

<b>Report title</b>	<b>Company Governance Review</b>
<b>Report author</b>	Amanda Fahey, Assistant Chief Executive and s151 Officer
<b>Department</b>	Corporate Leadership Team
<b>Exempt?</b>	No
<b>Exemption type</b>	Not applicable
<b>Reasons for exemption</b>	Not applicable

**Purpose of report:**

- To resolve

**Synopsis of report:**

**The Council commissioned an external review of the governance of its companies as part of its non-statutory Best Value Notice response programme. This report seeks Member endorsement of the recommendations set out in the external review which is attached at Appendix 1.**

**Recommendation(s):**

**That Members endorse the recommendations of the external review**

**1. Context and background of report**

1.1 In the lead up to the passing of the Levelling Up and Regeneration Act 2023 (the Act), the Council engaged with DLUHC given that it was likely to trigger a number of the capital risk metrics being introduced by the Act due to the size of its debt compared to its financial resources and the proportion of its capital assets held to generate financial return. This engagement led to a capital assurance review being undertaken by Cipfa who reported their findings to the Council and to DLUHC in July 2023.

1.2 Cipfa’s capital assurance review, which included a section on “Decision-making, oversight and governance” noted that there was “probably some work to do around defining the precise governance of the Council’s companies, notwithstanding their reasonably effective interactions with the committee system.” The review also noted that the companies continued to meet their statutory duties in reporting under the Companies Act 2006. However, the report did suggest that broader representation on the Companies’ Board, perhaps with a wider group of non-executives, might be appropriate.

1.3 The Cipfa review included the following as one its six recommendations:

“The Council should work to elevate the profile of and focus on Commercial and Regeneration priorities in formal decision-making and oversight. The Council’s decision to increase the scope of its asset management activities may justify the creation of a dedicated forum, perhaps a new committee, to support the existing work of the Corporate Management Committee. The new structure could receive portfolio risk reports in line with the emerging asset strategy. It could examine benchmark information, income data, void levels and disposal plans. It might also be a useful discipline to provide this new structure with a fully mapped and integrated property timeline. This would set out key decision-points, such as lease terminations and rent reviews. The parallel reporting in the company Board could also be strengthened through a review of its composition, with the potential to alter and widen its membership and recruit expert non-executives.”

1.4 The focus of much of this recommendation is on the commercial property portfolio that is held by the Council rather than within its subsidiaries companies and much work has already been undertaken to address the points raised in the recommendation. For example;

- In July 2023, Full Council approved the creation of a Property and Assets Task Force, an advisory group to the Corporate Management Committee on a wide range of property matters. This group was constituted as a Task Force rather than a sub-Committee, as under constitutional rules, a sub-Committee can only be drawn from Members sitting on the relevant Committee (in this case, Corporate Management Committee). The Task Force therefore ensures maximum potential participation across the entire Councillor base as membership is not restricted to any one Committee and in addition, all Members are able to attend Task Force meetings and contribute to the debate. Terms of reference for the Task Force were agreed by all parties and are included in the Council’s Constitution. Whilst this is not a decision-making body, it enables a wider debate on property issues, and affords the time for Members to build their understanding of the detailed issues that arise in this area and to make recommendations to the Corporate Management Committee for their consideration or onward recommendation to Council.
- At the officer level, additional oversight of property issues comes from the refresh of the previous Commercial Income Group to an Assets and Regeneration Group, with a focus on wider property issues. This group consists of both Assistant Chief Executives, the Corporate Head of Assets and Regeneration, the Corporate Head of Law and Governance, the Corporate Head of Finance and senior staff from the Assets and Regeneration team.
- the use of WAULT (Weighted Average Unexpired Lease term) data and external benchmarking expertise will enhance property discussions at all levels alongside quarterly reporting to Corporate Management Committee and to Overview and Scrutiny Select Committee.

1.5 The final part of the recommendation relates to the Council’s companies. The Council has three companies:

- RBC Investments (Surrey) Limited, (RBCI) was formed in January 2015, to hold investments in residential property around the borough and act as the holding company of RBC Services (Addlestone One) Limited. The Council owns 100% of the shares in RBCI.

- RBC Services (Addlestone One) Limited, (RBCS). The Council owns 1% of the shares in the company with the remaining 99% owned by RBCI. RBCS was set up to publicise and promote the Addlestone One development and to carry out its ongoing maintenance, landscaping, cleaning, residential concierge services, gritting, loading, and security (including CCTV).
- RBC Heat Company Limited, (RBCH). RBC is 100% owned by RBCS and provides heat and hot water to all the residential properties within the Addlestone One development and any commercial properties that wish to take it.

The Board of Directors for each Company includes the Council's Corporate Head of Assets & Regeneration (acting as Managing Director), the Senior Accountant: Housing and Commercial (acting as Finance Director) and one Councillor acting as a Non-Executive Director. The Companies' Business Plan, presented to the Council as shareholder (via Corporate Management Committee) in April 2023 included a commitment to review these governance arrangements and seek to enhance the skills, experience and capability of the Board through the appointment of additional non-executive directors, subject to the Companies' Articles of Association.

1.6 In December 2023, the Council received a non-statutory Best Value Notice (NS BVN) representing a formal request to continue engagement with DLUHC to provide assurance that it is able to meet its Best Value duties while also acknowledging the constructive engagement with Cipfa and the steps already taken to mitigate risk and respond to the recommendations identified in the CIPFA capital review.

1.7 The Council set up a Programme to respond to the NS BVN with 8 core workstreams;

- Self-assessment against Best Value Guidance
- General Fund Capital Review and development of a 30-year capital programme
- Governance review of Council Companies
- Review of Commercial Property Resilience
- Review of Assets and Regeneration team structure
- Implementation of Cipfa review recommendations
- Assess organisation culture and leadership capacity
- Deliver external governance review (LGA Corporate Peer Challenge)

and 5 inter-dependent workstreams running alongside the BVN Response

- Service Review Programme
- Savings and Efficiencies Programme
- Preparation of Productivity plans (linked to Local Government Financial Settlement)
- Response to proposed measures to address the Audit backlog, and
- Review of the Corporate Business Plan

## **2. Report and, where applicable, options considered and recommended**

2.1 This report looks at the work undertaken to date as part of the third core workstream, to carry out a governance review of the Council's companies.

2.2 The Council sourced an external company to undertake the review to provide a thorough arms-length challenge to the existing processes and practices. The company appointed to conduct the review are experienced in this field, have undertaken reviews for other councils who have been under a range of government measures and have built up a trusted partner relationship with DLUHC.

- 2.3 A scoping document was developed to set out clearly the terms of the review and these are referred to in the introduction to the external report which is set out at Appendix 1. Background documents were sent in advance of any meetings so that the reviewers could familiarise themselves with the material, understand the purpose and function of the Companies and adequately prepare for interviews with key staff of the Council and the Companies. Interviews were then conducted with the Corporate Head of Assets and Regeneration/Managing Director of the Companies, the Senior Accountant / Finance Director of the Companies, the Company Secretary, the Councillor Non-Executive Director of the Companies, the Chief Executive, the s151 Officer and other relevant staff.
- 2.4 A draft report was completed in early June with several follow up questions arising and a request for additional information from the Council in a number of areas. The information was collated and returned later in June with a final report being received by the Council in early July. This report is attached at Appendix 1.
- 2.5 Members are asked to consider the recommendations set out in the report and provide their approval to take the recommendations forward. The Company will need to do so via a meeting of its Board. Policies and other changes to the governance framework will be brought back to Corporate Management Committee for approval as they are developed, either due to its role in the management of corporate business of the Council or by virtue of its role representing the Council as shareholder of the Companies.

### **3. Policy framework implications**

- 3.1 The framework for the Council's interaction with its Companies is set out in its Constitution and in a Shareholder's agreement. These documents may need updating once the recommendations in the report have been progressed and Members have approved any changes to the governance arrangements.

### **4. Resource implications/Value for Money**

- 4.1 A budget to support works related to the Council's NS BV response was approved by Corporate Management Committee during 2023/24 with £125,000 being earmarked from the Service Transformation Reserve. This included the anticipated costs of the external review of Company governance.
- 4.2 Ensuring value for money in all it does, is an integral part of the Council's Best Value duty and delivering against the actions set out in its NS BVN Programme will demonstrate its commitment to continuous improvement and its ability to deliver best value.
- 4.3 The work required to complete the recommendations is planned to be undertaken within existing resources although there is some contingency in the sum set aside in the Service Transformation Reserve if additional support is required.

### **5. Legal implications**

- 5.1 This work has been undertaken in response to the issuing of a non-statutory Best Value Notice. Under the Local Government Act 1999, local authorities must legally deliver what is termed 'Best Value' – a council must be able to show that it has arrangements to secure continuous improvement in how it carries out its work.

- 5.2 Local authorities have been able to establish for some time and there are various statutory provisions which set out controls over the exercise of such powers e.g. Local Government and Housing Act 1989 Part V and Local Government Act 2003. The Localism Act 2011 introduced the General power of competence which gave local authorities greater flexibility in what they could do.
- 5.3 The Council exercised the powers provided to it to establish the three companies mentioned above. It should be noted that the companies are subject to the provisions of company law set out in the Companies Act 2006. The Council is a shareholder in two of the companies and has rights granted as a shareholder. In addition to the rights granted to the Council via its shareholding it also entered into what is termed a s shareholder agreement in relation to the companies. A shareholders' agreement is a contract made between the shareholders of a company and the company. It will ensure that shareholders and directors understand the role of each type of shareholder and the rights and responsibilities they have. One of the main advantages of having a comprehensive shareholders' agreement in place is the reduced risk of misunderstandings and disagreements arising in the future.
- 5.4 Via the Council's position as shareholder and the provisions of the shareholder agreement it can control the manner in which the companies operate. There are wide ranging views on the manner in which local authority companies should operate from a governance perspective and the recommendations contained in the review reflect what is viewed as good practice.

## **6. Equality implications**

- 6.1 There are no direct equality implications arising out of this report. Equality Impact Assessments may be required as recommendations are progressed. Where that is the case, any impact will be reported to Members alongside the proposals when they come to the Committee for approval.

## **7. Environmental/Sustainability/Biodiversity implications**

- 7.1 There are no Environmental, Sustainability or Biodiversity implications arising for this report.

## **8. Risk Implications**

- 8.1 The purpose of the NS BVN is to raise concern of risk that the Council may be unable to fulfil its Best Value Duty. Responding to the NS BVN and ensuring external review of the governance arrangements of its Companies will in part mitigate this risk should the Council decide to make improvements based on the recommendations made in the review.

## **9. Other implications**

- 9.1 Not applicable

## **10. Timetable for Implementation**

- 10.1 Indicative timescales for implementation of the recommendations are included in the Appendix.

## **11. Conclusions**

11.1 Overall, the review was positive, finding that the Company met many of its obligations, that core documents such as Articles of Association and Shareholder agreements were in place and that regular Board meetings were being held. Whilst most governance areas need some improvement, this is not anticipated to be too onerous a task and will mean both the Council and the Companies will be in a good position once these improvements are implemented. The review has taken a proportionate approach in its recommendations given the relatively low materiality level of transactions within the Companies. Members are recommended to endorse the actions set out in the Appendix to be taken forward by the Council and its Companies and be reported back to a future meeting of this Committee.

## **12. Background papers**

- [Runnymede Borough Council Best Value Notice](#)
- [Runnymede Borough Council - CIPFA capital assurance review](#)
- [Programme Charter - NS Best Value Notice Response](#)

## **13. Appendices**

- Appendix 1 – Runnymede Borough Council Commercial Governance Review