilver (Chairman), S Broadbent, A Cranmer and P Strachan

Agenda Item	Page No
1 Apologies for Absence	
2 Declarations of Interest	
3 Minutes of the previous meeting To confirm the minutes of the meeting held on 18 October 2023 as a correct record.	3 - 6
4 Best Practice Review (Governance) - Update	7 - 12
5 Terms of Reference – Annual Review	13 - 24
6 Articles of Association - Annual Review	25 - 28
7 Internal Audit Report update	Verbal Report
8 Forward Plan	29 - 32
9 Date of Next Meeting 13 March 2024 at 2 p.m.	
10 Exclusion of the public To resolve:	

that under Section 100(A)(4) of the Local Government Act 1972, the

public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in the paragraph indicated in Part 1 of Schedule 12A of the Act.

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| 11 | Confidential minutes of the previous meeting | 33 - 36 |
| | To confirm the confidential minutes of the meeting held on 18 October 2023 as a correct record. | |
| 12 | Annual Audit Letters | 37 - 66 |

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Leslie Ashton; 01895 837227
democracy@buckinghamshire.gov.uk



Buckinghamshire Shareholder Committee minutes

Minutes of the meeting of the Buckinghamshire Shareholder Committee held on Wednesday 18 October 2023 in Jubilee Room - The Gateway, commencing at 2.00 pm and concluding at 3.03 pm.

Members present

J Chilver (Chairman), S Broadbent, A Cranmer and P Strachan

Others in attendance

R Ambrose, J Reed, D Skinner, G Watson, L Ashton, M Preston and L Michelson

Agenda Item

1 Apologies for Absence

There were no apologies for absence.

2 Declarations of Interest

There were no declarations of interest.

3 Minutes of the previous meeting

Resolved: that the minutes of the meeting held on 21 June 2023 were approved as an accurate record.

4 Best Practice Review - Governance

The Committee received a report which assessed the Council's entity arrangements against the checklist set out in the Local Authority Company Review Guidance produced by Government following inspections at several local authorities. Ensuring good governance of the Council's commercial entities by both the Council and the entities themselves was a key part of the Committee's role so reviewing these arrangements in light of emerging best practice was an important undertaking.

Mr Richard Ambrose, Service Director for Economic Growth and Regeneration and Mr Glenn Watson, Principal Governance Officer presented the report. The report detailed the areas covered by the best practice checklist within the Local Authority Company Review Guidance. The key themes, outcomes and actions were also contained within the report and summarised to the Committee.

Each of the seventeen areas covered were assessed in Annex 1 via a RAG rating (Red, Amber, Green). Amber and Red indicated areas where the Committee could

usefully target further work. Green indicated that the arrangements were currently deemed compliant. It was suggested that the Amber and Red items be included on the Committee's Action Plan with progress reports made at each subsequent meeting. Members requested that these reports also display the direction of travel.

ACTION: L Ashton to add the Committee Action Plan as a standing item on the Committee's work programme (Red and Amber items only).

During discussion, key points raised included:

- The differences between C8 and C9 were explained, C8 required clear evidence of set Key Performance Indicators, whilst C9 focused on how the company structure appeared to be working and how senior staff were performing.
- It was confirmed that each of the Company Directors had undertaken training, and a potential future pool of Directors had been created to support succession planning for the future. These potential Directors had also received the appropriate training, were of the appropriate seniority within the Council and had a range of skillsets to meet the needs of the companies. It was agreed that it was beneficial for training to be completed annually, or bi-annually at the least.
- The Committee noted that the Committee's Terms of Reference would be reviewed at the next meeting to ensure they remained fit for purpose and reflected issues that had arose over the time since the Committee had been established.
- An internal audit review of the companies had been scheduled and it had been ensured that the scope of this work included providing evidence to support what each entity was doing. This review would be considered by the Audit and Governance Committee as well as being reported to this Committee. Whilst the final report may not be ready in time for the January meeting, a verbal report would be given at that meeting.

Resolved:

1. That the best practice review of company governance (Annex 1) be noted.
2. That the actions marked 'Amber' and 'Red' be incorporated into the Committee's action programme for further review.

5 Buckinghamshire Advantage - Review of Key Performance Indicators

Ms Lisa Michelson, Company Director, Buckinghamshire Advantage presented an update on BA's two key performance indicators. These were:

1. Secure reserved matters approval to achieve a relevant planning permission – to be submitted in late September/early October with the aim of being consented by December to enable start on site in Spring 2024.
2. Complete a marketing and disposal exercise – likely to commence in Autumn 2024 with the ambition that a partner would be appointed and commissioned by Summer 2024.

Points raised during discussion included:

- In relation to the first KPI above, the reserved matters approval to achieve a relevant planning permission had been submitted.
- The Committee was advised that the second KPI should state *Autumn 2023* as opposed to *Autumn 2024*. These remained the intended target dates and activities were under way to meet these targets.
- It was highlighted that Councillor Chilver was not a Member Director of BA as was noted on the front page of the 2023/24 business plan.
ACTION: L Michelson to update the list of Board Members within the 2023/24 business plan.
- In parallel to the reserved matters application being decided, a report had been drafted with a view to the Council bringing forward the marketing of the site with the agreement of BA and landowners to identify a developer and commence the Eastern Link Road in early 2024. This report would be considered by the HIF Members Board at an upcoming meeting.
- It was confirmed that once a preferred development partner had been identified a report would then be taken to Cabinet for consideration.

Resolved: That the key performance indicators be reviewed and noted.

6 Forward Plan

Resolved: that the forward plan be noted, with the addition of a standing item for the Committee Action Plan as noted under item 4.

7 Date of the next meeting

10 January 2024 at 2 p.m.

8 Exclusion of the public

Resolved: that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in the paragraph indicated in Part 1 of Schedule 12A of the Act.

9 Confidential minutes of the previous meeting

Resolved: that the confidential minutes of the previous meeting held on 21 June 2023 be confirmed as an accurate record and updates on the actions be noted.

10 Buckinghamshire Advantage Draft Financial Accounts 2022/23

Ms Lisa Michelson, Director, Buckinghamshire Advantage presented the draft financial accounts for 2022/23. The Committee held a detailed discussion on the accounts, and it was noted that the accounts were still in draft form and would be filed with Companies House and therefore made available to the public toward the end of the calendar year. They were due to be discussed by the BA Board at their November meeting.

Resolved: that the draft financial accounts 2022/23 be reviewed and noted.

- 11 Aylesbury Vale Estates update, Draft Financial Accounts 2022/23 and Risk Register**
Mr Mark Preston, Board Member, Aylesbury Vale Estates (AVE) attended to present an update to the Committee on the activities of AVE, which included an update on the progress against the business plan, including rental income performance, commercial development plans and a position statement on the repayment of the loans the company had with Buckinghamshire Council. The Committee also considered and discussed the company's draft financial accounts for the year ended 31 March 2023 and the company's risk register. It was noted that the accounts were still in draft form and would be publicly available when finalised. The draft accounts would be considered by the AVE Board at its meeting on 2 November.

Resolved:

1. That the progress against the business plan for the year to date be noted.
2. That the draft financial accounts for 2022/23 be reviewed and noted.
3. That the company risk register be reviewed and noted.

12 Consilio Draft Financial Accounts 2022/23

The Committee considered and held a detailed discussion on the draft financial accounts for 2022/23. It was noted that the accounts were still in draft form and would be filed with Companies House and therefore made available to the public toward the end of the calendar year.

The Committee also received a verbal update on the company, noting that the business case remained outstanding. This would be required to be presented to the January meeting.

Resolved: that the draft financial accounts 2022/23 be noted.



Report to Shareholder Committee

Date:	10 January 2024
Title:	Best Practice Review (Governance) - Update
Relevant councillor(s):	All
Author and/or contact officer:	Nick Graham, Service Director, Legal and Democratic Richard Ambrose, Director – Major Projects Contact officer: Glenn Watson, Principal Governance Officer.
Ward(s) affected:	All

Recommendations:

- 1) to note the update as regards the Amber and Red actions identified in the recent Best Practice Self-Assessment, itemised at Annex 1;
- 2) to consider nominating a representative of the Committee to observe a board meeting of each entity to view the culture and conduct of their meetings (under action E19).

Reason for decision:

At the last meeting of the Committee, consideration was given to a best practice self-assessment on company governance. It was agreed to adopt Amber and Red rated actions as part of the Committee's action plan and to receive updates at each meeting. This is the first such update.

1. Background:

1.1 The *Local Authority Company Review Guidance (2021)* sets out best practice guidance on local authority company governance. A self-assessment was conducted at the last meeting of the Committee against the criteria. Actions were rated Green, Amber and Red. The Amber/Red items were incorporated into the Committee's action plan. This report includes (at Annex 1) an update on these actions.

2. Update on Amber/Red actions

- 2.1 Annex 1 includes a note on each identified action. Importantly, as noted by the Committee at its last meeting, an Internal Audit on company governance has recently begun. This will have some bearing on the actions, as was the intention. A fuller update will therefore be possible in light of the Audit outcomes expected to be reported to the Committee on 13 March 2024.
- 2.2 One action – at E19 of Annex 1 – envisages a representative of the Committee being nominated to attend from time to time, as an observer, a board meeting of each entity. The purpose being to note the culture and conduct of the meeting at first hand. This relates to the best practice principle that “the chair provides clear board leadership, supporting the directors and chief executive and taking account of the shareholders views”. The Committee is invited to consider identifying nominees to carry this out over the coming months.

3. Next steps

- 3.1 A fuller update will be made to the Committee in March 2024. This will also enable the outcomes of the Internal Audit to be factored into the approach to these reported items.
- 3.2 The next annual self-assessment will take place in early Autumn 2024 and is scheduled to be reported to the Committee in October 2024.

4. Legal and financial implications

- 4.1 The recommendations in this report contain no legal implications. Council has shareholding interests and responsibilities in the Council’s commercial entities. Cabinet has delegated this specific responsibility to the Shareholder Committee. The discretion to apply the actions recommended in this report lies with the Committee.
- 4.2 There are no financial implications arising from the recommendations in the report; their implementation would not, themselves, require additional resource.

Annex 1

Buckinghamshire Council – Shareholder Committee

Best Practice Checklist – update on amber/red actions

C = council related action E = entity related action

Red Rating		Update
C8	Establish clear Key Performance Indicators (KPIs) – to enable measurement of the entities’ alignment to the Council’s strategic objectives	To follow on from the Internal Audit
C9	Undertake a review of each entity’s internal structure and performance mechanisms	To follow on from the Internal Audit
Amber Rating		Update
C3 & C15	Potential for the Committee, as part of its annual review of each entity, to consider “whether the entity provides the most effective vehicle to deliver the outcomes it requires and whether there are suitable alternatives”.	Shareholder Committee to consider as part of annual review of each entity – at the meeting on 13 March 2024
C4	Annual review of its own terms of reference. Annual report to Cabinet on terms of reference; and on entities’ health and alignment to Council’s strategic objectives.	To be considered by the Committee on 10 January 2024
C5	Further training arranged in October 2023 for the current director who missed the previous training and for potential future directors of companies	Completed.
C7	Connections with the work programmes for the Audit & Governance Committee; and Select Committee	Audit & Governance Committee scheduled to consider an annual report on company governance arrangements in March 2024,

		following the outcome of the Internal Audit and reflecting upon the self-assessment best practice review.
C10	Review of performance quality (including KPIs) to be reported (alongside financial performance)	Shareholder Committee to consider as part of annual review of each entity – at the meeting on 13 March 2024
C11 & C14	Further review of risks relating to both Consilio and Aylesbury Vale Estates to come to the next meeting and then on a six-monthly basis Review updated business case for Consilio that is due to come to the next Shareholder Committee meeting	To be considered at the Shareholder Committee on 10 January 2024.
C13	Review audit findings following internal audit review of subsidiary bodies in Q3 2023/24	Verbal update to Shareholder Committee on 10 January 2024 Full update to Shareholder Committee on 13 March 2024
E3	Review the internal governance and decision-making mechanisms of each company/entity (via internal audit review in Q3) Request each entity to complete answers to questions E3 to E7 for consideration by the Committee	To consider following the outcome of the Internal Audit
E10	Committee to ask for information on the entity's scheme of delegation and the extent of authorities under it	To consider following the outcome of the Internal Audit
E13 E14 E15 E19 E24	In the internal audit review in Q3, review the entities' own means of: a) assessing and managing risk b) assessing skills in practice c) identifying, delivering, reviewing and recording training and the scope d) role of the Chair of each Board	Internal Audit took place in December 2023.

	<p>e) financial procedures</p> <p>f) internal controls</p>	
<p>E19</p> <p>E20</p>	<p>Authorise a Shareholder Committee representative to observe a meeting(s) of each entity's board to view the role in practice (re: culture and conduct of meetings</p> <p>Undertake occasional review of Board reports (content, quality, topic)</p>	<p>Shareholder Committee to consider on 10 January 2024.</p>

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Report to Buckinghamshire Shareholder Committee

Date:	10 January 2024
Title:	Terms of Reference – Annual Review
Cabinet Member(s):	Councillor John Chilver, Chairman of the Shareholder Committee
Contact officer:	Richard Ambrose Richard.ambrose@buckinghamshire.gov.uk / Glenn Watson glenn.watson@buckinghamshire.gov.uk
Ward(s) affected:	None specific
Recommendations:	That the Committee review the current Terms of Reference (Appendix 1) and consider the suggested amendments (Appendix 2)
Reason for recommendation:	It is considered good practice to undertake a periodic review of the committee's terms of reference to ensure it remains fit for purpose and reflects any legislative or operational changes made in the previous year.

1. Executive summary

- 1.1 The creation of the Shareholder Committee was agreed by Cabinet in March 2022 to carry out the delegated shareholder responsibilities of the Council. The Shareholder Committee forms part of the overall governance arrangements for Buckinghamshire Council in relation to companies and other legal entities which are wholly or partly owned by the Council. The Committee first met in July 2022, when it approved its terms of reference, agreeing that the document should be reviewed on an annual basis to ensure it remains fit for purpose.
- 1.2 As the committee has now been in operation for over a year, having met six times, it is a good point in time to reflect on the operation of the committee and undertake a review of the terms of reference.

2. The current terms of reference and proposed amendments

- 2.1 The committee has met six times since being established in March 2022 maintaining an oversight of key risks and governance issues. The terms of reference, overall, remain relevant and reflect the working practices of the committee. Best practice guidance, included within the *Local Authority Company Review Guidance* produced by Local Partnerships, notes that the terms of reference should document a clearly designated council shareholder role or function which is both understood and recognised by the council and the entity. It is considered that the current terms of reference reflect this.
- 2.2 The current terms of reference are included at **appendix 1**, a revised version with some minor suggested amendments is included at **appendix 2**.
- 2.3 The table below summarises the proposed changes along with the reasoning behind each proposal.

Paragraph number	Current wording	Suggested wording	Reasoning
2.4	Committee advisory officer may nominate an alternate officer to attend a meeting in their place.	Committee advisory officer may nominate an alternate officer to attend a meeting in their place provided that said officer is not a Board Member of any of the subsidiaries and thus does not have a conflict of interest.	For the avoidance of doubt, to ensure that where an alternate officer attends in place of a committee advisory officer that they are not a Board Member/Director of one of the entities nor have any other interest on which a conflict could arise.
3.1.16	New addition to the terms of reference.	In the case of a recommendation to wind up an existing subsidiary, the Committee will review the current business case for the subsidiary and undergo an effective comparison of alternative delivery	To ensure that where there is a recommendation to wind up an existing subsidiary, there is a clear process and decision-making path. Through discussions held by the committee in meetings to date, it

		models to achieve the optimum approach (including the option of transferring the assets and liabilities into the Council), consider the components to be delivered, outcomes sought and financial implications of the different options. An advisory paper will be submitted to Cabinet for a decision.	has been evident that there would be a requirement to review the current business case and undertake a review of alternative deliver models to achieve the optimum approach prior to any decision on winding up a subsidiary. Whilst the committee has delegated authority to wind up a subsidiary, due to the financial implications involved, an advisory paper to the Leader and Cabinet for formal approval is considered to be a suitable course.
3.4.1 (table of delegations)	Winding up of Subsidiary	Winding up of Subsidiary (subject to 3.1.16 above and an advisory paper to Cabinet)	Additional wording to reflect the above proposal.

3. Other options considered

- 3.1 The committee requires a terms of reference to provide committee members and key stakeholders a common understanding of the scope, objectives and delegations of the committee. The current terms of reference along with a version containing suggested changes are appended to this report. Additional amendments and suggestions are welcome from committee members at the meeting on 10 January 2024.

4. Legal and financial implications

- 4.1 The Council has shareholding interests and responsibilities in the Council's commercial entities. Cabinet has delegated this specific responsibility to the

Shareholder Committee so it is important that the terms of reference are clear, up to date, and fit for purpose.

- 4.2 There are no additional financial implications arising from the recommendations in the report. The suggested amendment in respect of the advisory paper to Cabinet in relation to winding up of a subsidiary, reflects the potentially significant financial implications that could arise in that instance and the importance that these implications are widely understood by Cabinet.

5. Next steps and review

- 5.1 As the recommended changes detailed at 2.3 of the report do not amend the mode or reach of the Committee's operation, the terms of reference will be updated dependant on the outcome of the Committee's discussion of this report. Should there be any significant changes recommended by the Committee, a revised terms of reference will be presented to Cabinet to consider, in line with paragraph 4.7 of the terms of reference.
- 5.2 Should the above amendments be agreed, these will be reported to Cabinet within the Annual Report of the Committee, which is due to be considered in March/April 2024.
- 5.3 The work programme, moving forward will continue to include an annual review of the terms of reference.

6. Background papers

- 6.1 [Shareholder Committee agendas and minutes](#)

7. Your questions and views

- 7.1 If you have any questions about the matters contained in this report, please contact the author of this report. If you have any views that you would like the cabinet member to consider, please inform the democratic services team. This can be done by email to democracy@buckinghamshire.gov.uk.

BUCKINGHAMSHIRE SHAREHOLDER COMMITTEE

TERMS OF REFERENCE

1. OVERVIEW

- 1.1 The Shareholder Committee forms part of the overall governance arrangements for Buckinghamshire Council ("**the Council**") in relation to companies and other legal entities which are wholly or partly owned or controlled by the Council (including where such control comes about indirectly, such as via a loan agreement) (each a "**Subsidiary**" and together the "**Subsidiaries**").

2. CONSTITUTION

- 2.1 The members of the Shareholder Committee will be set to 4 Cabinet Members consisting of:
- 2.1.1 Cabinet Member for Accessible Housing and Resources (as Chair);
 - 2.1.2 Cabinet Member for Planning and Regeneration
 - 2.1.3 Two other Cabinet Members to be determined by Cabinet
- 2.2 Each Shareholder Committee member may nominate an alternate Cabinet Member to attend a meeting in their place provided that said Member is not a Board Member of any of the subsidiaries and thus does not have a conflict of interest.
- 2.3 The Shareholder Committee will be supported by Council officers as advisors primarily consisting of
- 2.3.1 Section 151 officer
 - 2.3.2 Director of Property and Assets
 - 2.3.3 Director of Major Projects
 - 2.3.4 Chief Legal Officer or representative
 - 2.3.5 Other such officers as may be required including an officer/Member from the service the company or JV is supporting or suitably experienced non-Executive Director.
- 2.4 Committee advisory officer may nominate an alternate officer to attend a meeting in their place.
- 2.5 The Shareholder Committee will appoint the Cabinet Member for Accessible Housing and Resources as Chair of the Shareholder Committee. If the Chair is not present at the start of a meeting of the Shareholder Committee, those members present will appoint one of the members present to chair that meeting.
- 2.6 Additional advisors, who do not need to be officers or members of the Council, may be invited to attend the Shareholder Committee as required.
- 2.7 The Committee will need to follow and have regard to the rules set out in the Constitution including the finance procedure rules.

3. ROLE OF THE SHAREHOLDER COMMITTEE

- 3.1 The Shareholder Committee will have a role in ensuring proper governance of the Council's Subsidiaries, such role to include:
- 3.1.1 monitoring information from each Subsidiary, in particular on financial and other risks and escalating such risks within the Council as appropriate.
 - 3.1.2 exercising decisions relating to the Council's role as shareholder, member, owner, lender, or other position of significant control over the Subsidiary, where those decisions have been delegated to the Shareholder Committee;
 - 3.1.3 making reports and recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority;
 - 3.1.4 Agreeing and entering into a Memorandum of Agreement (see 3.2below) with each of the Council's Subsidiaries;
 - 3.1.5 The necessary oversight, from a shareholder's perspective, that the parameters, policies, and boundaries, that the council has established are being adhered to including a regular review of whether the Subsidiary 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;
 - 3.1.6 An articulation of what success looks like in terms of delivery models to meet objectives such as achieving social outcomes and/or a return on investment;
 - 3.1.7 Agree a mechanism to communicate the shareholder's views to the Subsidiary by effecting systematic engagement between the Chair/CEO and shareholder role to assure effective performance against strategy and governance;
 - 3.1.8 Provide a holistic review of risk to the Council offered by all active Subsidiaries;
 - 3.1.9 Consider and advise on the duties and if any, the training needs of potential Directors to allow them to competently assume this role;
 - 3.1.10 Making representations to the Directors on the Business Plans of the Subsidiary Companies or other organisations set out in this report;
 - 3.1.11 Receiving reports from the Directors where appropriate, on the progress and conduct of business in accordance with the approved Business Plan;
 - 3.1.12 Reporting to the Cabinet on the performance of the Subsidiary Companies;
 - 3.1.13 Undertaking due diligence on the various Subsidiary Companies to ensure liabilities are known and accounted for within the Council;
 - 3.1.14 Deciding whether a particular Subsidiary needs to be under the oversight of a specific service area;
 - 3.1.15 In the case of forming a new Subsidiary, the committee will first scrutinise the business case for forming the Subsidiary to clarify the service components to be delivered, outcomes sought and options for how these may be delivered and undergo an effective comparison of alternative delivery models to ensure that the objectives, timescales, and drivers of forming the Subsidiary is the optimum approach and; An advisory paper will be submitted to Cabinet for a decision.
- 3.2 It is expected that each Subsidiary will enter into a form of agreement with the Council (whether as owner, controller or lender) setting out the basis of the relationship between them (each a "**Memorandum of Agreement**").

3.3 A detailed description of the Shareholder Committee's role in relation to each Subsidiary will be set out in the relevant Memorandum of Agreement.

3.4 Authority to make decisions on behalf of the Council is delegated to the Shareholder Committee for each Subsidiary as follows:

3.4.1 Oversight of any decisions that can only be made by the shareholder, (whether as “reserved matters” under the Memorandum of Agreement and Articles of Association or pursuant to the relevant legislation applicable to that Subsidiary) such as:

Approval of Memorandum of Agreement with each Subsidiary
Approval of annual Business Plan and deviations from Business Plan.
Approval of key appointments (including appointment, removal and or replacement of Directors)
Borrowing money, granting security and giving of guarantees
Winding up of Subsidiary
Altering in any respect the articles of association of a Subsidiary (or any other governing document such as the Rules of a Community Benefit Society)
Altering the rights attaching to any of the shares in a Subsidiary
Permitting the registration of any person as a shareholder or member of a Subsidiary
Ensuring that subsidiaries or the subsidiaries interests are not competing against or conflicting with, other subsidiaries or their interests
Ensure that the Council appointments to the board of a Subsidiary comply with the Council’s constitution
Establish proper arrangements to manage potential conflicts of interest in respect of Council Officers appointed to the board of a Subsidiary
Correctly approve pay and pension arrangements in respect of both key employees of the Subsidiary and Council Officers appointed to the board of a Subsidiary and ensure that decisions made to make termination payments are in line with the law and the Subsidiary’s controlling documents.
Amending the amount of a Subsidiary's issued share capital
Altering the name of any Subsidiary

3.4.2 Any Memorandum of Agreement entered into with a Subsidiary may identify additional decisions which are delegated by Cabinet to the Shareholder Committee in relation to that Subsidiary only.

3.5 Decisions which are not delegated to the Shareholder Committee in accordance with 3.4 above will be taken through the usual decision-making processes in accordance with the Council's governance and constitutional framework. This will include decisions relating to the issue of loan capital in relation to any Subsidiary and to any approvals relating to any intra-group loans.

4. OPERATION OF THE SHAREHOLDER COMMITTEE

4.1 The Shareholder Committee will meet three times per year, or more frequently if required.

4.2 The quorum for a meeting of the Shareholder Committee is a minimum of 2 members.

4.3 Meetings will be held in public or otherwise in line with the Council's democratic meeting protocol. There may be particular matters or agenda items which are required to be considered in private due to commercial confidentiality, and these will be handled in accordance with the Council's usual democratic protocol.

4.4 Minutes and agendas will be managed and published in accordance with the Council's usual democratic protocol.

4.5 The Shareholder Committee shall make its decisions as follows:

4.5.1 At meetings of its members by consensus of those present, unless any member of the Shareholder Committee requires a vote, in which event a majority decision will be taken with each member of the Shareholder Committee present having a single vote. Advisors and officers present to support the Shareholder Committee will not have a vote. The Chair of the meeting has a casting vote in the event that there is no clear majority; or

4.5.2 In cases of urgency, by a decision made by the Leader or by an alternate Cabinet Member nominated by the Leader.

4.6 After each meeting, the Chair shall approve the minutes and authorise the implementation of the Shareholder Committee's decisions, including where relevant the signature of any documents by appropriate Council signatories.

4.7 The Shareholder Committee will review the Terms of Reference annually and make any necessary recommendations to Cabinet.

BUCKINGHAMSHIRE SHAREHOLDER COMMITTEE

TERMS OF REFERENCE

1. OVERVIEW

- 1.1 The Shareholder Committee forms part of the overall governance arrangements for Buckinghamshire Council ("**the Council**") in relation to companies and other legal entities which are wholly or partly owned or controlled by the Council (including where such control comes about indirectly, such as via a loan agreement) (each a "**Subsidiary**" and together the "**Subsidiaries**").

2. CONSTITUTION

- 2.1 The members of the Shareholder Committee will be set to 4 Cabinet Members consisting of:
- 2.1.1 Cabinet Member for Accessible Housing and Resources (as Chair);
 - 2.1.2 Cabinet Member for Planning and Regeneration
 - 2.1.3 Two other Cabinet Members to be determined by Cabinet
- 2.2 Each Shareholder Committee member may nominate an alternate Cabinet Member to attend a meeting in their place provided that said Member is not a Board Member of any of the subsidiaries and thus does not have a conflict of interest.
- 2.3 The Shareholder Committee will be supported by Council officers as advisors primarily consisting of
- 2.3.1 Section 151 officer
 - 2.3.2 Director of Property and Assets
 - 2.3.3 Director of Major Projects
 - 2.3.4 Chief Legal Officer or representative
 - 2.3.5 Other such officers as may be required including an officer/Member from the service the company or JV is supporting or suitably experienced non-Executive Director.
- 2.4 Committee advisory officer may nominate an alternate officer to attend a meeting in their place provided that said officer is not a Board Member of any of the subsidiaries and thus does not have a conflict of interest.
- 2.5 The Shareholder Committee will appoint the Cabinet Member for Accessible Housing and Resources as Chair of the Shareholder Committee. If the Chair is not present at the start of a meeting of the Shareholder Committee, those members present will appoint one of the members present to chair that meeting.
- 2.6 Additional advisors, who do not need to be officers or members of the Council, may be invited to attend the Shareholder Committee as required.
- 2.7 The Committee will need to follow and have regard to the rules set out in the Constitution including the finance procedure rules.

3. ROLE OF THE SHAREHOLDER COMMITTEE

- 3.1 The Shareholder Committee will have a role in ensuring proper governance of the Council's Subsidiaries, such role to include:
- 3.1.1 monitoring information from each Subsidiary, in particular on financial and other risks and escalating such risks within the Council as appropriate.
 - 3.1.2 exercising decisions relating to the Council's role as shareholder, member, owner, lender, or other position of significant control over the Subsidiary, where those decisions have been delegated to the Shareholder Committee;
 - 3.1.3 making reports and recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority;
 - 3.1.4 Agreeing and entering into a Memorandum of Agreement (see 3.2below) with each of the Council's Subsidiaries;
 - 3.1.5 The necessary oversight, from a shareholder's perspective, that the parameters, policies, and boundaries, that the council has established are being adhered to including a regular review of whether the Subsidiary 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;
 - 3.1.6 An articulation of what success looks like in terms of delivery models to meet objectives such as achieving social outcomes and/or a return on investment;
 - 3.1.7 Agree a mechanism to communicate the shareholder's views to the Subsidiary by effecting systematic engagement between the Chair/CEO and shareholder role to assure effective performance against strategy and governance;
 - 3.1.8 Provide a holistic review of risk to the Council offered by all active Subsidiaries;
 - 3.1.9 Consider and advise on the duties and if any, the training needs of potential Directors to allow them to competently assume this role;
 - 3.1.10 Making representations to the Directors on the Business Plans of the Subsidiary Companies or other organisations set out in this report;
 - 3.1.11 Receiving reports from the Directors where appropriate, on the progress and conduct of business in accordance with the approved Business Plan;
 - 3.1.12 Reporting to the Cabinet on the performance of the Subsidiary Companies;
 - 3.1.13 Undertaking due diligence on the various Subsidiary Companies to ensure liabilities are known and accounted for within the Council;
 - 3.1.14 Deciding whether a particular Subsidiary needs to be under the oversight of a specific service area;
 - 3.1.15 In the case of forming a new Subsidiary, the Committee will first scrutinise the business case for forming the Subsidiary to clarify the service components to be delivered, outcomes sought and options for how these may be delivered and undergo an effective comparison of alternative delivery models to ensure that the objectives, timescales, and drivers of forming the Subsidiary is the optimum approach and; An advisory paper will be submitted to Cabinet for a decision.
 - 3.1.16 In the case of a recommendation to wind up an existing subsidiary, the Committee will review the current business case for the subsidiary and undergo an effective comparison of alternative delivery models to achieve the optimum approach (including the option of transferring the assets and liabilities into the Council), consider the components to be delivered, outcomes sought and financial implications of the different options. An advisory paper will be submitted to Cabinet for a decision.

- 3.2 It is expected that each Subsidiary will enter into a form of agreement with the Council (whether as owner, controller or lender) setting out the basis of the relationship between them (each a “**Memorandum of Agreement**”).
- 3.3 A detailed description of the Shareholder Committee's role in relation to each Subsidiary will be set out in the relevant Memorandum of Agreement.
- 3.4 Authority to make decisions on behalf of the Council is delegated to the Shareholder Committee for each Subsidiary as follows:
- 3.4.1 Oversight of any decisions that can only be made by the shareholder, (whether as “reserved matters” under the Memorandum of Agreement and Articles of Association or pursuant to the relevant legislation applicable to that Subsidiary) such as:

Approval of Memorandum of Agreement with each Subsidiary
Approval of annual Business Plan and deviations from Business Plan.
Approval of key appointments (including appointment, removal and or replacement of Directors)
Borrowing money, granting security and giving of guarantees
Winding up of Subsidiary <u>(subject to 3.1.16 above and an advisory paper to Cabinet)</u>
Altering in any respect the articles of association of a Subsidiary (or any other governing document such as the Rules of a Community Benefit Society)
Altering the rights attaching to any of the shares in a Subsidiary
Permitting the registration of any person as a shareholder or member of a Subsidiary
Ensuring that subsidiaries or the subsidiaries interests are not competing against or conflicting with, other subsidiaries or their interests
Ensure that the Council appointments to the board of a Subsidiary comply with the Council’s constitution
Establish proper arrangements to manage potential conflicts of interest in respect of Council Officers appointed to the board of a Subsidiary
Correctly approve pay and pension arrangements in respect of both key employees of the Subsidiary and Council Officers appointed to the board of a Subsidiary and ensure that decisions made to make termination payments are in line with the law and the Subsidiary’s controlling documents.
Amending the amount of a Subsidiary's issued share capital
Altering the name of any Subsidiary

3.4.2 Any Memorandum of Agreement entered into with a Subsidiary may identify additional decisions which are delegated by Cabinet to the Shareholder Committee in relation to that Subsidiary only.

3.5 Decisions which are not delegated to the Shareholder Committee in accordance with 3.4 above will be taken through the usual decision-making processes in accordance with the Council's governance and constitutional framework. This will include decisions relating to the issue of loan capital in relation to any Subsidiary and to any approvals relating to any intra-group loans.

4. OPERATION OF THE SHAREHOLDER COMMITTEE

4.1 The Shareholder Committee will meet three times per year, or more frequently if required.

4.2 The quorum for a meeting of the Shareholder Committee is a minimum of 2 members.

4.3 Meetings will be held in public or otherwise in line with the Council's democratic meeting protocol. There may be particular matters or agenda items which are required to be considered in private due to commercial confidentiality, and these will be handled in accordance with the Council's usual democratic protocol.

4.4 Minutes and agendas will be managed and published in accordance with the Council's usual democratic protocol.

4.5 The Shareholder Committee shall make its decisions as follows:

4.5.1 At meetings of its members by consensus of those present, unless any member of the Shareholder Committee requires a vote, in which event a majority decision will be taken with each member of the Shareholder Committee present having a single vote. Advisors and officers present to support the Shareholder Committee will not have a vote. The Chair of the meeting has a casting vote in the event that there is no clear majority; or

4.5.2 In cases of urgency, by a decision made by the Leader or by an alternate Cabinet Member nominated by the Leader.

4.6 After each meeting, the Chair shall approve the minutes and authorise the implementation of the Shareholder Committee's decisions, including where relevant the signature of any documents by appropriate Council signatories.

4.7 The Shareholder Committee will review the Terms of Reference annually and make any necessary recommendations to Cabinet.



Report to Shareholder Committee

Date:	10 January 2024
Title:	Articles of Association – Annual Review
Relevant councillor(s):	All
Author and/or contact officer:	Nick Graham, Service Director, Legal and Democratic Richard Ambrose, Director – Major Projects Contact officer: Glenn Watson, Principal Governance Officer.
Ward(s) affected:	All

Recommendations: to note the annual review of the Articles of Association of each entity.

Reason for decision:

At the last meeting of the Committee, consideration was given to a best practice self-assessment on company governance. One aspect of the best practice is for the Committee to undertake an annual review of the Articles of Association of each entity. The purpose of this, as set out in the [Local Authority Company Review Guidance](#), is to verify that: “The entity’s articles of association [are] clear, up-to-date, and reflective of how the entity is run” (page 19). Articles of Association provide the overarching constitution for a company.

1. Background:

1.1 The *Local Authority Company Review Guidance (2021)* sets out the best practice guidance on local authority company governance. It notes that each local authority company/entity “should have articles of association, documenting its constitution and addressing purpose, conduct of meetings and appointment of directors” or ‘member’s agreement’ with the Council as shareholder making clear the respective roles.

1.2 The review has considered whether the documents, in each case, meet this requirement, having appropriate coverage for:

- a. The purpose of the entity
- b. The conduct of meetings

- c. The appointment of directors

2. Review of Articles of Association

2.1 The existing documents have been reviewed for the following:

- a. Aylesbury Vale Estates
- b. Buckinghamshire Advantage
- c. Consilio
- d. London Road Business Park Management Ltd

2.2 These vary in format and are reflective of the circumstances of their origin under the legacy councils.

2.3 The following table summarises each against whether the best practice criteria are reflected in them.

Entity	Purpose	Conduct of Meetings	Appointment of directors	Format
Aylesbury Vale Estates	Yes	Yes	Yes	Member's Agreement
Buckinghamshire Advantage	Currently being updated to reference the Woodlands project	Yes	Yes	Articles
Consilio	Not included	Yes	Yes	Articles
London Road Business Park Management Ltd	Not included	Yes	Yes	Articles

2.4 For all except Aylesbury Vale Estates, the purpose of the company could be more clearly articulated or updated. This would enable the Committee – and the Cabinet – to fulfil its periodic responsibility to verify that the purpose of the companies aligns with the Council's objectives. Similarly each can be updated explicitly to reflect that 'Buckinghamshire Council' has succeeded the legacy council as the local authority 'member' of the company.

2.5 In the case of Buckinghamshire Advantage, the Articles are already being reviewed specifically to bring them into line with the existing Members' Agreement. This will also lead to a clearer articulation of the objectives of the company. This work is already in hand. The changes to these Articles will be minor and do not affect the validity of the present annual review.

3. Next steps

3.1 The Principal Governance Officer will liaise with the Directors of each entity to identify with them the necessary changes to the Articles e.g. to reflect the purpose of the body and to bring the documents up to date. This will be undertaken during January and February with a view to bringing the revised set of Articles to the Shareholder Committee in March 2024 for approval. The review with the Directors will factor in any related outcomes arising from the current Internal Audit into company governance.

4. Legal and financial implications

4.1 The recommendations in this report contain no specific legal implications. Council has shareholding interests and responsibilities in the Council's commercial entities. Cabinet has delegated this specific responsibility to the Shareholder Committee. The discretion to apply the actions recommended in this report lies with the Committee.

4.2 There are no financial implications arising from the recommendations in the report; their implementation would not, themselves, require additional resource.

Background papers

Links to existing Articles of Association/Members Agreements:

[Buckinghamshire Advantage – Companies House](#)

[Consilio Property Limited – Companies House](#)

[London Road Business Park Management Limited - Companies House](#)

[Aylesbury Vale Estates - ModernGov](#)

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Buckinghamshire Shareholder Committee Forward Plan 2023/24

Date	Topic	Description & Purpose	Lead Officer
21 June 2023	Risk Registers for Buckinghamshire Advantage and Consilio	To review the risk registers of Bucks Advantage and Consilio and understand how risks are escalated and addressed.	Directors of BA and Consilio respectively
	Consilio 23/24 Business Plan Update	To consider the 2023/24 Business Plan, financial budget and progress to date, including current financial position.	Consilio Directors
	Forward Plan	To note and comment on the forward plan	Leslie Ashton
18 October 2023	Best Practice Review - Governance	To review best practice / learnings from other local authority companies.	Richard Ambrose / Glenn Watson
	Review of KPI's relating to each subsidiary body	To review the key performance indicators relating to each subsidiary body.	Directors of Each Subsidiary
	Aylesbury Vale Estates update, Draft Financial Accounts 2022/23 and Risk Register	<ul style="list-style-type: none"> - To consider progress to date, including their financial position (including outstanding loans) - To review the risk register and understand how risks are escalated and addressed. - To review the 2022/23 draft financial accounts of AVE 	Mark Preston
	Draft Financial Accounts for Buckinghamshire Advantage 2022/23	To review the 2022/23 financial accounts of Buckinghamshire Advantage	Lisa Michelson / Richard Harrington

	Draft Financial Accounts for Consilio 2022/23	To review the 2022/23 financial accounts of Consilio	David Pearce
	Forward Plan	To note and comment on the forward plan	Leslie Ashton
10 January 2024	Internal audit report – Verbal update	To receive a verbal update on the internal audit which covers governance arrangements of the subsidiary bodies, including controls and procedures.	Richard Ambrose / Dave Skinner
	Review of Articles of Association	To undertake a review of each subsidiary company’s Articles of Association.	Richard Ambrose / Glenn Watson Directors of each subsidiary
	Annual Audit Letters	To consider the Annual Audit letter following the external audit of the financial accounts of each subsidiary body.	Richard Ambrose / Dave Skinner
	Committee Action Plan update	To receive an update on the red and amber rated items within the Committee’s action plan.	Glenn Watson / Richard Ambrose
	Buckinghamshire Advantage update	BA to attend to present their progress against business plan to date, including their financial position (including outstanding loans)	Lisa Michelson / Richard Harrington
	Terms of Reference	To undertake a periodic review of the Terms of Reference to ensure that they remain fit for purpose.	Glenn Watson / Richard Ambrose / Leslie Ashton

	Forward Plan	To note and comment on the forward plan	Leslie Ashton
13 March 2024	Annual Business Plan and Financial Budget for each subsidiary body.	To review each respective subsidiary company's 2024/25 Business Plan and financial budget.	Directors of Each Subsidiary
	Annual Shareholder Committee report 2023-24	To comment on and review the 23/24 draft annual report prior to it being presented to Cabinet.	Richard Ambrose / Leslie Ashton
	Annual Review of the Director Appointments and Conflicts of Interest Guidance	To undertake an annual review to ensure arrangements remained fit for purpose.	Richard Ambrose / Glenn Watson
	6-month review of Risk Registers (for each subsidiary)	To undertake a six-monthly review of risk registers and understand how risks are escalated and addressed.	Directors of Each Subsidiary
	Committee Action Plan update	To receive an update on the red and amber rated items within the Committee's action plan.	Glenn Watson / Richard Ambrose
	Consilio Business Case	To consider Consilio's future business case.	Consilio Directors
	Forward Plan	To note and comment on the forward plan	Leslie Ashton

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