

Further Background Information

Bristol City Council wholly owned companies – Governance Action Plan

1. In spring 2017, the Shareholder Group commissioned the two Independent Shareholder Advisors who sit on the Shareholder group to carry out a review of the governance arrangements surrounding the companies which the council has an interest in.
2. The timing of the review was prompted by the decision that the Bristol Holding Company would be a 'thin' company in the year 2017/2018 which was made as part of the 2017/2018 business planning cycle, the timing was also appropriate given that the group of companies have now moved out of their start-up phase of operation.
3. The purpose of the review was to assess current arrangements and develop recommendations for future governance structures to ensure these companies meet BCC strategic objectives and align with best practise governance requirements for U.K. companies.
4. Following consultation with Overview and Scrutiny Management Board, the Senior Leadership team of the Council and Shareholder Group, the Independent Advisors were asked to finalise the report and produce an Executive Summary for consultation with the companies.
5. The council has prepared an action plan which outlines the council's response to the review. The action plan is a working document, which is updated as progress is made against each recommendation. The Shareholder Group has overseen the implementation of the recommendations on a monthly basis since January 2018.
6. Cabinet are asked to note the recommendations and all suggested actions put forward by the Independent Shareholder Advisors – which are outlined in Appendix A2. Alongside these the council provides an 'Action update' outlining how it is responding to those recommendations.
7. The process of implementing many of the recommendations started whilst the review was still ongoing in September 2017, and is expected to continue as part of the Shareholder Group and companies work plans for the rest of the year. An annual review of governance arrangements will take place in January every year to ensure that arrangements remain fit for purpose and are responding appropriately to any changes in the group size, structure and needs of its subsidiaries.

Reserved Matters, Shareholder Group Terms of Reference, Articles of Association,

8. Cabinet are asked to note the revised Reserved Matters (Appendix A3) and Shareholder Group Terms of Reference (Appendix A4), and in addition note that changes have also been made to the Articles of Association and Shareholders Agreement.
9. The Reserved Matters are decisions relating to the companies that must be made by the executive (the Shareholder), rather than by the Boards of the companies. Reserved matters cover such things as the approval of the company's annual business plan or mid-year amendments to it, the appointment of directors, certain key financing decisions and so forth.

10. These reserved matters have been revised in the light of experience over the first phase of operation of the companies, and the need to provide greater clarity with respect to the rights of the Council in relation to Bristol Holding and its subsidiaries and how it can exercise those rights. The reserved matters are included in the articles of association for each of the companies.
11. As a result of the implementation of the governance review, the core governance documents, including the Shareholders' Agreement and the articles of association of each company, were revised.
12. The Articles are part of the constitution of the companies, and are determined by the Shareholder. They include the procedures a company must follow concerning meetings, how decisions are made, and so forth.
13. These amendments include; for example, changes to the quorum requirements so that Council appointed Directors do not need to be present in order for the meeting to be quorate, provided that the Shareholder's observer is present and so that the Council can appoint an alternate for a Council appointed Director if that Director is unable to attend. These revised articles of association were adopted at the companies' AGMs on 26 July 2018.
14. The Shareholders' Agreement is a contract between the Council and its companies, which sets out the control mechanisms for the Council. The Shareholders' Agreement has been revised in order to bring it up to date with the current arrangements, and to align with the articles of association.
15. A complimentary document, a Scheme of Delegations for Bristol City Council Group of Companies has been agreed with the companies setting out the nature and scope of financial delegations between the Shareholder and each company.
16. The Shareholder Group Terms of Reference have been revised in line with the Shareholders' Agreement and articles of association in order to avoid repetition, and to ensure that the scope of the Shareholder Group is clear.
17. The revised Terms of Reference confirm that shareholding is an executive function, vested in the Mayor, who has chosen to delegate this role to the Deputy Mayor with responsibility for Finance, Governance and Performance (Cllr Cheney). The role of the Shareholder Group is to advise Cllr Cheney in how to perform this role and exercise his authority.

Code of Practice.

18. Cabinet are asked to note the intention to revise the Code of Practice for the Governance of Council Interests in Companies, in line with the implementation of the governance review. The previous version of this document can be found by following the link to the background document in appendix I.
19. The intention of the original Code of Practice was to provide a reference point to the Council and interested parties (Councillors, officers, company representatives, etc.) in understanding the requirements of the Council in setting up a local authority owned company, and how the governance arrangements for those companies would be expected to work once set up.

20. The Governance Review has prompted the need to update this Code in a number of areas. It is intended that it will be renamed as a 'Handbook', and redrafted with a more practical focus in order to ensure that it is an accessible document which will set out, in one place, the principles by which the Council organises its company interests and how these are controlled. It will still include sections on how decisions will be taken as a Shareholder, how the Council will conduct scrutiny and audit processes as well as regulatory matters. Advice will be included to indicate how 'conflicts of interest' may be best managed. The underpinning governance principles are unchanged as a result of the governance review.
21. In a similar manner to the Council's wider Code of Corporate Governance, the operation of the 'Handbook'/Code of Practice, and the authority's and companies' performance against it, will be included in the Annual Governance statement.

Resourcing

22. Cabinet are asked to approve an earmarked envelope of £350,000 pa (for 18/19 and 19/20 onwards), to provide the resources required within the MTFP from 19/20 onward to strengthen the governance as outlined in the action plan and ensure the council can support an efficient and effective client and shareholder liaison function.
23. An assessment of the costs to deliver the Shareholder and Client work programmes indicates additional support is required in the following areas:
- Client functions for each of the companies
 - Finance resource support
 - Shareholder support.
24. Since September 2017 and December 2017 respectively a Waste Strategic Client Manager post and a Shareholder Liaison Director post has been funded through interim resources funded by transformation reserves in 17/18. These post holders have played a critical role during this time, improving performance management processes around the companies and assisting in the resolution of a number of outstanding governance issues. The additional capacity has allowed senior management within the council to focus more attention on council business during this time.
25. The exact nature of the staffing resources which the £350k earmarked envelope will fund, is still under discussion, and will be considered within the context of the wider organisational restructure. The aim will be to ensure that the right support is available and the required changes to support the varied and sometimes complex activities of those companies are in place.
26. Included in the annual figure of £350k is approx. £60k of permanent budget to be made available to fund the external Independent Shareholder's Advisors who attend planned Shareholder Group meetings. Previously this support was on an ad hoc basis and represented a budget pressure.
27. Finally, Cabinet's attention is drawn to acceptance of the recommendation that members should be placed on the trading companies boards as 'council appointed directors' (specifically Bristol Energy and Bristol Waste), and that the selection of these posts is an Executive Decision to be taken by the Mayor.

28. A selection process has taken place to ensure that the councillors taking up these roles have relevant skills and experience for the role. Training sessions will be provided in order to ensure they fully understand their fiduciary duties under company law. It should be noted that the chosen councillors will not be able to be Cabinet members or have any other conflicts.
29. It should be noted that many of the principles and specific outputs of the review will also assist the council in strengthening its relationship with other partnerships and organisations in which it has an interest, including outside bodies.
30. For example, the training programme for council appointed directors will be extended to all councillors who hold a position on a company in which the council has an interest. It is also anticipated that training can be easily adapted for councillors representing the council on the boards of local charities, to which the council appoints a trustee member, as well as regional and national partnerships and statutory bodies.

HW 06.08.2018