

# BIRMINGHAM CITY COUNCIL

## CABINET COMMITTEE – GROUP COMPANY GOVERNANCE

Thursday 25 January 2024 at 1400  
hours Committee Room 2, Council  
House

### Attendance:

Councillor Sharon Thompson, Deputy Leader (Chair)  
Councillor Liz Clements, Cabinet Member, Transport  
Councillor Brigid Jones, Cabinet Member, Finance & Resources

Observers: Councillors Ewan Mackey (in person) and Roger Harmer (online)

### Also in Attendance:

Alison Jarrett	Director Group and Capital Finance, Deputy S151 Officer
Georgina Dean	Solicitor, Legal Services
Max Caller	Lead Commissioner
Nick Reed	Chief Executive of B: Music
Symon Easton	Head of Cultural Development & Tourism
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 Councillor Gareth Moore (Observer) and Councillor Ewan Mackey was in attendance as a nominated substitute (Observer).

In addition, Connie Price, Head of Law, Commercial, Procurement, Privacy & Information submitted her apologies and Georgina Dean, Solicitor was in attendance on her behalf.

At this juncture, the Chair welcomed the Lead Commissioner, Max Caller to the meeting.

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**DECLARATIONS OF INTERESTS**

- 3 Councillor Jones declared a non-pecuniary interest. She was a Director for Birmingham Airport (Under item 7 and 16 of the agenda).
- Councillor Mackey declared he was a Director for B: Music.
- Councillor Clements declared she was a Trustee for Birmingham Symphony Orchestra.
- Later in the meeting, during the Company Update item discussions, Councillor Jones declared two further non-pecuniary interests. She was a Director on the Colmore Business District and a Director on GBSLEP (in the period referred to in the accounts).
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**PUBLIC NOTES OF THE LAST MEETING – 16 NOVEMBER 2023**

- 4 The public notes of the 16 November 2023 were agreed at this meeting.
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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:

*“Item 6 - Group Governance & Strategic Review - The recommendations to undertake the reviews and appoint an additional shareholder representative are supported. A clear timetable for the completion and report back on each company should be established based on turnover and risk.*

*Item 7 - Update on the Review and Rationalisation of the Group Companies (Response to Section 114 Notice) - Commissioners have noted the progress being made.*

*Item 8 - Company Update - Commissioners support the recommendations in this report.*

*Item 9 – B: Music - Pen Portrait - Cleared with no comment.*

*Item 16 – Company Update (Private) Comments from the Commissioner have been set out under item 16 as an exempt paper.”*

The Committee noted the points raised by the Commissioner.

Upon consideration, it was;

5 **RESOLVED:-**

The Cabinet Committee Group Company Governance noted the Commissioner's review and comments on the agenda.

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**GROUP GOVERNANCE AND STRATEGIC REVIEW**

The following report of the Interim Finance Director, Section 151 Officer was submitted:-

(See document No.2 of the agenda pack)

The Director Group and Capital Finance, Deputy S151 Officer reminded the Committee, this report was requested at the previous meeting. The report referred to the Local Authority Company Review Guidance (2002 edition). This was a toolkit for undertaking Strategic and Governance Reviews of wholly or partly owned Council Commercial entities. The report indicated the work undertaken within this area. Further details within the report was shared with the Committee.

Appendix 1 of the report indicated the recommendations of the review together with a comparison to existing practice and delivery structure within the council. The report outlined the evidence required from the Council and Companies to take robust governance.

Ahead of this meeting, the Chair had been sent an updated version of the report as well as a timetable of meeting the requirements. The Director Group and Capital Finance, Deputy S151 Officer was the company representative for several companies. It was proposed to increase the number of shareholder representatives for the Council, from the Chief Executive and the Director of Finance, S151 Officer to now include the Director Group and Capital Finance, Deputy S151 Officer.

It was highlighted, the Director Group and Capital Finance, Deputy S151 Officer, held directorships across the Council's entities. Seven of which had to be surrendered and one placed the Director Group and Capital Finance, Deputy S151 Officer as a Trustee of the Pensions Fund. The Commissioner had agreed that the Trustee of the Pensions Fund could be retained.

It was noted, of the seven companies, three companies were dormant and were in the process of closure. Three resignation letters had been prepared and alternative Directors had been identified. On 12<sup>th</sup> March 2024, the Director Group and Capital Finance, Deputy S151 Officer proposes to resign from the National Exhibition Centre (Developments) PLC.

Formal shareholder meetings between the Chairs and Chief Executives of companies with over 20% shareholder interest were taking place. Evidence of formal meetings would be available for companies such as Acivico Limited as this is the Council's largest shareholder company with multiple contracts.

## Cabinet Committee GCG – 25 January 2024

A timetable and forward plan would be shared with the Committee in March. This would outline companies that were attending Cabinet Committee Group Company Governance and how the reviews would start to take place.

Annual appointments would take place in May 2024 and training would be built into the timetable. At present officer time would cover the work on this area however, this would need to be reviewed in the future if there was a need for additional resource.

Appendix 2 consists of the existing annual risk assurance document which had been sent to group companies of over 20% shareholding and informed the audit assessment for the council. This would be shared to this Committee and any comments reported to Audit Committee.

Members raised questions and made the following comments;

- Cabinet Member for Finance and Resources welcomed this report and agreed with all the actions to be undertaken however, raised comments on the following:
  - Council appointments to the Board – disagreements between political parties around how Council appointments, criteria to the Boards were made. It had been difficult to get a system in place to select appointments.
  - Issue on Councillor time to serve on boards - there was a struggle to fill the board positions. As well as a review on training and background to Councillors appointed to boards, it was proposed to review if it was appropriate for Councillors to be appointed to the Board.
  - Remuneration issue had been raised previously too.
- It was queried if Acivico Limited had only one Council Company Director and there were two vacancies. It was important to fill these as Acivico Limited was one of the Councils largest companies.
- Cabinet Member for Transport referred to Acivico Limited. There was a gap and suggested to co-opt someone with a business or accounting background. Someone with appropriate skills would be required on the Board.
- Members were pleased to see a review and governance check was taking place however, there was a demand on the Council Director Appointees.
- Reference was made to appendix 1 :
  - Point C9 – Evidence - There should be evidence that senior company staff were performance managed against KPIs.
  - Point C10 – Evidence - There should be evidence of ongoing assessment of value for money and quality offered by the entity through an adequately resourced monitoring function.Both of these were 'not in place' and reassurances were required on these. In addition, what was the timescales of competing any work on this area.
- Directors of companies – main priority was to the Company and Council affiliation would be secondary.

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- B: Music undertake a full appraisal of the Directors and it was questioned if this took place for all Directors, Did the Council know how the Companies were appraising their Directors?

In response to Members comments the following points were made by the Director Group and Capital Finance, Deputy S151 Officer:

- Various discussions were taking place across all the issues raised by Members.
- A piece of work was taking place on appointing Councillors to Company Boards. For companies limited by shares where the Council has a financial interest, consideration was being given to independent Non-Executive Directors (NED) being involved due to their skills.
- Acivico Limited – The appointment must also represent the shareholder (Birmingham City Council) therefore, slightly different job description.
- Further information was provided around priorities for Directors and shareholder interests. In relation to Acivico Limited, expertise was required similarly to the Pension Trustees and Birmingham Airport, where an expert was employed. A Non- Executive Director would be appointed to Acivico Limited to represent the Council. Originally there were 3 Member appointments for this Board, to represent each of the main parties. The Director Group and Capital Finance, Deputy S151 Officer attends the Acivico Limited Board meetings as an observer.
- Some companies undertake appraisals for their Board Directors such as Acivico Limited, Birmingham Airport, Finance companies where the Chair of the Board holds the CEO and Directors to account.
- Appendix 2 of the report indicated the governance within each company is questioned. Ongoing work on this area was taking place as part of the review.
- Responses to the annual questionnaires was due to be submitted back to the Council and any gaps would be addressed.
- KPI's, Value for money – This varied across the companies. A whole review across the council was taking place to include new dashboards, KPI's to hold companies to account. Asset Management area was being focussed upon first.
- The Aim was to complete the work on dashboards and KPI's by the end of 2024. Urgent review was taking place on the larger companies. Work on KPI's with Acivico Limited would be reported back to the March meeting.
- Acivico Limited would attend the next meeting with their 5 year Business plan. This was scheduled to be shared at their next Board meeting which would then be presented to this Committee.

The Chair was pleased to see progress was being made and certain action had taken place however, there was room for improvement. The Chair wanted to ensure risk management was looked at clearly in order for Members to be assured at Committees, and where mitigations were being monitored.

The Chair requested for this agenda item to be reported to the Committee as a regular update.

Upon consideration, it was;

6 **RESOLVED: -**

The Cabinet Committee Group Company Governance;

- (i) Noted the information provided within the report and appendix 1 which provides the basis for a governance process review and improvement programme;
- (ii) Continue to undertake annual review of the Committee Terms of Reference, the consequent scope and relevant parts of the Constitution;
- (iii) Authorised officers to recommend and make such changes as are required to the Constitution and the operational process to effect improved group governance noting that where these are required to be effected or delivered outside of the Committee meeting cycle then such decisions and actions will be in consultation with the relevant portfolio holder;
- (iv) Endorsed the extension of shareholder representation posts to include the Director of Group and Capital Finance, Deputy s151 Officer, on confirmation that the post-holder is free from conflict of interest; and
- (v) Agreed for regular updates on Group Governance and Strategic Review to be provided to the Committee.

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**UPDATE ON THE REVIEW AND RATIONALISATION OF GROUP COMPANIES (RESPONSE TO SECTION 114 NOTICE)**

The following report of the Interim Finance Director, Section 151 Officer was submitted:-

(See document No.3 of the agenda pack)

The Director of Group & Capital Finance (Deputy Section 151 Officer) made introductory comments. Members were reminded this item had been on the Committees' agenda for a regular update to review the companies the Council exercised ownership of. In addition, to consider which companies were dormant and to close these where possible.

Some of the companies were not straight forward to close, especially if they had transactions in recent years and potential tax issues to consider. Some of the closures to companies were complex. The report provided an update to this review. Progress was provided by the Director of Group & Capital Finance (Deputy Section 151 Officer) on the following companies; Birmingham Wheels; Birmingham Endeavour Limited; Birmingham Charities Limited; GBS Finance Limited and LBS Law Limited.

Members raised questions and made the following comments;

- Birmingham Wheels Limited - There were difficulties contacting the Director. It was queried if there was an end date or estimated timetable of closing the company down.

## **Cabinet Committee GCG – 25 January 2024**

- What was the percentage of dormant companies and costs associated with closures?
- Birmingham Wheels Limited – It was queried if they owned the land and if they did own the land, what happens to this going forward. What happens to the DLUHC money that came in for this site?

In response to members comments the following points were made by the Solicitor Legal Services and the Director Group and Capital Finance, Deputy S151 Officer:

- Birmingham Wheels – There was no exact date for the closure of this company however, the Director would need to sign papers before this was closed. It was noted, there would be a 2 month wait thereafter until the company was fully closed.
- Birmingham had just over 100 companies that were live, including the dormant companies. Some of the dormant companies were attached to other companies e.g. PCLP (Paradise Circus Companies) had 4 dormant companies included within the group. Details on this can be shared with the Committee Members.
- If there was a tax implication of closing dormant companies, arrangements would be made for external advice and assistance to liaise with HMRC. This would cost approximately £5k (for complicated companies). Not all the companies would require external advice and only those that could give rise to tax implications.
- Birmingham Wheels operated on Council owned land. Levelling up funds from DLUHC was received and ongoing work was taking place to clear up the site.

The Chair was pleased to see progress was being made however, recognised there was further work to do. The Chair requested for this item to be a standard item on the agenda until all the dormant companies were closed.

Upon consideration, it was;

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### **RESOLVED: -**

The Cabinet Committee Group Company Governance;

- (i) Noted the progress since 16 November 2023 meeting in the closure of entities no longer required; and
- (ii) Agreed for regular updates on the Review and Rationalisation of Group Companies (Response to Section 114 Notice) to be provided to the Committee.

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### **COMPANY UPDATE**

The following report of the Interim Finance Director, Section 151 Officer was submitted:-

(See document No.4 of the agenda pack)

## **Cabinet Committee GCG – 25 January 2024**

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 was a strike off notice for GBS Finance Limited and LSB Law Limited. In addition, there was two changes to PBRs (Perry Barr Residential Scheme) incorporation of the Company and Management Company.

The report listed the companies that had filed their statutory annual Accounts since the last meeting. Members were notified the Director of Group & Capital Finance (Deputy Section 151 Officer) had been through the companies where there was going concerns. It was noted, there was nothing to raise with the Committee.

Frontier Development Capital Limited was highlighted. Birmingham City Council had sold their shares last year in which approximately under 600,000 was the first consideration. The balance of the proceeds was to come the following year and the year after dependant on the performance of the company. Members were informed this had past the first year and another 135,000 was received. The final payment will be given the same time in the following year. Further details around this was shared with the Committee.

Details on the liquidation of GBSLEP was shared with the Committee. Members were informed most of the services had now transferred and the company would settle all of their liabilities by March 2024.

At the end of the process, the expected liability left was estimated at £1.8 million. This would be transferred to the Council on the LEPs liquidation.

- Permission has been granted to place certain amount into reserves to cover any current and future costs associated with team that was TUPE.
- Any costs to do with the holding data and information from the LEP company.
- The balance of the funds would be managed by the Enterprise Zone Partnership Board and used for the purposes for the intent of GBSLEP Limited (similar to a grant with conditions).

This was scheduled for a decision at the next Cabinet meeting.

Members raised questions and made the following comments;

- GBSLEP was heavily involved in Paradise Circus and it was queried if Paradise Circus was completed and who was overseeing this if GBSLEP was closing.
- Dividends sitting in the revenue budget, it was queried if this will be in the general fund and would this be the case for all dividends?
- It was queried if the residue from GBSLEP would be received as a ringfenced grant.



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In response to members comments the following points were made by the Director Group and Capital Finance, Deputy S151 Officer:

- Paradise Circus Development will be delivered in 3 phases.
  - Phase 1 – Completed
  - Phase 2 - Approaching completion
  - Phase 3 – Full Business Case has been received and currently being assessed.
- The Enterprise Zone Fund was still being managed. This had transferred into the Council rather than the Combined Authority. The Enterprise Board consists of three private sector partners, the Leader of the Council, Director of People, Place and Sustainability, Director Group and Capital Finance, Deputy S151 Officer and a member from Solihull Council. This was approved by DLUHC and ran under the same governance protocols as it used to and now the Enterprise Zone fund was ringfenced. A full Business Case on Paradise Circus will be shared with Cabinet in April/May 2024.
- Dividends were receive receipt and will sit in the general fund. Up until this year there was a ringfenced provision where interest from loans went into that provision and used to support Business Support activities for members of the finance team. If it was large, this was transferred to the general fund. In addition, this covered the loans across the Council. The provisions were being reviewed corporately.
- Provisions would be kept if there were any late costs from liquidation or any liabilities emerging. Employee and insurance costs had to be considered. The alternative was this was given to Solihull and Birmingham would have to apply to Solihull to cover the costs. Solihull agree it would be easier if the funds come directly to Birmingham.

At this juncture, the Cabinet Member for Finance and Resources declared a non-pecuniary interest. She was a Director on the Colmore Business District and was the Director on GBSLEP in the period the accounts cover.

Further questions raised by members;

- What was the criteria, threshold for the companies being listed on this document.
- Cabinet Member for Transport requested for the details on the companies update to be made clear particularly in relation to Voluntary organisations and managing the risk related to a Director.
- GBSLEP – TUPE of any remaining staff and had this been accounted for?

In response to members comments the following additional points were made by the Director Group and Capital Finance, Deputy S151 Officer:

- There was no threshold for companies being listed on the document. Every company that Birmingham had an interest in would be flagged on Companies House. A notification would come through and the list would be reported to the Cabinet committee Group Company Governance. Items that affect the member or officer; wholly owned companies and most of the companies had less than 20% shareholder interest.

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- Any companies above 20% interest would be highlighted on a separate list.
- Anything flagged by the Auditors via their reports would be shared with this Committee. Officers would then report on the matter.
- The full list of companies has the details of all the companies Birmingham had an interest in. At times, the interest were due to members being placed on the Board. Therefore, safeguarding the relationship. Anything that would affect the Council financially and reputationally would be listed.
- The Directors on the Board should be highlighting any risks and should be presented to the Board before they go onto companies house.
- Directorate of Place, Prosperity and Partnerships – If Birmingham was to have any costs associated with GBSLEP through redundancies, issues before they moved to the council this would be ringfenced for redundancies payments. There was no intention ringfenced from the Combined Authority for any unforeseen actions. This ringfencing was only open until the end of March 2025.

### **7 RESOLVED: -**

The Cabinet Committee Group Company Governance;

- (i) Noted the information provided within the report and at private appendix 1 which contains commercially confidential details concerning group and associated companies; and
- (ii) Noted that Greater Birmingham and Solihull Local Enterprise Partnership Limited (GBSLEP) has started work on Members Voluntary Liquidation and a Cabinet decision will follow to accept and manage residual funds.

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### **8 B: MUSIC – PEN PORTRAIT (PUBLIC)**

The following report of the Interim Director of Finance, s151 Officer was submitted:-

(See document No. 5 of the agenda pack)

The Director of Group & Capital Finance (Deputy Section 151 Officer gave an overview of the pen portrait for the company. It was noted company receives a revenue support grant from the council.

Point 3.2 of the report indicated - BCC Core Grant - 2022/23 £1.388m, 2023/24 £1.388m. There was a 3 year agreement and currently B:Music was in their last year of the agreement. The performance of the company had been relatively strong though there was a loss in 2023. There had been positive impact from certain performance.

At this juncture, the Chair reminded the Committee, Councillor Mackey declared he was a Director on the B:Music Board. Advice had been taken from the Deputy Monitoring Officer around conflict of interest and participation to the debate. The Chair was content with Councillor Mackay contributing to the discussions.

## **Cabinet Committee GCG – 25 January 2024**

The Chief Executive of B:Music introduced himself to the Committee. This charity operates Symphony Hall and the Town Hall.

At 1456 hours, the Committee moved into a private session to discuss the B:Music item.

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### **EXCLUSION OF THE PUBLIC**

#### **RESOLVED:-**

- 12 That, in view of the sensitive nature of the discussion due to take place relating to B: Music, the public be now excluded from the meeting.
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**(Note 13 is in private)**

### **RE-ADMITTANCE OF THE PUBLIC**

- 14 At 1536 hours, following discussions on item 13, B: Music (Private), the Committee moved back into the public meeting.

**(The Committee moved back to Item 9 on the agenda)**

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### **B: MUSIC – PEN PORTRAIT (PUBLIC)**

The Chair thanked attendees, officers and members for their contributions during the private session.

Upon consideration it was;

- 15 **RESOLVED:-**

That the Cabinet Committee Group Company Governance noted the information provided within the Pen Portrait and from the B:Music attendees.

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### **DATE OF THE NEXT MEETING**

- 16 The next meeting is scheduled for Thursday 14 March 2024 at 1400 hours.
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- 17 **OTHER URGENT BUSINESS**

There was no urgent business to consider.

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**EXCLUSION OF THE PUBLIC**

At 1537 hours, the Committee moved into the remaining private section of the agenda.

**RESOLVED:-**

- 18 That, in view of the sensitive nature of the discussion due to take place relating to Company update, the public be now excluded from the meeting.
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**(Note 19 onwards are in private)**