

# BIRMINGHAM CITY COUNCIL

## CABINET COMMITTEE – GROUP COMPANY GOVERNANCE

Thursday 16 November 2023 at 1400  
hours Committee Room 2, Council  
House

### Attendance:

Councillors Liz Clements (Chair) and Brigid Jones

Councillor Majid Mahmood (in attendance as a substitute)

Observers: Councillors Roger Harmer and Gareth Moore

### Also in Attendance:

Alison Jarrett	Director Group and Capital Finance, Deputy S151 Officer
Connie Price	Head of Law, Commercial, Procurement, Privacy & Information
Georgina Dean	Solicitor, Legal Services
Andy Couldrick	Chief Executive, Birmingham Children's Trust
Andrew Christie	Chair of Birmingham Children's Trust
Mandeep Marwaha	Committee Services

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## 1 NOTICE OF RECORDING/WEBCAST

The Chair advised that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

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## APOLOGIES

- 2 Apologies were submitted by the Deputy Leader, Councillor Sharon Thompson for her inability to attend. In consultation with the Deputy Leader and the Committee, in advance of this meeting, it had been agreed for Councillor Clements to Chair this meeting.

In addition, Councillor Majid Mahmood (Cabinet Member) was in attendance as a substitute for Councillor Thompson to ensure the meeting remained quorate.

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**DECLARATIONS OF INTERESTS**

- 3 Councillor Moore declared he was a trustee on the Birmingham Citizens Advice indicated on item 6 on the agenda.

Councillor Jones declared she was a Director for Birmingham Airport and Colmore BID.

Councillor Clements (Chair) declared she was a Trustee for Birmingham Symphony Orchestra.

During the discussions for item 7 – Company updates on the agenda, the Director Group and Capital Finance, Deputy S151 Officer declared she was a Director on Birmingham City Propco Limited.

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**PUBLIC NOTES OF THE LAST MEETING – 21 SEPTEMBER 2023**

- 4 The public notes of the 21 September 2023 were agreed at this meeting.

Councillor Mahmood questioned if the Board Effectiveness Training should be open to all members in order for Councillors to understand their legal responsibilities. It was highlighted some Members are placed on Boards as a substitute at short notice.

In addition, reference was made to InReach (Birmingham) Limited and the leverage on the repayment on the loan. This was noted as 35 years.

Finally, it was queried when companies (that BCC had a shareholder interest) were contacted on the Section 114 Notice and was there a reason for the delays.

In response, the Head of Law, Commercial, Procurement, Privacy & Information agreed to open the Board Effectiveness Training to all members of the Council.

The Director Group and Capital Finance, Deputy S151 Officer referred to the action from the previous meeting in September 2023, to contact companies to communicate with the companies. InReach (Birmingham) had been contacted via a formal letter. Letters had been sent to companies where BCC had a financial control (i.e. above 20% control). The Business Improvement Districts (BIDS) would be contacted separately.

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**COMMISSIONER'S REVIEW AND COMMENTS ON THE AGENDA**

The following document from the Commissioner was submitted:

(See document No.1 of the agenda pack)

The Commissioner's Review was read out by the Chair. It stated:

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*“Local Partnerships publish a very useful statement and checklist of best practice on the justification for and management of local authority companies. It is clear that the Council does not fully comply with this. The Committee should require a report to its next meeting on a company by company basis setting out how it is recommended to comply with this guidance. In particular, the*

*Committee will need to carefully consider conflicts of interest issues which will require replacements of both members and officer Directors. The Committee should also require a review of each company with a view to striking off or liquidating dormant and non-viable companies so as to reduce the management and financial risks.*

*The Children’s Trust business plan, in particular, suggests that they will want to have access to the Councils capital programme. It is clearly not possible at the current moment to give any undertaking that such an allocation will be forthcoming. Until there is clarity about the council’s ability to deliver a balanced budget in February next year there can be no guarantee that any capital programme schemes, not funded 100% by external sources, can be included.”*

The Committee noted the points raised by the Commissioner. The Chair was pleased to see the Local Authority Company Review Guidance had been referred to in the report on the agenda.

Councillor Jones referred to previous work undertaken by the Committee. This looked at issues that had occurred in other local authorities such as Liverpool, Nottingham, Croydon etc. The reviews and recommendations for other local authorities had been explored by the Committee to ensure Birmingham avoided repeating these issues. Members were assured some work had taken place to comply with best practice however, further work was required to strengthen this. In addition, striking off dormant companies, winding down smaller companies and pension liability etc had been considered previously by the Committee.

Prior to the meeting, the Chair had requested for the most recent guidance on the Local Authority Company Review Guidance to be circulated to Members of the Committee. Members had received this in advance of this meeting.

Councillor Moore raised concerns as to why Birmingham was not compliant to the requirements prior to the Commissioners comments and review on the agenda. The Chair referred to the previous work that had already taken place however, further work had to be done against the benchmark set out. Updates on the improvement journey would be shared at future meetings. The Director of Group & Capital Finance (Deputy Section 151 Officer) gave details on the previous work undertaken by the Committee. Further work had taken place with CIPFA. A detailed plan would be shared at the next meeting.

Conflicts of interests and skills of Members of the Board was an area which was currently being reviewed. The change in Board membership would take place gradually as there was a number of factors to consider before any changes took place i.e. Annual reports submissions for the companies.

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The Chair highlighted the role of the Committee would need to be looked at as the items that come to the meetings are mainly for noting.

Councillor Harmer noted conflicts of interests for officers was being looked at however, he queried if the same consideration had been taken for Councillors. There were organisations within Wards which appointed Members. Careful consideration had to be taken on Member appointments as some of the organisations objectives indicated a Ward Member to be appointed. The Committee were informed that each year an Annual Appointments list is produced. Discussions were currently taking place and recommendations would be brought back to the Committee.

Councillor Mahmood suggested officers should explore what other Councils, Local Authorities had in place.

The Local Authority Company Review Guidance would be reviewed by officers and ongoing discussions would take place with the Commissioners. The analysis of the work would be shared with the Committee.

Councillor Jones proposed an audit of the appointments across the board should be undertaken including small organisations, charities, external bodies etc as a number of these appointments were based on a condition of grant aid. A review within the area was required.

Furthermore, Councillor Moore suggested the views of the organisations should also be considered whilst undertaking reviews on appointments due to the expertise, knowledge contributions made by Members already appointed.

Upon consideration, it was;

### **5 RESOLVED:-**

The Cabinet Committee Group Company Governance;

- (i) Noted the Commissioner's review and comments on the agenda and;
- (ii) Noted the reference to Local Partnership's Guidance on Local Authority Companies and agreed that the Director Group & Capital Finance, Deputy s151 officer will provide a detailed plan at the next meeting setting out proposals of how the Council will implement recommendations contained within this guidance.

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### **REVIEW AND RATIONALISATION OF GROUP COMPANIES (RESPONSE TO SECTION 114 NOTICE)**

The following report of the Director of Group & Capital Finance (Deputy Section 151 Officer) was submitted:-

(See document No.2 of the agenda pack)

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The Director of Group & Capital Finance (Deputy Section 151 Officer) made introductory comments. Members were informed the report introduced a short presentation at Appendix 1. The presentation indicates the number of company entities that the council was connected to and how that breaks down into categories. The report provided an overview and update for Members of the Committee.

Appendix 1, the presentation gave an overview on the group and related entities (there was 239 entities); actively trading or operating companies (there was 164 companies); Active companies with a financial connection (shares/assets) – and number in the group; a list of companies with a significant interest (less than 20%) and a list of companies with a significant interest (more than 20%). It was highlighted not all the accounts for the companies had been submitted.

The Chair queried on the UK Municipal Bonds Agency PLC and what was happening with this company as the primary aim was to reduce the local authority finance costs. In response, the Director of Group & Capital Finance (Deputy Section 151 Officer) informed Members this was set up initially as a national bonds agency for local authorities to borrow and to lend to each other.

It was queried if timescales would be listed against dormant companies. This was currently being work upon. The closure of dormant companies had costs associated with them therefore these were being closed down gradually - HMRC checks had to be undertaken. In January, an update will be shared with the Committee on which companies have been closed so far. Members of the Committee were keen to see the progress made on this area. The Head of Law provided further information around Dormant companies and the reason for keeping these in place.

Concerns were raised by Councillor Moore on companies with significant interest of more than 20% where the in-year performance for several of the companies were at a loss. This was concerning due to the Council's current financial position. It was questioned why the companies were at loss and what had been done to rectify this. In addition, it was queried companies with significant interest less than 20%, e.g. Eyoto Group Limited, Birmingham had 3% share, why there was a large liability attached to this.

In response, the Director of Group & Capital Finance (Deputy Section 151 Officer) explained this was the year ending 2022 for majority of the companies. The final accounts for 2022-23 were currently being filed. Individual reports for the companies would have to be investigated to check why the companies were at a loss. Further details and breakdown around this area was shared with the Committee. Eyoto Group Limited was a high-tech investment company. The liability was due to where the stage of the company was. The net liability was expected in high tech and startup companies. A further breakdown to the setup of this company was provided to the Committee.

Further queries were raised by Councillor Mahmood on the accounting dates for companies that BCC had more than 20% interest as some dates

were for this year and others for last year. It was also noted that the land that Birmingham Wheels was based upon was still owned by the Council and Councillor Mahmood reassured Members this was the case though it indicated the company was in liquidation. In relation to setting up new companies, Members sought to see if there was any restrictions on doing this?

Members were informed that where there was an accounting date of March 2022, the company had 9 months to file their accounts hence, currently the old dates were listed within the presentation.

Birmingham Wheels, Members were assured the reference in the document was related to the company and not the land. There were complexities associated with this company therefore, external advice had been sought to close the company. There was no specialist expertise within BCC (inhouse) to resolve certain issues associated with the companies, therefore external resource was reverted to e.g. PWC for tax advice. Relevant spends were coming to the Spend Control Board. BIDS were not constrained however, they would be monitored through the Committee for Governance.

Upon consideration, it was;

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**RESOLVED: -**

The Cabinet Committee Group Company Governance;

- (i) Noted the information provided within the report and at appendix 1 of the report; and
- (ii) An update on the Review and Rationalisation on Group Companies to be reported at the next meeting.

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**COMPANY UPDATE**

The following report of the Director of Group & Capital Finance (Deputy Section 151 Officer) was submitted:-

(See document No.3 of the agenda pack)

The Director of Group & Capital Finance (Deputy Section 151 Officer) gave an overview of the latest changes made across the Council's portfolio of companies since the last meeting. The private agenda contained the details of confidential updates.

There were one key changes to appointments within companies that had been notified to Companies House since the previous Committee meeting which was listed within the report.

Point 3.3 of the report listed the companies that had filed their statutory annual accounts. Members were notified not all the companies (small) require an audit

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and are exempt from submitting their accounts or had their accounts audited with unqualified opinions. It was highlighted that Birmingham Airport come under a consolidated list of companies.

Reference was made to the Audit Report for the Birmingham Schools, where the auditors had brought to the attention that risks may arise therefore, the accounts were not qualified. This was not qualified due to the risks around the conflicts of interests. It was questioned if the member of the Council was conflicted in the Director role. Assurances was provided by the Director that the work on the company was separate to her role in the Council however, this would be looked at again through the review work taking place within the Committee.

Councillor Moore referred to Acivico Limited where two of the three vacancies were vacant. This was concerning as this was one of the Councils largest companies. The appointments were queried by Members.

Further questions were raised around Birmingham City Propco Limited and the issue around invoicing of the hotels which had been affected by Oracle (ERP system).

In response, the Head of Law indicated there was a plan in place to replace the two vacant posts. Acivico Limited had specifically requested for subject matter expert appointees for at least one of the posts therefore, external advert would be considered as there was not a full quota currently on the board. Further explanation on the invoicing was provided by the Director of Group & Capital Finance (Deputy Section 151Officer).

At this juncture, the Director of Group & Capital Finance (Deputy Section 151Officer) declared an interest as a Director on Birmingham City Propco Limited. Details around the invoices being issued by this company and work taking place within the Oracle Team was shared with Members.

Further questions around Birmingham City Propco Limited and insufficient turnover to cover loan repayments and management and the work undertaken on the reprofiling was raised. In relation to, Birmingham Museums Trust (BMT), it was questioned if discussions had taken place around the condition of the estate and costs associated.

It was important to ensure Birmingham City Propco Limited do not go into negative resource, and this was being explored. The reprofiling is also being reviewed.

Birmingham Museums Trust could be invited to a future date to provide more details. The Head of Law suggested Property Services share information with the Committee ahead of inviting BMT to understand the current position on this.

Members were reminded by Councillor Jones that Acivico Limited paid their non-council trustees and the Council trustees were not paid. Remuneration for Councillors had been raised historically in Committee.

Upon consideration, it was;

7 **RESOLVED: -**

The Cabinet Committee Group Company Governance noted the information provided within the report and at private appendix 1 which contained commercially confidential details concerning group and associated companies.

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**BIRMINGHAM CHILDREN’S TRUST – PEN PORTRAIT (PUBLIC)**

The following report of the Director for Children’s Services was submitted:-

(See document No. 4 of the agenda pack)

The Director of Group & Capital Finance (Deputy Section 151 Officer gave an overview of the pen portrait for the Birmingham Children’s Trust (BCT).

At 1458 hours, Councillor Jones left the room.

Councillor Mahmood referred to the Commissioners comments and conflicts of interests. Questions were raised around the Directors on the Trust as there were some who were on Charities etc. There was a potential issue that there maybe services that were procured through the Trust. This would need to be considered in the future with the Finance Director on the Trust.

Councillor Moore referred to previous discussions on the Articles of Association for BCT and the compliance. He queried if the issues had now been resolved.

At 1505 hours, Councillor Jones returned to the meeting.

The Chief Executive (BCT) informed members this was the sixth Business Plan shared with the Committee. Key introductory points made;

- In March 2023 the Trust was inspected by Ofsted and as a result social care services in Birmingham are now judged to be Good.
- In March 2023 Birmingham City Council decided that rather than enact the second five-year term of the contract they would instead agree a new 10 year contract term.
- In May 2023 the DfE lifted the statutory direction meaning that children’s social care and family support services are no longer subject to Government intervention.

This was due to the exemplary leadership and management, and with the commitment of every single member of the Trust team.

It was noted BCT had been asked by the Solihull Council to improve their services. This had been commissioned by the DfE. Both the Commissioners and the Department are very pleased with the work undertaken.



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An in-depth overview was provided on the following areas of the Business Plan; BCT 2023 – Vision and Values; Key Developments for 2023/24; Review of the Short Breaks Offer was a key priority; Strategic Context for the Children's Trust; Trust Priorities 2023/24 and Beyond; Performance; Governance Arrangements; Trust Services; the People; Trust Financial Position and Budget; The Children's Trust and the Council and Managing Risk.

Members were informed on 15 December 2023, the current Chair of BCT was due to retire. In addition, the current Chief Executive (BCT) would be retiring as the Chief Executive for BCT, however, he would then be appointed as the Chair of BCT. James Thomas had been appointed as the new Chief Executive for BCT.

The Chair of BCT referred to the trajectory of improvement journey across the country. It was highlighted it was crucial to ensure the gains for BCT e.g. 'Good' ratings remained in place. Members were reassured the leadership of BCT had been thought out carefully.

Tributes were made to colleagues on the BCT Board for their contributions. Upon the establishment of the BCT Board, it was important to ensure the appointments were well connected within the City and brought relevant skills and knowledge to the Board.

The Chair of BCT made tribute to the excellent work the current Chief Executive (BCT) had made over the years. This was recognised as central to the success of BCT.

The Chair congratulated on the new appointments made within BCT. Reference was made to the Commissioners comments BCT and the Council's Capital Programme.

In response, Chief Executive (BCT) informed Members, BCT's Business Plan was written before the Section 114 Notice and the appointment of the Commissioners. The cost of care was highlighted as one of the biggest challenges for Children Services as the care provided was mainly in the independent sector and extremely expensive therefore, the development of a Residential Provision was being explored. Details around this was shared. The Chair for BCT felt careful analysis of the Business Case had to be considered.

Councillor Harmer referred to the Finance Commissioner Board meeting highlighted the Council was looking to sell a number of their property assets which could be useful for BCT.

The Council's Capital Programme could possibly allow BCT to purchase properties or give properties to BCT. BCT were not allowed to own properties as a Community Interest, therefore Children's Home properties belong to the Council. The demand for Children's Care was constantly growing.

Councillor Moore questioned if reopening children's homes was a sensible idea and what assurances were available to avoid them becoming unsafe again.

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Assurances were sought on how to avoid BCT getting into deficit again in future years (i.e. a constant recurring problem).

In response, Chief Executive (BCT) highlighted the Care Model was different to the previous version. Smaller properties would be sought with no more than three children placed in them. These would be children with high levels of need and complexity. Further details and discussions took place around children in care. Unaccompanied children seeking asylum had increased in the City however, the rate of care in Birmingham was lower than other Core Cities.

An increase of 6% of children in care had been projected for the year therefore, anything more than or less than 6% would affect the tolerance of the Business Plan. Some of the care for children were very large due to the lack of secured facilities within Birmingham.

The Chair of BCT added BCT were reviewing the options to meet the care demand. Details around this was shared with the Committee.

Further explanation was provided on the support on adoption and adoption agencies. There were approximately 100 adoptions taking place per year. Regional Adoption agency was set up in partnership with a voluntary agency. Details around Child Protection Plans was shared with Members. They had been stable however; they would increase over time. There was a rise in demand for children in care places and this was possibly due to the impact of the pandemic on both children and parents. However, the key drivers and demand for the services, referrals were around domestic abuse; substance misuse and parental and children's mental health. In addition, deprivation, poverty were other factors affecting the demand on the services.

The governance arrangements for the adoption agency were queried and the relationship to BCC. Members were informed this was a partnership arrangement underpinned by a formal agreement. A summary was provided by the Chair of BCT. This would be reviewed in the future.

At 1545 hours, Councillor Harmer left the meeting.

Councillor Jones acknowledged the change in leadership and with the movement from the Chief Executive role to a Chair role. It was felt this was a sound governance decision which was endorsed by the BCT board. The Committee formally thanked both the Chair and Chief Executive of BCT for their contributions.

Upon consideration, it was;

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### **RESOLVED: -**

That the Cabinet Committee Group Company Governance Committee;

- (i) Noted the information in this report;
- (ii) Noted the information contained within the Pen Portrait at Appendix 1 of the report; and

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- (iii) Reviewed and endorsed the Business Plan for the Birmingham Children's Trust CIC as attached at Appendix 2 of the report.
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**DATE OF THE NEXT MEETING**

- 9 The next meeting is scheduled for Thursday 25 January 2024 at 1400 hours.
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10 **OTHER URGENT BUSINESS**

There was no urgent business to consider.

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**EXCLUSION OF THE PUBLIC**

**RESOLVED:-**

- 11 That, in view of the sensitive nature of the discussion due to take place relating to Birmingham Children's Trust and Company updates, the public be now excluded from the meeting.
-