

## Rother District Council

<b>Report to:</b>	Audit and Standards Committee
<b>Date:</b>	25 March 2024
<b>Title:</b>	Rother DC Housing Company Governance Monitoring
<b>Report of:</b>	Lorna Ford, Chief Executive
<b>Purpose of Report:</b>	To provide an update on the arrangements for the local authority's governance of its wholly owned company.
<b>Officer</b>	
<b>Recommendation(s):</b>	It be <b>RESOLVED</b> : That the arrangements for the local authority's governance of its wholly owned company be noted.

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### Introduction

1. On 27 July 2020, Cabinet approved the Articles of Association and the Shareholders Agreement and appointed directors to enable the incorporation of the Rother District Council Housing Company (RDCHC - (Minute CB20/21 refers). A number of recommended updates to these documents were approved by Cabinet in November 2023 (Minute CB23/41).
2. The purpose of the governance arrangements is to ensure that the Council has enough control to ensure that its investment is protected, returns on investment can be secured and that RDCHC activity is in keeping with the strategic objectives of the Council. It is important to note that the RDCHC is not a department of the Council but an independent entity that must remain industrial and commercial in its character, if it is to continue to operate effectively and lawfully. The strategic objectives of RDCHC can be found within its published Business Plan 2022-25 (Minute CB21/86 refers).
3. The Audit and Standards Committee (A&SC) consider the governance arrangements for the management and monitoring of the Council's significant partnerships, hence it is the appropriate body to receive updates on the governance of RDCHC. Two previous reports have been presented to the A&SC to provide updates on the governance arrangements, in July 2022 and December 2022 respectively (Minutes AS22/20 and AS22/42 refer). In the report of December 2022, a commitment was made to provide the A&SC with periodic updates on the governance arrangements for RDHC. This report provides an update on the arrangements for the governance of Rother DC Housing Company (RDCHC).
4. The update has been informed by, 'Local Authority Company Review Guidance (Local Partnerships LLP 2021)', a link to which can be found within the reference documents section of this report. In addition, Members will be aware of the recent internal audit, and associated recommendations, undertaken to review the Council's governance of RDCHC in December 2023 (Minute AS23/45 refers).

5. Appendix A provides an overview of the present structure of RDCHC, the shareholder's governance structure for its company and the interface between the two entities.

## Governance Update

6. The Council has appointed a Shareholder Representative who is the Chief Executive of the Council. The Shareholder Representative has created a Shareholder Representative Oversight Group to ensure the Housing Company's activity is governed effectively by the Shareholder. The Shareholders Representative Group meetings are held quarterly, with meetings taking place in March, June and October 2023 and January 2024. The Terms of Reference for the group can be found at Appendix B.
7. As referenced above, a recent internal audit made several recommendations to the A&SC that have been tasked to the Council to complete and are described elsewhere on the agenda. It is recognised that a number of improvements remain outstanding in order to further improve the effective governance of the RDCHC by the Council.
8. In the last 12-month period officers have been increasing their efforts to address those elements of the governance arrangements that remain outstanding. To this end, the Council's Governance Improvement Tracker has been updated to include those items from the recent internal audit that were not already included. The Council is closely monitoring the progress of these outstanding items with its Internal Audit colleagues. In summary, the following items are being addressed:

Item	Status
The Council's Statutory Officers Group (SOG) to consider the legal, financial and procurement risks associated with the Company's 'non-contracting authority' (NCA) status	<b>Complete</b> <ul style="list-style-type: none"> <li>• A report on NCA risk assessment was presented to the SOG. The contents of the report were noted and recommendations/actions agreed by the SOG.</li> </ul>
Loan funding arrangements need to be in place	<b>Work in Progress</b> <ul style="list-style-type: none"> <li>• Working Capital Agreement (WCA) Draft finalised subject to further legal advice required on public subsidy.</li> </ul>
Minutes of the Shareholder Representative Group were not detailed	<b>Complete</b> <ul style="list-style-type: none"> <li>• Resources to support SHRG meeting increased.</li> </ul>
Shareholders Agreement not signed	<b>Complete</b> <ul style="list-style-type: none"> <li>• At time of writing, document to be signed shortly following amendments that were approved in December 2023.</li> </ul>
Service Level Agreement not signed	<b>Complete</b> <ul style="list-style-type: none"> <li>• At time of writing, document is finalised and is to be signed shortly.</li> </ul>

No Council Conflict of Interest Policy	<p><b>Work in Progress</b></p> <ul style="list-style-type: none"> <li>At time of writing, the document is undergoing final amendments having been reviewed by the Monitoring Officer (MO).</li> </ul>
The RDCHC Skills Audit should be reviewed by the SHRG	<p><b>Complete</b></p> <ul style="list-style-type: none"> <li>The Skills Audit will be reviewed by the SHRG.</li> </ul>
The RDCHC should have an independent audit.	<p><b>Complete</b></p> <ul style="list-style-type: none"> <li>The SHRG is aware that the RDCHC Financial audit is underway and will report in March 2024.</li> </ul>
The RDCHC should formalise its procurement approach in a Procurement Policy	<p><b>Work in Progress</b></p> <ul style="list-style-type: none"> <li>The SHRG is aware that the Policy is in draft.</li> </ul>
Monitoring of RDCHC operational costs should be noted at the SHRG	<p><b>Complete</b></p> <ul style="list-style-type: none"> <li>The Council's financial monitoring of the RDCHC will be a standing item of the SHRG meetings</li> </ul>
Inconsistent records of the status of the RDHC Share Capital	<p><b>Complete</b></p> <ul style="list-style-type: none"> <li>Position clarified by Interim Deputy Chief Executive (s151) and regularised by the Company.</li> </ul>

9. In addition to the progress made in recent months, the Council has a new Monitoring Officer and Deputy Monitoring Officer. These new colleagues will be reviewing the Council's arrangements for governing the RDHC and the Council will continue to continue to improve these.

## Conclusion

10. The report details several improvements that continue to be made to the Council's arrangements for governing the RDCHC. The Council will continue to review its arrangements and make further improvements, supported by the new Monitoring Officer and Deputy Monitoring Officer. Officers will continue to bring an annual report to the A&SC in order to provide an update on these governance arrangements.

## Financial Implications

11. There are financial risks associated with the Council having set-up a 'non-contracting authority' such as the RDCHC; it is therefore important that the governance arrangements for the RDCHC enable the Council to have enough control to ensure that its investment is protected, returns on investment can be secured and that RDCHC activity is in keeping with the strategic objectives of the Council.
12. This control however does need to be balanced to ensure that the Company can still act as an independent arm's length organisation, remaining industrial and commercial in its character, whilst safeguarding the Council's investment.

13. There are a number of improvements which have been made already in this regard and a number highlighted above, which will help to ensure effective financial monitoring and stewardship.

### Legal Implications

14. External legal advice continues to be obtained by both the Council and RDCHC in terms of their respective roles and functions.

### Human Resources Implications

15. The human resource implications are detailed within the main body of the report.

### Risk Management

16. The Council has approved up to £80m of investment in RDCHC for it to achieve its business plan objectives. The level of investment in RDCHC and its present marginally viable development at Blackfriars is a risk for the Council and the scheme must remain viable if it is to be delivered successfully. The governance arrangements of RDCHC and Council need to be robust, open and transparent, as well as adequately and appropriately resourced, to ensure that the investment is protected, risks are minimised, and RDCHC's business plan objectives achieved.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	External Consultation	No
Environmental	No	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	A Shareholder and RDCHC Interface B Terms of Reference
Relevant Previous Minutes:	CB20/21 CB21/86 CB23/41 AS22/20 AS22/42 AS23/45
Background Papers:	None
Reference Documents:	None