

CORPORATE OVERVIEW & SCRUTINY PANEL

MONDAY, 4TH OCTOBER, 2021

At 7.00 pm

by

COUNCIL CHAMBER - TOWN HALL, MAIDENHEAD, ON [RBWM YOUTUBE](#)

SUPPLEMENTARY AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
6.	<u>REVIEW OF COUNCILS GOVERNANCE OF RBWM PROPERTY COMPANY</u> To consider the review.	3 - 12

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Report Title:	Review of Council's Governance of RBWM PropCo
Contains Confidential or Exempt Information	No
Cabinet Member:	Councillor Johnson, Cabinet Member for Property
Meeting and Date:	4 October 2021 - Corporate Overview and Scrutiny Panel
Responsible Officer(s):	Duncan Sharkey, Chief Executive
Wards affected:	None

REPORT SUMMARY

1. In June 2020, CIPFA reported to Cabinet on their governance review including financial management arrangements of the Council and an action plan was developed to respond to issues that they raised. One of the actions identified was to 'Review current partnership arrangements with the property company and to identify common purpose and goals for both partners.' This review supports this action.

2. The Council commissioned 31ten Consulting Limited (31ten) to undertake a review of the current governance arrangements in the Council for managing the RBWM Property Company (PropCo). They were asked to highlight both best practice examples as well as areas where the current arrangements could be improved.

3. Their detailed report has been finalised. Cabinet considered the report in July 2021 and have asked that Corporate Overview and Scrutiny Panel consider the action plan arising and monitor it as part of their annual work programme.

4. This report contains that action plan and a revised statement of purpose for the PropCo for consideration and comment by this Panel.

RECOMMENDATION: That Corporate Overview and Scrutiny Panel notes the report and:

i) Offers any comments or suggested areas for further consideration.

1. BACKGROUND

1.1 As part of the response to the CIPFA governance report that was considered by Cabinet in June 2020, a recommendation was made to review the governance arrangements of the PropCo. In March 2021, an external company with expertise in this area were commissioned to consider the following areas:

- Consider the expected governance arrangements as detailed in the source legal documents

- Identify where there is any deviation to processes and identify any potential impacts from these deviations
 - Considering latest best practice, suggest improvements identified through other similar reviews
 - Learn any lessons from recent Public Interest Reports into governance deficiencies at other council owned companies so that the council can reduce such risks
 - Consider potential Key Performance Indicators (KPIs) that could be used to measure the PropCo against typical objectives to ensure that they are relevant, understandable and give a clear indication on risks
- 1.2 The detailed review includes the background to why council companies can be set up and the reasons that they can contribute to council priorities. It also details the specific background around this council's property company.
- 1.3 Overall 31Ten identified no significant risks with the PropCo as the current arrangements do not speculatively fund development unlike other councils. Further the benefits of the PropCo both in terms of value for money, savings/costs avoided, and social good are clear to see.
- 1.4 The benefits of the PropCo also include the added value that the company has brought through being able to attract different commercial skills than the Council would otherwise be able to maintain. The PropCo collates a Value for Money log that monitors the additional value brought to the council and since 2017 this indicates savings of over £3.3m. This currently isn't part of the formal monitoring arrangements which should be considered for future performance measures.

2. CONSIDERATION

- 2.1 31Ten made a number of recommendations for improvement in support of their report.
- 2.2 Panel are asked to consider each of the recommendations and offer any comments before the Action Plan is adopted.
- 2.3 Panel are also asked to consider and offer comments or suggestions on the revised vision and objectives for the PropCo (effectively the Council's purpose in operating the entity).
- 2.4 Finally, the Council's internal Property Service is line managed by PropCo leaders but remain within the Council. This creates a number administrative and managerial problems that are not significant in of themselves but require additional effort to work around.

3. FINANCIAL DETAILS / VALUE FOR MONEY

- 3.1 There are no direct financial implications as a result of the action plan.

4. LEGAL IMPLICATIONS

4.1 There are no legal implications of the report. It should be noted that that Monitoring Officer and Head of Legal will be responsible for delivering several of the recommendations.

5. POTENTIAL IMPACTS

5.1 Equalities. Equality Impact Assessments are published on the council's website. There are no EQIA impacts of this report. Actions within the plan e.g., staffing changes may have such implications and these will be dealt with directly as part of any project work.

5.2 Climate change/sustainability. The revised Vision and Objectives make it clear the PropCo is part of delivering on the Council's climate objectives.

5.3 Data Protection/GDPR. None

6. CONSULTATION

6.1 As part of the 31ten work a number of councillors and officers were interviewed including the Leader of the Council and both Opposition Leaders. The Action Plan arising has been referred to Corporate Overview and Scrutiny Panel after being considered in open session by Cabinet.

6.2 Staff potentially affected by a change of line management or secondment arrangement are being consulted already.

7. TIMETABLE FOR IMPLEMENTATION

7.1 See Action Plan

8. APPENDICES

8.1 This report is supported by one appendix:

- Draft Vision and Objectives and Action Plan

9. BACKGROUND DOCUMENTS

9.1 This report is supported by no unpublished background documents. The two published documents – the Cabinet Report and the 31ten Review are available [here](#).

10. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officers (or deputy)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	08/09/21	14/09/21
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	08/09/21	
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	08/09/21	
Elaine Browne	Head of Law (Deputy Monitoring Officer)	08/09/21	
Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	08/09/21	10/09/21
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Andrew Durrant	Executive Director of Place	08/09/21	
<i>Heads of Service (where relevant)</i>			
<i>External (where relevant)</i>			
<i>Ian Brazier-Dubber</i>	Managing Director PropCo	08/09/21	10/09/21
<i>Griff Marshalsay</i>	Chair, PropCo	08/09/21	13/09/21

Report Author: Duncan Sharkey Chief Executive

OVERALL PURPOSE OF RBWM PROPCO 2021

Vision

To develop and regenerate the Council's assets to create a Borough of Opportunity and Innovation by:

Delivering additional homes, both directly and indirectly.

Ensuring greater access to quality affordable housing for those in housing need.

Supporting the regeneration of town centres, and 'Place Making' across the Borough whilst working alongside Council colleagues at the early stages of development.

Maximise the 'commercial' return on the Council's property estate

To providing savings, a dividend and/or other value towards the cost-of-service provision within the Council and grow the company as an asset of value.

Objectives

Deliver and operate additional homes on Council owned or other sites

Be financially viable and ensure that rental and other income covers the long-term cost of the company.

Develop **XX*** additional homes by the end of 2027.

Enable the delivery of **XX*** homes on Council Joint Venture sites

Have under management by 2027 **XX*** affordable and other homes.

Purchase or develop rental housing of all tenure (including conversion or new build)

Work with partners to deliver (or facilitate) any requirement for housing or facilities for vulnerable adults and children

Be the principal advisor for the Council in matters of property and regeneration (property consultancy)

Deliver the Council's Asset Management and Property Service function creating, delivering, and maintaining an Asset Management Strategy that

- Ensures compliance with all Regulatory, Environment Performance and Health and Safety requirements of Company or Council Assets and sites.
- Manage the Council portfolio of property
- Lead capital projects.

Work in partnership with the Council, recognising the separate legal structure and nature of the company whilst responding to specific needs or requirements of the Borough.

* To be set following new Business Plan

RBWM - PROPCO GOVERNANCE ACTION PLAN

Recommendation	Response	Owner	When
1. Review, agree and approve a revised statement of the purpose of the PropCo (vision/mission) and incorporate changes into the Articles of Association or Shareholder Protocol as appropriate.	Agreed – proposed new Statement of Purpose attached.	Cabinet (delegated)	Nov 21
	Agreed - All changes will be incorporated into a revised Shareholder Protocol	Head of Legal	Jan 22
2. Review the structure of the PropCo to ensure it remains the optimal method of delivering the objectives.	Agreed. A new MD has been appointed who will be tasked to review the Company against the new Business Plan and Statement of Purpose.	PropCo MD (Client Officer)	Dec 21
3. Set SMART objectives for the PropCo on an annual basis reflection the interests of the Council	Agreed in part. As part of setting and agreeing a Business Plan. Objectives and key performance indicators will be set. These will not be expected to change annually – though will be reviewed – as property pipelines need to cover years ahead so regular changes to objectives (or KPIs) would stymy progress.	Client Officer / PropCo Chair	Proposal Dec 21
4. Consider the use of Value for Money savings in the performance measures or objectives	Agreed. Will be incorporated into no.3	As no. 3	As no. 3
5. Reviews and agrees a new Shareholder Protocol, particularly focussing on the following areas:			
a. Identify where the Shareholder function is performed (e.g., subset of Cabinet, individual 'client' member or other mechanism)	Agreed. In the future the shareholder function will be undertaken by Cabinet as part of their formal public meeting process. Consequent amendments will be made to Terms of Reference and the Shareholder Protocol.	Head of Legal	Done
b. Ensure there is no cross over of membership between the PropCo Board and the Shareholder	Agreed. Since the resignation of the previous Chair of the Board there has been no crossover and will not be going forward. It has been	Executive Director, Place (PropCo Chair)	Done

function (though invited attendance of officers at PropCo Board meetings would be beneficial)	agreed with the Board that the Executive Director of Place will be invited to Board meetings as an observer to ensure better tactical and operational coordination between the Council and the PropCo.		
c. Clarify where key decisions should be made	Agreed. A revised scheme of powers/delegation will be prepared in line with existing officer delegation. This will clarify what decisions are reserved to Cabinet as the Shareholder, to the Client Officer and to the Board (who may further delegate to the Managing Director). Certain delegations to the Client Officer (ex officio) will be added to the Scheme of Delegation. This new scheme of delegation will also include delegations regarding the management of the Councils properties and related budgets (see I below).	Client Officer / Monitoring Officer	Nov 21
d. Clarify Member and officer roles with respect to the PropCo i.e., Members setting strategic direction/objectives and monitoring the performance against these; officers as their advisers	Agreed. The new Shareholder Protocol will clarify this in full, in line with the suggestions in the 31ten report.	Client Officer / Monitoring Officer	As per 1
e. Establish an officer 'client-side' function with a clear remit to advise the Shareholder and Council on PropCo activities.	Agreed. The Chief Executive will ensure a Client Officer function is built into the Council structure. The Executive Director of Resources will undertake this key role.	Chief Executive	Done
f. Task and direct the PropCo on an annual cycle through the Business Plan. Any changes should come through the Cabinet as	Agreed. The authority to operate the Company will be vested through the approved Business Plan to the Board and any general delegations in the Shareholder Protocol.	Client Officer	N/A

agreed in the decision-making framework	Minor changes will be agreed by the Client Officer with any significant changes being taken back to Cabinet.		
g. Use the annual Business Plan cycle to approve all scheme development and funding requirements within year only for changes or additional schemes seeking approval in year	Agreed. The Business Plan will contain all planned significant schemes (such schemes where appropriate to have already been considered through the Capital Review Group). In year amendment will be taken to Cabinet after consideration by the Capital Review Group.	Client Officer	N/A
h. Allow sufficient time for scrutiny at full Council of all PropCo activities including the development of the annual objectives and the approval of the Business Plan. This may require separate approval points for example agree annual objectives and then separately agree how they will be achieved (Business Plan)	Agreed in part. Property is an executive function of the Council so is not within Full Council's purview for decision making. Therefore, objectives must be agreed by the Cabinet. However, PropCo will be asked to produce an annual report of its activities and performance which will be taken to Scrutiny to ensure transparency of the operation.	Client Officer / PropCo Chair	N/A
i. Review the relationship of the PropCo with Property Services to ensure that the arrangement allows for a proper arms-length relationship between the Council and the PropCo whilst providing for the optimal tax position.	Agreed. There are several options to achieve this alignment and staff are being consulted about preferences in August. Whatever arrangement is decided it will be necessary to ensure suitable delegation to PropCo/Property Services to enable operational delivery. The current arrangement is not tax efficient but resolving the position of the Property Service function will resolve this issue.	Chief Executive / Monitoring Officer / Head of Human Resources,	Dec 21
6. Run training for Members on role of the shareholder function and any new governance arrangements going forward.	Agreed. This will be incorporated into the Member Training Programme.	Monitoring Officer	Mar 22

<p>7. Review and specify the reporting frequency and requirements of PropCo activities within the Council to ensure that the Shareholder function can be effectively performed and that sufficient milestones exist to hold the PropCo Board to account for delivery.</p>	<p>Agreed. This will be determined as per previous entries.</p> <p>A new suite of milestones and key performance indicator will be developed for agreement and used to hold the PropCo to account for delivery.</p>	<p>Client Officer</p> <p>Head of Strategy / Client Officer / Managing Director</p>	<p>As per 3</p>
<p>8. Review the risks to the Council of the PropCo on a quarterly basis as a key part of the Shareholder function, and this should be reflected in the Shareholder Protocol</p>	<p>Agreed in part. There is merit in the Council regularly reviewing the risks of the PropCo however to do so on a quarterly basis would make this the most regular item on Cabinet's agenda except for finance updates. This would be disproportionate therefore the frequency of risk review is to be six monthly. Risk associated with individual projects will also be included in any relevant Cabinet papers as well as the risk framework.</p> <p>This will be reflected in the revised Shareholder Protocol.</p>	<p>Client Officer</p> <p>Head of Legal</p>	<p>Mar 22</p>

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