

# BIRMINGHAM CITY COUNCIL

## **CABINET COMMITTEE – GROUP COMPANY GOVERNANCE**

**Thursday 15 July 2021 at 1400 hours  
in the Main Hall, The Birmingham &  
Midland Institute, 9 Margaret Street,  
Birmingham, B3 3BS**

### **Attendance:**

Councillor Brigid Jones, Deputy Leader - Chair  
Councillors Tristan Chatfield, Jon Hunt and Gareth Moore

### **Also in Attendance:**

Alison Jarrett	Assistant Director - Development and Commercial, Finance & Governance
Connie Price	Head of Law – Commercial, Procurement, Privacy & Information
Georgina Dean	Solicitor, Legal Services
Julia C Martin	Project Delivery Manager (Birmingham City Propco Limited)
Mandeep Marwaha	Committee Services

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## 1 **NOTICE OF RECORDING/WEBCAST**

The Chair advised and the meeting noted that this meeting would be webcast for live or subsequent broadcast via the Council's You Tube site ([www.youtube.com/channel/UCT2kT7ZRPFCXq6\\_5dnVnYlw](https://www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**The business of the meeting and all discussions in relation to individual reports was available for public inspection via the web-stream.**

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### **APOLOGIES**

2 There were no apologies noted.

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### **MEMBERSHIP OF THE COMMITTEE**

## 3 **RESOLVED:-**

That the membership of the committee was noted.

**Labour Group**

Councillors Jones (Chair), and Chatfield

**Conservative Group**

Councillor Moore

**Liberal Democrat Group**

Councillor Hunt

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**DECLARATIONS OF INTERESTS**

- 4 There were no declarations of interests made.

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**TERMS OF REFERENCE**

The following schedule was submitted:-

(See document No. 1)

- 5 **RESOLVED:-**

That the terms of reference for the Committee was noted.

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**PUBLIC NOTES OF THE LAST MEETING – 12 MAY 2021**

- 6 The public notes of the last meeting were agreed and there were no matters arising.

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**COMPANY UPDATE**

The following report of the Assistant Director, Commercial and Development was submitted:-

(See document No. 2)

The Assistant Director Commercial and Development gave an overview of the latest changes made across the Council's portfolio of companies. Reference was made to changes under point 3.2 indicating changes to the registered address for Creative Advantage West Midlands Limited (03914725). In addition, new officer appointments to companies following the retirement of Martin Stevens.

She referred to the annual accounts that had been submitted since the last meeting, under point 3.3 of the report and there were no audit issues noted. The private appendix highlighted commercially confidential details with associated companies. From 19 July 2021, the impact of the ending of the furlough scheme and the return to more “normal” trading or implementation of recovery plans would be monitored and reported.

Members commented upon the report and requested for additional information around what the company involved i.e the remit of the companies, turnover etc to be included at point 3.3 of the report.

The Chair noted there was no major updates or movement to the private appendix since the last meeting therefore, this would be covered in the public agenda.

**RESOLVED: -**

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- i) The Committee noted the information provided within the report and at private appendix 1 which contains commercially confidential details concerning associated companies.
  - ii) The Committee requested for additional information around each company to be added at point 3.3 of the public report.
  - iii) The Committee agreed for a note to be made against companies with any late filings.

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**TRAINING UPDATE**

A verbal update on training was provided by the Head of Law, Commercial, Procurement, Privacy & Information.

Key points noted;

- Work had taken place to identify Directors who had not received introductory Director training.
- 5 to 7 individuals were identified to undertake urgent training (due to the nature of the companies they were Directors of).
- Over the next three weeks, part 1 - Introductory Training session would be delivered to these Directors. This would cover their statutory duties (roles and responsibilities) to the companies.
- The companies this concerned were; Birmingham Wholesale Market Limited; Birmingham Museums Trust; Arden Cross Limited and Birmingham City Propco Limited.
- The Head of Law, Commercial, Procurement, Privacy & Information had been liaising with the Civil Service College to provide in-house Public-Sector Directorship Training. It was noted, the cost of the training was expensive however, this was the right type of training for Directors.
- An overview of the expert led virtual training from the Accountability and Governance series was shared with members. This consisted of case

studies, group work, work around skills, behaviours and encouraged active participation. It was envisaged this training could be delivered during the autumn 2021.

- Negotiations were taking place to the price of the course (currently approx. £1500 for 12 people).

### **Members response**

- The Chair and Councillor Chatfield agreed this was the right type of training however, it had to be at a reasonable price.
- Councillor Chatfield queried around the Health and Safety Training and if this would be included as part of the introductory training session offered to the Directors identified. The Head of Law, Commercial, Procurement, Privacy & Information had liaised with the Health and Safety Team and ensured this would be incorporated.
- The expert led virtual training delivered by the Civil Service College would be offered to all Directors, both Councillors and officers.
- Councillor Moore queried if the 5-7 newly appointed Directors were Councillors and if so, information around this should be shared with individual group secretaries to keep track of and follow up. It was noted the 5-7 newly appointed Directors were both officers and members.
- In House training – Last delivered in October 2019 before the lockdown. The Chair highlighted a natural refresh of the course should be scheduled in May 2022 after the elections (when the new cohort of elected appointments were made). However, those Councillors who were reappointed would need to undertake training as a refresh, possibly in June/ July 2022 as newly appointed Councillors would be receiving an influx of information from the Council.
- Members suggested for officers to explore dates and compile a training schedule, timetable for Directors of companies.

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### **RESOLVED: -**

The Committee noted the verbal update and agreed for officers to look in to preparing a timetable for Director's training which involved refresher training to coincide with appointment of new members.

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### **GOVERNANCE REVIEW – CIPFA ARTICLE ON LOCAL AUTHORITY COMPANIES**

The following report of the Assistant Director Inclusive Growth was submitted:-

(See document No. 3)

The Chair notified members she had requested for this item to be on the agenda as there had been a number of high-profile cases in recent months where City Council's, Borough Council's had issues with their group companies. As a result, a number of reviews had taken place and it was important to reflect on the learnings from these reviews to ensure Birmingham was following best practice.

The Assistant Director Commercial and Development indicated the articles were appended to the report in which links to the Public Interest reports were available.

She highlighted, in May 2021, CIPFA had published the Governance Review to ensure best practice was noted and areas of improvement were explored.

Members were asked to note the information provided within the report and the analysis of Public Interest report recommendations in appendix 1. In addition, to discuss the governance arrangements, the reporting within the BCC Group structure and agree priority areas for further work by officers.

The Assistant Director Commercial and Development made the following additional points as to why the reviews had taken place;

- Nottingham City Council (Robin Hood Energy Limited), additional investments were made without the council having full sight of the company's financial position. However, if there was a robust recovery plan, further investment could have been made. It was important to ensure there was good governance in place and for decisions to be sighted upon.
- London Borough of Croydon - covered a large number of areas however, this had a particular focus on one of its subsidiaries (Croydon Limited), a housing development subsidiary. There was inadequate evidence of the Council's awareness on performance, no minuted reports, consideration of business plans etc.
- Liverpool City Council – (Liverpool Foundation Homes Limited & Liverpool Streetscene Services Limited). This again covered various areas however, a couple of recommendations particularly concerning Liverpool Foundation Homes Limited & Liverpool Streetscene Services Limited had been made. The recommendations in the Liverpool Streetscene replicate the recommendations within the Nottingham City Council Public Interest Report i.e. setting up good governance, functions in the Council's decision making to oversee group companies.

At this juncture, the Chair suggested for the Committee to go through and discuss all the recommendations individually as outlined in appendix 1.

Members agreed to the Chair's proposal.

Key points made by members and officers on each of the recommendations;

**Recommendations made to Nottingham City Council and Croydon LBC within Public Interest Reports**

**R1 – Process assessment for BCC:** BCC should consider the strategic fit of its group companies taking into account the context of the City Plan, Delivery Plan and the MTFP.

**Proposed action:** Through Company analysis and company "sponsor" report to GCG.

Members response:

- Proposed for this recommendation to be discussed via EMT and feedback to be shared with CC GCG. Companies should be fit for purpose and suitable strategically. There was the challenge of not knowing what the companies did and therefore, how the companies strategically fit. To relook at the companies and see if they were still relevant to BCC.
- The Chair added this would be an opportunity to revisit the appointments and company spreadsheet.
- Members suggested any rebranding of companies to be clearly indicated on updates provided to CC GCG.
- Noted some of these recommendations go beyond the terms of reference for this Committee. Companies who attend this Committee were questioned in line with the terms of reference of the Committee.

**Summary: The appointment/companies spreadsheet to be reviewed. Discussions to take place via EMT to review which companies were strategically relevant to BCC. An update on this would be shared with CC GCG Committee members.**

**R2 – Process assessment for BCC:** Retain the recommendation in full for consideration at Annual Appointments confirmation and when new appointments/changes occur.

**Proposed action:** Within company analysis identify recommended board representation – members, officers, external experts. Review and compile report to GCG.

The Assistant Director Commercial and Development highlighted a full analysis had to take place around the companies. BCC had companies which were PLC's in which Councillors could not be appointed to. In addition, companies which were Financial Conduct Authority (FCA) registered, could not have members on them, only observers. PLC's would require external expertise.

Members response:

- The Chair suggested updating the spreadsheet would be a good starting point. Following this, the information to be shared with group secretaries when making appointments (indicating what the companies are; what was expected etc).
- Rationalise how appointments were made as there were various routes to making appointments. Understand how appointments were made throughout various channels of the Council's Committees to avoid missing any company appointments.
- Councillor Chatfield added there were two areas to cover; Governance routes and making decisions. He highlighted there was significant risk of having Councillors appointed to some of the board's rather than Non-Executive Directors due to the expertise that are required. It was important to make decisions which were in the best interest of the company.

- The Head of Law, Commercial, Procurement, Privacy & Information reminded members, the terms of reference of the CC GCG Committee. This was as a shareholder Executive Committee in which decisions could be made.
- Councillor Moore agreed the right appointments need to be made on the boards of companies. Therefore, it was essential the information around each company to be clear i.e. what the company does, scale, turnover, how often the board meets, time commitment, any particular skill set required etc. This would enable Group Secretaries to make the right appointments.
- Noted officer contacts had been included to the company's spreadsheet for Councillors to contact a specific person within BCC.

**Summary: Noted a number of the points raised interconnect the previous recommendation (R1).**

**R3 – Process assessment for BCC:** BCC appointees to boards as directors and observers should demonstrate the knowledge, experience and strength to challenge. All appointees will undertake training for their role of director/observer and be given direction on Council support in their role (legal support).

**Proposed action:** Register of members and officer training held centrally. Recommend making training for these roles mandatory. Guidance including officer contacts available for every appointee.

The Assistant Director Commercial and Development added the role of the training would be included and refreshed. The training schedule was held with the Head of Law, Commercial, Procurement, Privacy & Information. There was the question of making the training mandatory for both members and officers.

The Head of Law, Commercial, Procurement, Privacy & Information highlighted due to the statutory nature of the appointments with legal responsibilities, this was a key reason to ensure the training was mandatory across the board. She highlighted if there were breaches against some of these responsibilities e.g. Health and Safety, there were serious consequences.

Members response:

- Councillor Hunt highlighted appointments to companies were not routine duties for members. These were additional duties that arose from being a Councillor. However, Councillors must accept a brief on their basic duties.
- Councillor Moore referred to a similar conversation he had on the Member Development training and to make training mandatory for all Councillors. However, he highlighted there were no sanctions to Councillors who did not pursue with training. There was a need to explore options for training to be made mandatory for all and how would sanctions be placed if the training wasn't pursued. (Future proofing).
- Information around Councillors not attending training to be shared with Group Secretaries so that this can be followed through in order to mitigate any risk.

- The Chair suggested a timeframe for training – once in last 4 years; when they are elected or within certain number of months of being elected to be appointed.

The Head of Law, Commercial, Procurement, Privacy & Information referred to the companies where Directors required urgent training. There were a few Councillors who were not trained as they had not taken up on the previous offer. This would be captured in the next round of training.

The Assistant Director Commercial and Development suggested the appointments should be branded i.e. if Councillors wanted to be appointed to companies, specific training would need to be completed in order 'to protect their interest'.

The Head of Law, Commercial, Procurement, Privacy & Information notified members, newly appointed Directors must undertake the basic training within 3 months of being appointed.

**Summary: i) Training information to be updated and shared with the Group Secretaries for directors who do not attend training ii) Municipal cycle (May 2022), Councillors appointed to undertake training within 3 months of appointment (followed by once every municipal year).**

**R4** – Related to training - See above (R3)

**R5 – Process assessment for BCC:** Company governance structure and shareholder role should be defined more clearly and communicated to the necessary individuals.

**Proposed action:** Group company guidance on intranet is reviewed and updated. Incorporate individual clarification as part of training. Provide updates to appointees.

The Assistant Director Commercial and Development added the terms of reference had been considered at this committee.

**Summary: Members noted the Terms of reference for the Committee.**

**R6 – Process assessment for BCC:** Ensure no conflicts of interest in Councillor roles in BCC and through activity with Group Company boards.

**Proposed action:** Ensure no conflicts of interest in Councillor roles in BCC and through activity with Group Company boards.

The Assistant Director Commercial and Development added the annual declarations, directorships and observer roles should be reviewed and matched against the appointments made.

Members response:

- The Chair questioned if the declarations would be cross reference at the appointments stage – need to check if they are appointed to any Council Committees that would interact inappropriately with the specific company.

- Cabinet make most appointments - Process for political groups of making appointments to companies – possibly confirm if there are any conflicts of interest at this stage.
- Members reiterated the information shared on each company had to be clear i.e. what the company does to mitigate any risk of conflicts.
- Challenge - most of the delegations were made before AGM appointments are made in June. The register of interests had to be updated correctly and regularly.
- The Chair referred to 'Dip sampling' of registered interests.
- Councillor Hunt made points around the roles and those held to account. A few Cabinet Members hold Directorships on Strategic Companies and this could be an advantage as Cabinet Members understand the strategic direction of the Council. It was noted, there was a difference between a conflict of interest and addition to your role/ portfolio and would depend on an individual basis. (create a divide).
- Councillor Chatfield referred to the high-risk companies which could have expert NED's appointed. In addition, expert NED's would often have multiple roles and switch views.
- Members agreed the role of group secretaries was very important therefore, a session with the group secretaries should take place.

The Assistant Director Commercial and Development highlighted officers had similar issues whilst being appointed to companies as Directors. She suggested a possible split between a shareholder and portfolio responsibility by reviewing how material the company was. This would be clearer once spreadsheet had been split and updated i.e. what the company does; size; scope etc. This would enable decisions on appointments to be made with enhanced knowledge.

**Summary: Review annual declarations, conflicts of interests, exemptions of members. A refresh to take place on every appointment cycle or when appointments are made (in cycle). This information to be shared with Group Secretaries.**  
**A session to be arranged with Group Secretaries to explore what other information would be required to make appointments.**

**R7 – Process assessment for BCC:** The client within BCC and their team should maintain a full risk register.

**Proposed action:** The client within BCC and their team should maintain a full risk register.

The Assistant Director Commercial and Development notified members consultation was taking place with Sarah Dunlavy, AD Audit and Risk Management around what information BCC was currently holding on companies which would be shared with this Committee.

**Summary: AD Audit and Risk Management to be invited to attend the committee to provide feedback on the risk register.**

**R8 – Process assessment for BCC:** Business plans for material group entities are presented to CC GCG but regular financial reports are not presented during the year. Financial impact for the council is reported through standard monitoring process.

**Proposed action:** Annual report is provided at outturn. Consider more frequent financial report format for CC GCG – frequency of reporting – potential to incorporate statement in Company updates on finances (verified internally).

The Assistant Director Commercial and Development noted material companies attended CC GCG however, the financial reporting was varied. This was currently monitored via the S151 Officer.

Members response:

- Councillor Chatfield suggested a one-page financial summary and the end of year accounts to be produced for each company. This should be in a standardise report.
- The Chair referred to training by Finance Birmingham on business cases which should be delivered to the CC GCG Committee after May 2022.

**Summary: End of year accounts information received from companies to be distilled and shared with CC GCG. Presenting companies to be required to provide a standard one page finance report. Training to be arranged for CC GCG Committee after May 2022 from Finance Birmingham on business cases.**

**R9 – Process assessment for BCC:** This role is held by CCGCG

**Proposed action:** Consider whether there is a role for Audit Committee – is it assurance from CCGCG?

**Summary: The Chair to have an offline discussion with the chair of Audit Committee and officers to ensure all areas related to companies are covered between the two Committees to ensure there are no gaps. Note: Tuesday 27<sup>th</sup> July 2021 (1730 hours), CC GCG officers will be briefing Audit Committee members on informing the Audit Risk Assessment and the CC GCG remit.**

**R10 – Process assessment for BCC:** N/A

**Proposed action:** N/A

**R11 – Process assessment for BCC:** To consider further in conjunction with Legal Services the distinction between statutory shareholder representatives and those appointed by the shareholder (directors/observers).

**Proposed action:**

**Summary: To be reviewed via the constitution.**

**R12 – Process assessment for BCC:** N/A

**Proposed action:** N/A

**R13 – Process assessment for BCC:** N/A

**Proposed action:** N/A

**London Borough of Croydon**

**R17 – Process assessment for BCC:** Within BCC company investments follow standard decision governance – additionally where appropriate reports are taken to CCGCG.

**Proposed action:** Consider formalising process for reporting financial company transactions to CCGCG – would be for noting as not part of executive process, consider materiality.

It was noted, these would be reports to note and not a decision e.g. Propco Limited, Acivico etc.

Members response:

- The Chair noted the updates given by the Assistant Director Commercial and Development about standard governance for decisions already in place. She noted material companies would come to CC GCG for noting only which would enable to keep material companies on the radar.

<b>Summary: The process for reporting financial company transactions to be reported to CCGCG (for noting).</b>
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**R18 – Process assessment for BCC:** As above (repeat of R17)

**Proposed action:** As above (repeat of R17)

**R19 – Process assessment for BCC:** S151 and Monitoring Officer roles are represented on the CC-GCG. Loan conditions to group entities are monitored as part of service management and through the Development & Commercial and Legal teams within Council Management.

**Proposed action:** A review of covenants to be carried out within all group entities (outside of commercial loan portfolio – covenants monitored externally) to note and confirm to CC-GCG that robust and complete arrangements are in place.

The Assistant Director Commercial and Development highlighted this was different to the financial monitoring. There were some loan covenants across BCC portfolio which were monitored by those managing the investments. A piece of work would be taking place to look at these.

**R20 – Process assessment for BCC:** Covered in part within recommendations relating the RHE above – strategic fit for Council.

**Proposed action:**

The Chair concluded this was a useful exercise and it was important to check against where things had gone wrong in other councils.

**RESOLVED: -**

That the committee;

- i) Noted the information provided within the report and the analysis of PIR recommendations in appendix 1.
- ii) Discussed the governance arrangements, the reporting of such within the BCC Group structure and agreed the following priority areas for further work;

<b>Recommendation</b>	<b>Actions agreed</b>
R1 & R2	<ul style="list-style-type: none"> <li>a) The appointments, companies spreadsheet to be reviewed.</li> <li>b) Discussions to take place via EMT to review which companies were strategically relevant to BCC. An update on this would be shared with CC GCG Committee members.</li> </ul>
R3 & R4	<ul style="list-style-type: none"> <li>c) Training information to be updated and shared with the Group Secretaries for directors who do not attend training.</li> <li>d) Municipal cycle (May 2022), Councillors appointed to undertake training within 3 months of appointment (followed by once every municipal year).</li> </ul>
R5	<ul style="list-style-type: none"> <li>e) Members noted the Terms of reference for the Committee.</li> </ul>
R6	<ul style="list-style-type: none"> <li>f) Review annual declarations, conflicts of interests, exemptions of members. A refresh to take place on every appointment cycle or when appointments are made (in cycle). This information to be shared with Group Secretaries.</li> <li>g) A session to be arranged with Group Secretaries to explore what other information would be required to make appointments.</li> </ul>
R7	<ul style="list-style-type: none"> <li>i) The Assistant Director for Audit and Risk Management to be invited to attend the committee to provide feedback on the risk register.</li> </ul>
R8	<ul style="list-style-type: none"> <li>j) End of year accounts information received from companies to be distilled and shared with CC GCG. Presenting companies to be required to provide a standard one page finance report.</li> <li>k) Training to be arranged for CC GCG Committee after May 2022 from Finance Birmingham on</li> </ul>

## **Cabinet Committee GCG – 15 July 2021**

	business cases.
R9	l) The Chair to have an offline discussion with the Chair of Audit Committee and officers to ensure all areas related to companies covered between the two committees to ensure there are no gaps.
R10	N/A
R11	m) To be reviewed via the constitution.
R12	N/A
R13	N/A
R17 & R18	n) The process for reporting financial company transactions to be reported to CCGCG (for noting).
R19	o) A review of covenants to be carried out within all group entities (outside of commercial loan portfolio – covenants monitored externally) to note and confirm to CC-GCG that robust and complete arrangements are in place.
R20	None

- iii) Agreed to receive a future report on governance process enhancements, including an updated Group Company risk register considering the experience in other councils.

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### **CABINET REPORT – BIRMINGHAM CITY PROPCO LIMITED - CONSULTATION**

The following report of the Assistant Director Inclusive Growth was submitted: -

(See document No.4)

The Project Delivery Manager (Birmingham City Propco Limited) highlighted The draft report would be shared with Cabinet on 27 July however, this would be discussed on the private agenda of this meeting.

The principles around the report were around the council's utilisation of the existing wholly owned company and the proposals, potential or proposed changes to the internal structure of the company and governance would be consulted upon with members at his meeting.

No comments were made on the public agenda by members.

The Chair noted this would be revisited under the private agenda.

### **RESOLVED: -**

- 10 i) Members noted the information provided within the exempt appendix 1 and set out any comments as part of the consultation process for addressing by the authors prior to the submission to Cabinet for decision.

## **Cabinet Committee GCG – 15 July 2021**

Additional points to factor into the Cabinet Report:

- Consultation - assurance on consultation process for assets
- Capacity of the company.

- ii) Noted the draft recommendation 2.5 which gave a role to the Cabinet Committee Group Company Governance (CC-GCG) as consultees in the approval of the terms and details of the revised restructure of Birmingham City PropCo Limited governance.
- iii) Members noted that any conclusions or comments would be limited to the company structure and governance and not the wider subject matter for which the changes to the company is proposed.
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### **DATE OF NEXT MEETING**

- 11 The next meeting is scheduled to take place on Thursday 16 September 2021 at 1400hours.
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### **OTHER URGENT BUSINESS**

- 12 There was no urgent business to consider.
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### **EXCLUSION OF THE PUBLIC**

#### **RESOLVED:-**

- 13 That, in view of the sensitive nature of the discussion due to take place relating to the Cabinet report – Birmingham City Propco Limited – Consultation, the public be now excluded from the meeting.
-