

Shareholder Operating Protocol

Between

Royal Borough of Windsor & Maidenhead

and

Shareholder of the Companies

and

RBWM Property Company Ltd

and

RBWM Commercial Services Limited

GROUP OPERATION PROTOCOL

1.0 AGREEMENT

Date: [_____] 2015

This agreement ('the Protocol') is between
Royal Borough of Windsor & Maidenhead ('the Council'); the Shareholder; and
the Companies

1.1 The Council the Shareholder and the Companies agree :

1.1.1 to comply and observe all the requirements, covenants, obligations and procedures as contained within this Protocol;

1.1.2 at all times;

1.1.3 as amended in writing by the parties from time to time; and

1.1.4 to use all reasonable endeavours to ensure observance of this protocol by its members, officers, directors, employees and consultants and take all such action required to secure compliance at all times.

This Protocol is agreed by:

For and on behalf of RBWM Property Company Ltd:

Signature Name & Position

For and on behalf of RBWM Commercial Services Limited:

Signature Name & Position

Shareholder Operating Protocol – 1.0

For and on behalf of the Shareholder:

Signature Alison Alexander, Managing Director

For and on behalf of the Council:

Signature Leader of the Council

1.2 Interpretation

The following terms are defined within this Protocol

	Term	Description
	Companies	Means the companies RCS and RPC and such further additional companies if incorporated within a group and 'companies' shall mean either all the companies or a single company as the context so determines
	Council	Means Royal Borough of Windsor & Maidenhead and in reference to this Protocol means the Council exercising its rights as sole shareholder of the Companies through either decisions of the Cabinet or the Shareholder.
	Shareholder	The Council's representative with delegated authority to make decisions on behalf of the Council in its capacity as owner and shareholder of the Companies. The current Shareholder representative is the Managing Director of the Council and Lead Member for Economic Development and Property with authority in a resolution of cabinet dated [] reference [].
	Protocol	This document and each variation from time to time
	RCS	The company RBWM Commercial Services Limited (company registration no. 07432503)
	RPC	The company RBWM Property Company Ltd (company registration no. 07588433)

1.3 Introduction

The Royal Borough of Windsor & Maidenhead decided to deliver services through means other than by the employees of the Council or third party contractors. The Council has formed wholly owned private companies, transferred its services to the newly formed company or decided to utilise the company to develop land and other assets.

The Council is the sole shareholder of all the companies within the group and each company operates through its board of directors who are tasked to make a success and act in the best interest of the company for the benefit of the shareholders and by association, the residents of the Borough.

As the Council and the companies have become more mature, the parties have realised that the relatively innovative wholly owned concept doesn't entirely fit within the rights and obligations of the public or private sector but needs to draw on the benefits of both but appreciate that there are limitations - the rules and laws governing the relationships between the parties cross boundaries of public and private sectors and the interactions are often not clear.

The Council originally considered simply providing strategic direction and objective was sufficient and the companies should simply deliver on those requirements. However, it has been realised that it is important to residents that how services are delivered through the companies is just as important as what services are delivered. The Council appreciates that residents expect that the public sector concepts of consultation, transparency and open decision-making must apply irrespective who actually delivers the services.

The purpose of this Group Operating Protocol is to be a simple document providing clarity on the decision making, transparency and consultation, and identifying whom within organisation has the duty and the function. This Protocol shall function as a single point of information and clarity between the parties and shall provide a simple and easy guidance as how decisions are made.

This Protocol does not absolve any Party from complying with any other law, standard or requirement not limited to but including:

- a. Companies Act
- b. Relevant Articles of Association
- c. Constitution of the Council
- d. Accounting or audit standard or principles
- e. Procurement regulations
- f. Relevant local government rules or regulations

In relation to the Council all obligations relate to its capacity as shareholder only and nothing in this Protocol fetters any statutory discretion or absolves any party from consulting, notifying or obtaining consent from the Council acting in a statutory capacity.

1.4 Contents

Section	Description	Version No	Approval
1.0	Agreement, Introduction, Interpretation and Contents	1.0	01/11/16
2.0	Timetable and Notable Dates	1.0	01/11/16
3.0	Decision Making	1.0	01/11/16
4.0	Audit Protocol	1.0	01/11/16
5.0	Reporting & Risk	1.0	01/11/16
6.0	Key Documents	1.0	01/11/16
7.0	Investment Protocol	1.0	01/11/16

2.0 Timetable & Notable Dates

The attached table contains the timescale during the year when a particular task shall be performed and documents the party(ies) responsible to perform the task.

Unless otherwise stated the task needs to be completed by the end of the month in question.

Shareholder Operating Protocol																									
2.0 Timetable and Notable Dates		<table border="1"> <tr> <th colspan="2">Key</th> </tr> <tr> <td style="background-color: #FFD700;"></td> <td>RCS & RPC</td> </tr> <tr> <td style="background-color: #00B0F0;"></td> <td>RPC</td> </tr> <tr> <td style="background-color: #FFFF00;"></td> <td>RCS</td> </tr> <tr> <td style="background-color: #008000;"></td> <td>Shareholder</td> </tr> <tr> <td style="background-color: #800080;"></td> <td>Audit</td> </tr> </table>												Key			RCS & RPC		RPC		RCS		Shareholder		Audit
Key																									
	RCS & RPC																								
	RPC																								
	RCS																								
	Shareholder																								
	Audit																								
Task Category	Task -	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec												
Accounts	Accounts - drafting																								
	Accounts - approval																								
	CHEW Accounts Submission																								
	HMRC Accounts Submission																								
Reporting	Monthly Accounts and Operational Reports to Shareholder																								
	Quarterly Accounts and Operational Updates to Cabinet																								
	CHEW Annual Return																								
Business Planning	Business Plan (1yr) & (5yr)- drafting																								
	Business Plan (1yr) & (5yr) - approval																								
	Remit Document - drafting																								
	Remit Document - approval																								
Transparency	Council Website - accounts/directors																								

3. Decision Making Protocol

3.1 Introduction

The Decision Making Protocol specifies the obligations and expectations on the parties and designates who within the Protocol can make a decision and who that party is required to consult or notify.

The protocol then provides the decision process that must be followed and complied with before the decision can be made.

The protocol consists of Part I specified decisions and Part II general decisions. Where a decision does not fall within Part I then the decision is reserved to and can only be made by the party in Part II and in accordance with Part II. Part IV contains those express matters reserved to the Shareholder.

Part III documents the process where an Urgent Decision is required.

3.2 Interpretation

In this part the following terms apply:

Term	Description
Audit	Means the minimum documentary evidence required to prove that the decision has been made in accordance with this Protocol and the necessary documentation has been finalised.
Accountable	The party undertaking the process, task or procedure to facilitate the decision from the party Responsible.
Consulted	The party who must be consulted and who's comments or opinion must be considered as part of the decision process by the party Responsible.
Document – inside group	Document used to evidence or secure the decision and may contain commercially sensitive or confidential information and permits disclosure within group only. Group means the board of the companies, Shareholder and Cabinet.
Document – outside group	Document used to evidence or secure the decision and for disclosure in public.
Decision	Means the type of decision a party can make without recourse, notification or consultation with any other party in this protocol unless expressly stated in Part I or Part II
Includes	A further breakdown of subcategories for included within the Decision
Informed	A party is advised of the decision made or to be made. Responsible is not required (but may) take into consideration any comments made by the Informed. Informed could be

		advised during or after the decision has been made.
	Procedure	The procedural steps that must be followed to secure the decision.
	Responsible	The party have authority and required to make a decision providing that necessary consultation and information has been complied with.
	Scheme	Means scheme or business case for a particular property development
	Source	The original decision resolution or law that requires that the decision is reserved to the party or procedure is required to be followed. Ordinarily this is a decision of Council or Shareholder.
	Subsidiary	Means RPC or RCS as the context so determines.
	Timescale	The estimated time required to secure the decision.
	Urgent Decision	A decision required outside of the Part I or II decision making framework due to reasons such as a party cannot be consulted or a decision is required at a faster timescale.

3.3 PART I – SPECIFIED DECISIONS

Decision:	Annual Business Plan (including Operational Budget)	3.3.1
Includes:	(i) Approval (ii) Variation (any)	
Subsidiary:	RPC or RPS	
Source:	This Protocol	
Responsible:	Cabinet	
Accountable:	RPC or RCS	
Consulted:	Leader Lead Member for Regeneration and Property Lead Member for Finance Strategic Director(s) Head of Finance	
Informed:	Council (by inclusion on Operation Budget in Budget)	
Timescale:	Business Plan - 3 months after first submission by Accountable party and to be finalised by the end of February. Remit Document – completed 1 month after approval of Business Plan	
Procedure:	<ul style="list-style-type: none"> a. Shareholder to issue draft Remit Document to Subsidiary in September b. Subsidiary to issue draft business plan to Shareholder in December. c. Shareholder to consult with Lead Member for Finance and relevant Strategic Director(s) and feedback to Subsidiary. d. Shareholder to approve Business Plan by January e. Shareholder to issue the Remit Document and Business Plan to next Cabinet. f. Cabinet to consider Business Plan as Part II item. If remains Part II then Remit Document only published as Part I 	
Documentation Inside Group:	Annual Business Plan	
Documentation Outside Group:	Remit Document Council Budget	
Audit :	Business Plan and Remit document completed by both Shareholder and Subsidiary in accordance with Timescale.	

Decision:	Approval of Scheme of Development (including allocation of capital expenditure Funding)	3.3.2
Includes:	(i) Outline Scheme (ii) Variation to Scheme (iii) Detailed Scheme	
Subsidiary:	RPC	
Source:	Applicable decision of Shareholder and Cabinet	
Responsible:	Shareholder/Cabinet/Council	
Accountable:	RPC and Shareholder	
Consulted:	Lead Member for Regeneration and Property Lead Member for Finance Strategic Director(s) Head of Finance (if general funds to be used) Head of Planning (if s106 funds to be used) Property Manager (if Council assets to be used)	
Informed:	Ward Councillor(s) – Detailed and Variation. Not Informed at Outline stage.	
Timescale:	New – 4 weeks Variation & Detailed – up to 3 months from submission of Scheme of Development	
Procedure:	Decision in Principal on Outline Scheme	
	a. Subsidiary to issue to Shareholder the Outline Scheme (outline) including proposal on feasibility, amount and type of funding b. Shareholder to approve/reject scheme within 14 days. c. If Shareholder approves scheme then Subsidiary move to Detailed Scheme.	
	Decision on Detailed Scheme & Variation to Scheme	
	a. Subsidiary to consult with relevant parties in Consulted to finalise the Detailed or Variation Scheme including full details of requested funding, source of funding and any assets required. b. Subsidiary to submit Scheme to Shareholder and to inform Ward Councillor requesting comments to be forward to Shareholder in 14 days. c. If Shareholder approves the Scheme then : (i) Property Leasehold Assets - if term exceeds 25 years and annual rent £100K (occupational asset) or 150 years or annual rent £50K or premium >£250K; or (ii) Property freehold Assets – acquisition or disposal > £500K; or (iii) Funding exceeds £250K (Cabinet) or £500K (Council); then Shareholder will submit Scheme to Cabinet for Approval (where budgetary provision exists) or full Council as	

	appropriate. d. If Shareholder approves Scheme and conditions c (i) to c (iii) do not apply, then Shareholder will notify Consulted to implement Scheme.	
Documentation Inside Group:	Development Scheme (outline) & Development Scheme (Detailed) & Cabinet or Council Reports (Part II items)	
Documentation Outside Group:	Cabinet or Council Reports (Part I items)	
Audit :	Decision of Shareholder for Outline, Detailed or Variation to Scheme Resolution of Cabinet or Council approving Development Scheme. Legal Documentation executed by all parties	

Decision:	Funding Request & Drawdown (Property Development)	3.3.3
Includes:	(i) Grant Funding (ii) General Funds (iii) Commuted Sums (section 106 funds) after Scheme of Development has been approved.	
Subsidiary:	RPC	
Source:	Applicable resolution of Shareholder	
Responsible:	Shareholder/Cabinet/Council	
Accountable:	RPC	
Consulted:	Lead Member for Regeneration and Property Lead Member for Finance Strategic Director(s) Head of Finance S106 officer (if s106 funds to be used)	
Informed:	Cabinet	
Timescale:	No less than 14 days from submission	
Procedure:	<ul style="list-style-type: none"> a. Subsidiary to issue Funding Request to Shareholder. b. Shareholder to consult with Consulted c. Shareholder resolution to reject – with reasons or recommendations for compliance. d. Shareholder resolution to approve – with necessary documentation and terms as pre-condition for funding. e. Shareholder to see approval where request exceeds £250K (Cabinet) or £500K (Council); then Shareholder will submit Scheme to Cabinet for Approval (where budgetary provision exists) or full Council as appropriate. f. Legal documentation as per Shareholder resolution completed and signed off. g. Subsidiary to request drawdown of funding in accordance with Funding Request & legal documentation. h. Quarterly updates to Cabinet s standing item showing progress of scheme and expenditure of funding. 	
Documentation Inside Group:	Funding Request Document, Legal Documentation	
Documentation Outside Group:	Cabinet or Council Report Quarterly updates to Cabinet	
Audit :	Resolution of Shareholder and Cabinet/Council permitted drawdown Legal Documentation executed by all parties	

Decision:	Funding Request & Drawdown (All other)	3.3.4
Includes:	(i) Loans/Grants from Council (ii) Council equity funding	
Subsidiary:	RCS	
Source:	Applicable resolution of Shareholder	
Responsible:	Shareholder/Cabinet/Council	
Accountable:	RCS	
Consulted:	Lead Member for Finance & relevant Lead Member Strategic Director(s) Head of Finance	
Informed:	Cabinet	
Timescale:	No less than 14 days from submission	
Procedure:	<ol style="list-style-type: none"> a. Subsidiary to issue Funding Request to Shareholder. b. Shareholder to consult with Consulted c. Shareholder resolution to reject – with reasons or recommendations for compliance. d. Shareholder resolution to approve – with necessary documentation and terms as pre-condition for funding. e. Shareholder to seek approval where request exceeds £250K (Cabinet) or £500K (Council); then Shareholder will submit Scheme to Cabinet for Approval (where budgetary provision exists) or full Council as appropriate. f. Legal documentation as per Shareholder resolution completed and signed off. g. Subsidiary to request drawdown of funding in accordance with Funding Request & legal documentation. h. Quarterly updates to Cabinet s standing item showing progress of scheme and expenditure of funding. 	
Documentation Inside Group:	Funding Request Document, Legal Documentation	
Documentation Outside Group:	Cabinet or Council Report Quarterly updates to Cabinet	
Audit :	Resolution of Shareholder and Cabinet/Council permitted drawdown Legal Documentation executed by all parties	

Decision:	Development of Council Land assets/rights	3.3.5
Includes:	(i) New Outline Scheme (ii) Variation to Scheme (iii) Detailed Scheme	
Subsidiary:	RPC	
Source:	Applicable resolution of Shareholder and Cabinet	
Responsible:	Shareholder or Cabinet	
Accountable:	RPC and Shareholder	
Consulted:	Lead Member for Finance Lead Member for Regeneration and Property Strategic Director(s) Property Manager	
Informed:	Ward Councillor	
Timescale:	New – 4 weeks Variation & Detailed – up to 3 months from submission of Scheme of Development	
Procedure:	Decision in Principal on Outline Scheme	
	<ul style="list-style-type: none"> a. Subsidiary to issue to Shareholder the Outline Scheme (outline) including proposal on feasibility, amount and type of funding b. Shareholder to approve/reject scheme within 14 days. c. If Shareholder approves scheme then Subsidiary move to Detailed Scheme. 	
	Decision on Detailed Scheme & Variation to Scheme	
	<ul style="list-style-type: none"> a. Subsidiary to consult with relevant parties in Consulted to finalise the Detailed or Variation Scheme including full details of requested funding, source of funding and any assets required. b. Subsidiary to submit Scheme to Shareholder and to inform Ward Councillor requesting comments to be forward to Shareholder in 14 days. c. If Shareholder approves the Scheme then : <ul style="list-style-type: none"> (i) Property Leasehold Assets - if term exceeds 25 years and annual rent £100K (occupational asset) or 150 years or annual rent £50K or premium>£250K; or (ii) Property freehold Assets – acquisition or disposal > £500K; then Shareholder will submit Scheme to Cabinet for Approval (where budgetary provision exists) or full Council as appropriate. d. If Shareholder approves Scheme and conditions c (i) to c (ii) do not apply, then Shareholder will notify Consulted to 	

	implement Scheme.	
Documentation Inside Group:	Development Scheme (outline) & Development Scheme (Detailed) & Cabinet or Council Reports (Part II items)	
Documentation Outside Group:	Cabinet or Council Reports (Part I items)	
Audit :	Decision of Shareholder for Outline, Detailed or Variation to Scheme Resolution of Cabinet or Council approving Development Scheme. Legal Documentation executed by all parties	

Decision:	Changes to Company Directors, Secretary and Chairperson.	3.3.6
Includes:	(i) Changes to terms and conditions (ii) changes to salary (iii) award of any benefits in kind (iv) the assessment and award of Performance Related Pay or discretionary payments (v) Terms of new Performance Related Pay scheme or discretionary payments (vi) appointment (vii) dismissal (viii) changes of board numbers (ix) appointment of chairperson.	
Subsidiary:	RPC and RCS	
Source:	Adoption of this Protocol	
Responsible:	Shareholder	
Accountable:	RPC and RCS	
Consulted:	Leader Lead Member for Regeneration and Property (RPC only) Lead Member for Finance Strategic Director(s)	
Informed:	Cabinet	
Timescale:	No less than 1 month from initial request	
Procedure:	<ul style="list-style-type: none"> a. Subsidiary to issue to Shareholder a report for reason for change, justification and operational/financial impact. b. Shareholder to consult with Leader c. If proposal involves remuneration of officers or a member of the Council then must be in accordance with the Council Remuneration Scheme d. If Shareholder approves scheme then issue resolution with details of decision and documentation if required. e. Subsidiary implements once legal documentation signed off and completed. f. External Executive Directors of the Subsidiary shall only be appointed to the office of director after probationary period has completed. 	
Documentation Inside Group:	Company Report. Legal Documentation (ie. employment contract, agreed PRP scheme, Indemnity Deed)	
Documentation Outside Group:	Cabinet reports / Council transparency website (unless Part II or confidential)	
Audit :	(i) Resolution of Shareholder permitted change (ii) Completion of legal documentation (iii) Cabinet Update.	

Decision:	Company Structure & Changes	3.3.7
Includes:	(i) Changes to existing company structures (ii) changes in shareholding (iii) creation of new companies (iv) merger (v) dissolution of company	
Subsidiary:	RPC and RCS	
Source:	Adoption of this Protocol	
Responsible:	Shareholder	
Accountable:	RPC and RCS	
Consulted:	Leader Lead Member for Regeneration and Property Lead Member for Finance Strategic Director(s) Strategic Director(s)	
Informed:	Cabinet	
Timescale:	No less than 28 days from initial request	
Procedure:	<ul style="list-style-type: none"> a. Subsidiary to issue report to Shareholder documenting change, justification and operational/financial impact. b. Shareholder to Consult. c. If scheme involves remuneration of officers or member of Council then must be in accordance with the Council Remuneration Scheme. d. If Shareholder approves scheme then issue resolution with details of decision and documentation if required. Subsidiary implements once legal documentation signed off and completed	
Documentation Inside Group:	Company Report. Legal Documentation (i.e. contract, Articles of Association) e.	
Documentation Outside Group:	Cabinet quarterly update reports / Council transparency website (unless Part II or confidential)	
Audit :	Resolution of Shareholder permitted change Completion of legal documentation Executive Update.	

Decision:	Company staffing changes	3.3.8
Includes:	Changes affecting a significant number of staff collectively including (i) change to terms and conditions, (ii) restructures, (iii) awards, (iv) outsourcing, (v) TUPE which reasonably be expected to impact on service delivery by the Companies, (vi) any award of discretionary bonus or Performance Related Pay	
Subsidiary:	RPC and RCS	
Source:	Adoption of this Protocol	
Responsible:	Shareholder	
Accountable:	RPC and RCS	
Consulted:	Leader Lead Member for Regeneration and Property (RPC only) Lead Member for Finance Strategic Director(s)	
Informed:	N/A	
Timescale:	No less than 28 days from initial request	
Procedure:	<ol style="list-style-type: none"> a. Subsidiary to issue report to Shareholder documenting change, justification and operational/financial impact. b. Shareholder to Consult. c. If scheme involves remuneration of officers or member of Council then must be in accordance with the Council Remuneration Scheme. d. If Shareholder approves scheme then issue resolution with details of decision and documentation if required. e. Subsidiary implements once legal documentation signed off and completed 	
Documentation Inside Group:	Company Report. Legal Documentation (i.e. contract, Articles of Association)	
Documentation Outside Group:	Cabinet quarterly update reports / Council transparency website (unless Part II or confidential)	
Audit :	Resolution of Shareholder permitted change Completion of legal documentation Executive Update.	

3.4 PART II – GENERAL DECISIONS

General Decisions made by the Shareholder or Council in this section require a resolution in writing of the Board of Directors or Cabinet of the Council.

All decisions must be submitted to the Shareholder or Council using the Decision Request Document.

Decisions Permitted by Subsidiary		
3.4.1	All decisions permitted by, to give effect to or reasonably ancillary to the approved Business Plan or any scheme or project expressly approved by the Shareholder	
3.4.2	All decisions reasonably permitted by, to give effect to or reasonably ancillary to express resolutions of the Shareholder	
3.4.3	All decisions not falling into 3.4.1 and 3.4.2 and necessary for the day to day management of the business of the companies providing that such decision does not result in total additional expenditure or income of greater than £100,000 in any one calendar year.	
Decisions Permitted by Shareholder		
3.4.4	All decisions necessary for the day to day management of the business of the Subsidiary NOT reserved to Subsidiaries providing that such decision does not result in expenditure or income of greater than £250,000 in any one calendar year. The Shareholder Reserved Decisions in Part IV.	
Decisions Permitted by Cabinet		
3.4.5	All other decisions not granted to Subsidiaries or Shareholder. If financial decision then no greater than £500K or if budgetary framework does not exist.	
Decisions Permitted by Council (full Council)		
3.4.6	Decisions requiring funding over £500K and where no budgetary framework exists	

3.5 PART III – URGENT DECISIONS

Urgent Decisions should only used in rare circumstances where an outside or third party opportunity or challenge results in the decision being required outside of Part III Decision Making Protocol. Authority under an Urgent Decision shall only last until the next relevant meeting of Shareholder or Council.

The procedure is:

3.5.1	An Urgent Decision can only be taken with the unanimous agreement of the Leader of the Council, Shareholder and Chairman of the relevant Subsidiary	
3.5.2	During the decision making process the Shareholder or Subsidiary must comply with as much of this Protocol as possible within timescales including Informing or Consulting the relevant parties as set out in the Protocol.	
3.5.3	A written record of the Urgent Decision must be made and immediately distributed via email to the relevant parties as set out in the relevant Part. <u>The written record must set out the date or time that the Urgent Decision shall take effect.</u>	
3.5.4	The party enacting the Urgent Decision shall bring a report to the next Shareholder meeting setting out the reason for the Urgent Decision, the outcome and the results of any consultation or informing the necessary parties.	
3.5.5	The Shareholder will determine the appropriate actions and determine whether further reports to Council Executive are required and whether the Urgent Decision shall continue in force.	

3.6 PART IV – SHAREHOLDER RESERVED DECISIONS

The Subsidiaries shall not, unless it has Shareholder Consent:

3.6.1	vary in any respect its articles of association or the rights attaching to any of its shares	
3.6.2	Change the shareholding of the Companies in any way, change company name, change registered office or company auditors/year end	
3.6.3	Enter into any loan, credit, guarantee, borrowing, contract or commitment with any person where total commitment is greater than £25,000 (whether singularly or cumulatively with any other commitment)	
3.6.4	Enter into or cease business other than that authorised in the Business Plan or on terms other than at arms length	
3.6.5	Enter into any contract with a Director or person connected with a director (as defined in 1122 and 1123 of the Corporation Tax Act 2010)	
3.6.6	institute, settle or compromise any material legal proceedings other than debt recovery proceedings in the ordinary course of business or where the Value of such claim is reasonably believed by the Company to be less than £10,000	

4. Audit Protocol

4.1 Introduction

Effective risk management is a cornerstone of good corporate governance. This Audit Protocol specifies the corporate expectation of correctly following process and procedure, correct use of documentation, evidenced based decision making and risk management.

4.2 Decision Making – Audit Requirements

The Decision Making Protocol specifies the minimum documents required to evidence compliance with Subsidiaries and Council procedures during any decision making. Where the Decision Making Protocol specifies an Audit Requirement then the Council's auditors shall have the right to request to production of such documentary evidence. This is separate from any audit requirement for the annual accounts pursuant to the CA2006.

4.3 Audit Protocol

- 4.3.1 The Council has the right to conduct both financial and operational audits of the Subsidiaries at its discretion. The Council will provide two weeks' notice of any such audit.
- 4.3.2 The Subsidiaries shall grant to the Council or its auditors the right of reasonable access to any premises of the Subsidiaries which are used in connection with the performance of the Subsidiaries' responsibilities and obligations together with a right to reasonable access to all records.
- 4.3.3 The Subsidiaries shall provide or procure the provision of all reasonable assistance at all times for the purposes of carrying out an audit of the Subsidiaries.
- 4.3.4 The Subsidiaries shall adopt any recommendations made by the Council to improve or change its processes and records.
- 4.3.5 In the event of an investigation into suspected fraudulent activity or other impropriety by the Subsidiaries the Council reserves for itself or any auditor the right of immediate access to the premises and of any documents and the Subsidiaries agrees to render all necessary assistance to the conduct of such investigation at all times.
- 4.3.6 The Council shall use all reasonable endeavours to ensure that its auditors cause the minimum amount of disruption to the business of the Subsidiaries.
- 4.3.7 The Council will invite the Subsidiaries to comment on the results of any audit exercise and any proposed publication material and will take account of those comments to the extent that it deems fit in any publication.

5. Reporting & Risks

5.1 Introduction

The Council believes transparency is a key condition and driver for the delivery of Council services whether they are delivered directly or through the Companies. As a publically funded organisation, the Council has a duty to the residents it serves to be transparent in its business operations and outcomes. In addition, the Council expects its Companies to be transparent on the financial and operational risks. This transparency is demonstrated by regular meetings, within group reports and published reporting.

5.2 Reports

The following reports are delivered by the Companies and Council:

Report	Reporting	Recipient	Method	Purpose	Publically available
Individual					
Decision Request	All Companies	Shareholder or Council	Report to Shareholder or Cabinet	A specific request for a decision outside of the Decision Making Protocol.	Dependent on nature of request
Monthly					
Finance & Operational Reports	Subsidiary	Shareholder	Report to Board	Monthly update of Subsidiary financial and operational issues to Shareholder. Includes reporting of risks and delivery against business plan	No
Quarterly					
Finance & Operational Reports	Shareholder	Cabinet	Council Cabinet Reporting process	Quarterly high level report updating the Council as to the finances or operational status of the Companies	Yes
Annual					
Annual Return	All Companies	Companies House	Companies House procedure	Annual return statement of company including directors and shareholders	Yes

Annual Accounts	All Companies	Companies House	Companies House procedure	Annual statement of company accounts	Yes
Business Plan	Subsidiaries	Shareholder	Report to Board	To agree the strategic or organisational plan for next year	No
Annual Remit	Shareholder	Council	Report to Council	To provide a high level report on the expectations of Shareholder and what it will achieve from the Subsidiaries	Yes
Council Company website	All Companies	Public	Website on Council internet site	To provide information on the company structures and annual accounts. Includes lists of directors and remuneration for Council NED's. Updated annually or upon change to directorship.	Yes
Managing Assurance Statement	All Companies	Cabinet	Report to Shareholder or Cabinet	Declaration of satisfactory risk management and control and compliance with good corporate governance.	Yes
HMRC Tax returns	All Companies	HMRC	Corporation and VAT returns	Return to Inland Revenue in relation to Corporation Tax and VAT	No

5.3 Risks

The Council and the Companies recognise the each organisation is different and each organisation is expected to maintain an effective risk management strategy and maintain effective processes, business continuity and emergency plans that minimise such risks.

Risks have been identified between organisations principally where there has not been effective communication or a difference in expectations. As such the intra-group risks have been identified and managed by way of regular reporting and meetings between the various stakeholders to achieve a pragmatic and effective approach to risk management that adds value to decision makers and does not impose an excessive bureaucratic or administrative burden.

Operational risks are monitored by Shareholder by regular monthly reporting by the Subsidiaries. Where requested by the Shareholder, the Companies have agreed to meetings with the following attendees:

- the Shareholder
- Lead Member for Finance and/or Leader
- Strategic Director(s)
- the Head of Finance of the Council
- the Managing Director, Finance Director and Chairman of each Subsidiary.

The purposes of the quarterly Shareholder Board are:

1. To monitor the operational performance of Subsidiaries, including transparent review of any compliance or quality related risks
2. To monitor progress against the agreed Business Plan
3. To monitor the financial position of the Subsidiary
4. To act as a forum for strategic partnership and decision making
5. To agree the method for bringing issues from the Shareholder to the Council
6. To share and resolve known sensitivities of a political and/or financial nature
7. To review issues which impact upon the wider strategic objectives of the Council and the Subsidiary
8. To provide oversight and to consider in the context of the overall strategy any proposed changes by the Subsidiary, etc. in respect of the appointment of auditors, changes to senior staff, or other matters of a structural nature
9. To consider any risks identified by the Council or the Subsidiary (financial, operational, reputational, legal) and to agree actions in mitigation
10. To enable the Subsidiary to make the Council aware when support from the Council may be required
11. To facilitate consideration by the Council of proposals by the Subsidiary for strategic investment aimed at growth or development
12. To enable the Council to provide clarity and strategic direction in a timely fashion in respect to all items including:

5.4 Managing Risks

The Companies will issue a Managing Assurance Statement each year confirming that they have effective risk management strategies in place and have complied with such strategies.

Subsidiary Monthly Report to the Shareholder
Subsidiary : RBWM Property Company Ltd or RBWM Commercial Services Limited
Date:
Author Name:
Author Position:
1. Operational Update: (Referring as necessary to Board Papers, other documents as appendices)

2. Financial Update: (Referring as necessary to Board Papers, other documents as appendices)
3. Business Development Update: including progress against business plan; new business development (Referring as necessary to Board Papers, other documents as appendices)
4. Commissioner's Commentary: (to be incorporated prior to submission to Holdings)
Commissioner Name : [_____]
5. Financial Requirements (Specify Capital and Revenue Requirements/Approvals over next 6 month Period)

6. Marketing & Publicity
7. Decisions/Resolutions Required (set out below or by reference to section in report)
8. Any other Business

7.0 Investment Protocol

7.1 RCS

As RCS is a general commercial company, any investments by the Council in the Company will be made on a scheme by scheme basis.

7.2 RPC

7.2.1 The Council's investment priorities for RPC include:

- i. Provision of high quality affordable and private housing to meet the Borough's requirements for housing need;
- ii. To maximise the utilisation of centrally available grant funding and commuted sums received to mitigate harm as result of third party development;
- iii. To ensure that where possible any profits received can be recycled into social housing or (where possible) utilised to enable the Council to delivery on other functions;
- iv. Utilisation of current Council land assets and underutilised stock to generate a market rate capital receipt or income stream.

7.2.2 Methodology

The core development activity for RPC is the provision of affordable housing, both rent and sale, but also provide a variety of products to meet the housing needs of different segments of the housing market in the Borough. The products include **Social Rent, Private, Affordable Rent, Shared Ownership, Outright Sale, Market Rent** and **Extra Care**.

The Council will initially be the sole or main funder of the Company's operations on the following principles:

Monies

Money will be provided to the Company from two sources:

- a. Commuted – These are funds held in trust for developers and received pursuant to the Council's planning policies to mitigate planning harm. Their use must be in accordance with the terms of the original section 106 agreement and use of the funds are normally conditional (for example a particular type of housing or a time period of use). The terms of provision of the monies must be as per the s106 and Council's housing policies.

Commuted sums can only be used for affordable housing.

- b. General funds – these are funds that the Council can lend on such terms as it see's fit and can be used for affordable or private housing. Monies can be lent on non-commercial terms for affordable housing or at market terms for private.

Assets

Land and other assets can be provided to the Companies at market rate or at undervalue providing that the necessary consent from the Secretary of State is obtained (whether under a General Consent or an express consent).

Where monies are not available, then land can be 'sold' in consideration of future debt obligation or leased to the Company in return of rent. Rent could include market rate or turn over.

7.2.3 Procedure

The Company will specify in its Annual Business Plan its financial and land requirements. The Business Plan will include sufficient financial detail on matters included in this Protocol.