

CABINET MEMBER DECISION RECORD TEMPLATE

This form should be used to record Executive decisions taken by Cabinet Members

Decision Ref. No:
Responsible Officer: Sarah Longthorpe, Commercial Programme Manager
Subject: Housing & Property Holding Company
Decision taken: To incorporate one private company limited by shares, wholly owned by Bournemouth Council Group Limited (“GroupCo”), to undertake the functions of both the previously proposed housing and property holding companies.
<p>Reasons for the decision:</p> <p>The housing company was proposed to be incorporated as a Community Interest Company (a “CIC”) for the primary purpose of enabling the Council to discharge its statutory homelessness duties by holding a stock of housing for homeless people. The CIC model would have required at least 65% of the CIC’s profits to be reinvested to deliver the activities identified in the company’s Community Interest Statement (i.e. homelessness prevention and housing need).</p> <p>Further investigation revealed that a CIC would require bespoke legal agreements which would be costly to draft and the governance of the CIC may have been incompatible to some extent with the existing group structure. Furthermore, the Council would have had to rely on separate contractual arrangements between the Council and the CIC if the Council had wished to ensure that the activities being undertaken by the CIC were activities which would effectively meet and address local homelessness / housing need pressures identified by the Council.</p> <p>The property holding company was to be incorporated as a private company limited by shares wholly-owned by GroupCo in order to permit the Council to exercise its powers of investment within the private housing and commercial property sectors through the development and management of residential properties available for market rent (e.g., by granting assured short hold tenancies (ASTs) of residential properties at market rent levels), and other commercial properties.</p> <p>The key reason for keeping the companies separate initially was that the CIC structure was too restrictive for the exercise of the Council’s investment powers via a property holding company.</p> <p>It is now proposed that the Council should incorporate a single private company limited by shares and which will be wholly-owned by GroupCo (the “Housing &</p>

Prop Co"). The articles of association of will reflect this wider remit and a Board of Directors will be established to include members and officers with both commercial property and housing/homelessness expertise.

It is proposed that the company will be called Seascope Homes and Property Limited.

Call-in and Urgency: This decision is subject to the Council's call in procedure.

Background:

Following a report dated 22 June 2015, Cabinet granted approval to create a CIC to provide housing solutions to assist the Council with the discharge of its statutory homelessness duties. Pursuant to that approval, authority to finalise the business plan was delegated to the Service Director, Housing Parks and Bereavement, in consultation with the Section 151 Officer, the Monitoring Officer, the Portfolio Holder for Housing and the Portfolio Holder for Resources.

Other key reasons for the creation of the CIC were to reduce the current costs associated with emergency bed and breakfast accommodation and to manage good quality private rented sector housing for homeless households.

That report proposed that both the Council and the CIC would acquire freehold properties for redevelopment / refurbishment. On the basis of further advice from the Council's tax advisers, the most tax efficient model is considered to be for the Council to purchase all of the freehold properties and carry out any required work to them, and subsequently to grant leases to the Housing & Prop Co. This will then enable the Housing & Prop Co to grant ASTs to homeless households at appropriate rent levels.

Councils are encouraged by the Government to set up housing companies to carry out both homelessness and investment activities, as long as the companies are not used to provide affordable housing in order to avoid Right to Buy (RTB) legislation. This is not the purpose of incorporating the Housing & Prop Co.

Following a report dated 14th October 2015, Cabinet granted approval to create a property holding company limited by shares and wholly-owned by GroupCo in order to support the delivery of the asset investment strategy and to facilitate development.

This vehicle was proposed in order to enable the Council to undertake commercial property activities where the use of a third party company is necessary or beneficial, for example;

- where external funding conditions or other legislation does not allow the Council to enter into a commercial property transaction directly with a third party;
- building or acquiring residential property (whether on a leasehold / freehold basis) to let at market rents through assured shorthold tenancies.

It is anticipated that any approved investment activity will deliver returns on the investment and that the homelessness activity will generate a surplus to support the delivery by the Council of its activities.

Options - and reasons for rejection:

- 1) Set up two separate private companies limited by shares within the ownership of GroupCo, one to exercise the Council's investment powers and the other to act pursuant to the Council's powers to prevent and promote the reduction of homelessness. This proposal was rejected because it would incur additional expenditure to set up and oversee on-going company operations, and would not result in resource and cost reductions as both companies would be undertaking the same activities albeit to different customers.
- 2) Do not change and progress as planned. This proposal was rejected as the CIC would incur greater set up costs and it would not be wholly compatible with the existing Group structure.
- 3) Structure the legal entity as a Limited Liability Partnership (LLP). Whilst an LLP structure can be tax efficient, the Council would need to have a legitimate purpose for using an LLP, or could otherwise be at risk of challenge from the HMRC. At present, the Council has not identified a legitimate purpose for needing to use an LLP. This might be considered at a later date if a business need for engaging a partner is identified (e.g. bringing in construction / development expertise), but at present there are no significant advantages to using this structure and it would be more costly to set up.

Consultations undertaken:

- Service Director - Legal & Democratic Services
- Service Director - Housing Parks & Bereavement
- Service Director, Environment & Economy
- Head of Property
- Finance and Legal services officers have sought external advice from Bevan Brittan on CIC and LLP structures and KPMG & Grant Thornton on Tax implications.

Finance/Resource Implications:

The capital funding requirement of £11.7M previously approved for use by the housing company remains unchanged by this decision and this Activity will result in a reduction of costs associated with incorporating and operating a company, as it will combine the provision of administrative, accountancy and audit services.

The benefits of placing a commercial property asset within the company will be considered on an individual basis dependant on the business case and financial model as previously reported.

Name: *FAN MILNOR*

Date: *4/2/16*

Legal implications:

The legal implications for the establishment of a housing company were considered in a report to Cabinet on 22 June 2015 and for the property holding company on 14 October 2015. Following consideration of the functions of these companies it was decided that they could be fulfilled by a single company with a remit that covered both spheres of operation.

Legal Services will advise on the incorporation of the Housing & Prop Co and will advise on the various legal issues and documents required. Legal Services will also be engaged to advise on specific property-related instructions as appropriate in respect of each business case brought forward.

Legal Services will provide advice and support to the Housing & Prop Co through a Resource Agreement as detailed in the previous cabinet reports (and provided that any conflicts of interest can be managed).

Name:

Date:

Course
Signature: (of Monitoring Officer)

Risk assessment:

An initial risk assessment has been undertaken. This indicates a high risk, largely because of the value of the investment and acquisition programme as opposed to any inherent risk in the project itself.

Name: *S Longthorpe*

Date: *3/2/16*

Signature:

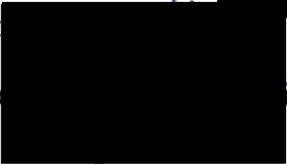
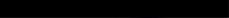
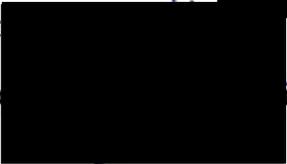
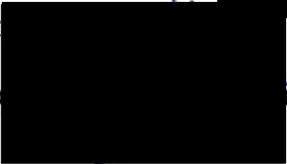
Impact Assessments:

Environmental and Equality and Diversity Impacts have been completed for both the previous Cabinet Reports. The decision to merge the companies has no impact on these assessments.

Information for/not for publication: For publication

Background papers:

Any conflict of interest declared by a Cabinet Member	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
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who is consulted by the Member taking the decision			
Yes/No* (*Delete as appropriate)			
<p>Decision taken by:</p> <p>Councillor John Beesley Councillor Signed: Date of decision:  4.2.16.</p> <p>Cabinet Portfolio - Reso  </p> <p>Councillor Robert Lawt  Signed: 5.2.16 Date of decision: </p> <p>Cabinet Portfolio - Housing 10-2-16</p> <p>Date of publication of record of decision: (to be inserted by Democratic Services) Date decision effective - that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel: 19-2-16 -insert date-</p>			

EINA Screening Record

Title of Policy/Service/Project	Property Holding Company
Date of screening	04/08/15
Service Unit	Environment & Regeneration
Lead Responsible Officer	Gary Platt
Job Title	Head of Property
Members of the Assessment Team	Gary Platt/Sarah Longthorpe

If the answers to the following questions are Yes or Don't know, then a full EINA will need to be carried out.

Is there likely to be a positive or negative impact in terms of equalities?	No
Does it involve a significant commitment of resources?	No

It is not necessary at the screening stage to identify adverse or differential impact

It is important to remember that even when it is decided that a policy/service/project does not require an EINA, it remains subject to the general duties. Not carrying out a full EINA places our council at greater risk of legal challenge because it cannot use the EINA process to meet our [Public Duties](#) around equality. It also means, more importantly, that opportunities may have been missed to promote equality.

If you have answered no to the questions above and do not intend to carry out an EINA, please explain why?

The proposal to create a Property Holding Company does not change the way the Council manages its assets or the services operated from them. At this stage there is no wider community impact resulting from establishing a Property Holding Company which could reasonably be regarded as impinging on issues of equality.

The individual merits of each business case including the associated equality impacts will be considered prior to acquiring or transferring assets into the Property Holding Company.

Equality Impact Needs Assessment

The Diversity Promise - *Better for all*



Title of Policy/Service/Project	Private sector property portfolio including setting up a Private Rented Sector Company
Service Unit	Housing, Parks and Bereavement Services
Lead Responsible Officer and Job Title	Lorraine Mealings, Head of Strategic Housing
Members of the Assessment Team:	Lorraine Mealings, Hugh Lambourne
Date assessment completed:	March/April 2015

About the Policy/Service/Project:

<p>What type of policy/service/project is this? (delete as appropriate)</p> <p>New</p>
<p>What are the aims/objectives of the policy/service/project? (please include here all expected outcomes)</p> <p>Purchasing a property portfolio and setting up a wholly owned company to let properties in order to grant tenancies to homeless households and those in housing need</p>
<p>Are there any associated services, policies or procedures? Yes/No</p> <p>If 'Yes', please list below: Homelessness policies and legislation, Private Sector Leasing HB regime, Localism Act regarding the private rented sector offer to discharge the homeless duty.</p>

List the main people, or groups of people, that this policy/service/project is designed to benefit and any other stakeholders involved?

Homeless households and people otherwise in housing need

Will this policy/service/impact on any other organisation, statutory, voluntary or community and their clients/service users?

May impact on other private landlords and agents with whom we will be competing as the Council enters the private rented sector market.

Will impact on homeless households by providing offers of suitable accommodation in well managed stock.

Consultation, Monitoring and Research

Where there is still insufficient information to properly assess the policy, appropriate and proportionate measures will be needed to fill the data gaps. Examples include one-off studies or surveys, or holding informal consultation exercises to supplement the available statistical and qualitative data.

If there is insufficient time before the implementation of the policy to inform the EINA, specific action points will be need to be clearly set out in the action plan. Steps must include monitoring arrangements which measure the actual impact and a date for a policy review.

Consultation:

What involvement/consultation has been done in relation to this (or a similar) policy/service/project and what are the results?

- Consultation has taken place with various teams within the council including financial and legal teams.
- Consultation has also taken place with other Local Authorities developing similar projects.
- Consultation has taken place within the Strategic Housing Options team to inform the way forward in terms of unmet needs and operational details.
- The multi-agency Homelessness Strategy Group has previously discussed the issue of trying to widen access for homeless households to the private rented sector and the challenges involved in doing this. This project intends to help address this for a number of households by ensuring direct access to such properties.

If you have not carried out any consultation, or if you need to carry out further consultation, who will you be consulting with and by what methods?

More consultation will happen should the proposal be agreed by Cabinet.

Further discussion will take place at the Strategic Housing Options team meeting. This team is responsible for discharging the Council's homeless duties.

The Homelessness Strategy Group will be consulted in detail regarding implementation if agreed by Cabinet.

Monitoring and Research:

What data, research and other evidence or information is available which is relevant to this EINA?

- Data on unmet housing needs is held within the Strategic Housing Options team. Up to 450 enquiries are made per month to the Council in relation to homelessness and approximately 4,000 households are on the Housing Register, the majority of which have an identified housing need.
- Poor access to the private rented sector for homeless households is well documented in national homeless literature because of the many barriers that exist and make many landlords reluctant to grant tenancies to this client group.
- Evidence is held within the Strategic Housing Options team about the support needs of some homeless households and therefore the need for robust housing management of such households and properties.
- The draft Dorset-wide commissioned Strategic Housing Market Assessment highlights local house prices, income levels and levels of unmet need estimated per Local Authority.

Is there any service user/employee monitoring data available and relevant to this policy/service/project? What does it show in relation to equality groups?

Data is collected by the Customer Centre in relation to clients approaching the Council with homelessness issues. The client group is very diverse and the Strategic Housing Options service is already well developed to help respond to this. Specialist advice and accommodation options are available for groups such as young people, offenders, victims of domestic violence, older people and people with learning disabilities. Household composition is varied in terms of household sizes including single people and families. Housing Officers in the team manage a caseload of households for whom we have a statutory homeless duty to assist and therefore there is detailed intelligence on the profile of this group for whom we hope the property portfolio will benefit. The client group will need to be able to manage independent living with limited support whilst others may be best suited to alternative accommodation based supported housing options.

If there is a lack of information, what further information do you need to carry out the assessment and how are you going to gather this?

None.

Assessing the Impact

	Actual or potential positive benefit	Actual or potential negative outcome
Age	It is intended that the property portfolio will involve properties of different sizes including family sized properties to provide accommodation for families with children.	Those with specific support needs may be best suited to alternative options of accommodation - some young people may require higher level supported housing or older people may be considered more appropriate for sheltered housing. Young people under 18 may not be able to access these properties because they cannot legally hold a tenancy. The location of properties may not suit the school needs of households with children. Consideration will need to be given to this when providing offers of accommodation to homeless households to try to address this although it may not always be possible.
Disability	The property portfolio will be varied to hopefully meet the needs of all households some of whom may have mobility issues. Disabled Facilities Grants can be applied for where relevant. Households with a disability may fall within a priority need category and therefore fall within the Council's statutory duty.	The acquisition of existing stock will mean that most will not meet the HCA mobility standards. They will however comply with building regs. If phase two of the project progresses including new-build then attention can be given to build standards to make sure they are as accommodating as possible. Ability for people with learning disabilities to fully understand tenancy conditions of the landlord. Need to ensure full explanation of tenancy expectations by using plain English and training staff regularly on the

	Actual or potential positive benefit	Actual or potential negative outcome
		needs of those with a learning disability. Recognising tenancy breaches which are affected by unmet support needs such as learning disabilities and mental health and addressing accordingly.
Gender		
Gender reassignment		
Pregnancy and Maternity	Households who are pregnant and with children will fall within a priority need category and therefore fall within the Council's statutory duty.	
Marriage and Civil Partnership		
Race		Ability to understand tenancy conditions of the landlord. Need to ensure full explanation of tenancy expectations and use translations/interpreters as appropriate. The Council may not have a homeless duty for people who are not eligible for public funds due to their immigration status. The tenancy checks now required by landlords will similarly mean that tenancies cannot be granted in these scenarios in line with national legislation.
Religion or Belief		

	Actual or potential positive benefit	Actual or potential negative outcome
Sexual Orientation		
Any other factor/ groups e.g. socio-economic status/carers etc		
Human Rights		

Stop - Any policy which shows actual or potential unlawful discrimination must be stopped, removed or changed.

If impacts have been identified include in the action plan what will be done to reduce these impacts, this could include a range of options from making adjustments to the policy to stopping and removing the policy altogether. If no change is to be made, explain your decision:

Action Plan

Include:

- What has/will be done to reduce the negative impacts on groups as identified above.
- Detail of positive impacts and outcomes
- The arrangements for monitoring the actual impact of the policy/service/project

Issue identified	Action required to reduce impact	Timescale	Responsible officer	Which Business Plan does this action link to e.g. Service Equality Action Plan/Team Plan
Young people not able to hold a tenancy	Consider the Council acting as guarantor for young people considered able to manage a tenancy under 18 for whom the Council has a statutory responsibility	Agree scope prior to first let	Project Manager	Project implementation plan
Disabled access	Seek a varied portfolio of properties within minimum space standards and consideration of issues such as ground floor accommodation and other mobility issues such as downstairs WC	Note in spec prior to property acquisition	Project Manager	Project implementation plan
Proximity to schools	Seek a varied portfolio of properties across the Town	Note in spec prior to property acquisition	Project Manager	Project implementation plan
Ability for people with learning disabilities to fully understand tenancy conditions of the landlord	Staff awareness refresher training of needs of people with learning disabilities. Full explanation of expectations with the use of advocates where appropriate	2015 (planned already)	Strategic Housing Options team	Strategic Housing Options team plan
Recognising tenancy breaches which are affected by unmet support needs such as learning disabilities and mental health and addressing accordingly.	Recording of support needs for each tenancy. Close and robust housing management to help identify issues early in order to best address them	Protocol in place before go live	Project Manager	Project implementation plan
	Mental health training for the team	2015 (planned already)	Strategic Housing Options team	Strategic Housing Options team plan

G2 Initial Risk Assessment



PROJECT NAME:

Housing & Property Holding Company

PROJECT NUMBER: *To be obtained from PMO*

PROJECT RISK LEVEL:

HIGH *

Table 1 - Suggested criteria on which to score the type of project (please tick appropriate category)					
CRITERIA				Score	
1) Duration of Project	0-6 months <input type="radio"/>	7-12 months <input type="radio"/>	Above 1 year <input checked="" type="radio"/>	6	
2) Effort	1-4 people (FTE) <input checked="" type="radio"/>	5-10 people (FTE) <input type="radio"/>	11+ people (FTE) <input type="radio"/>	1	
3) Business Impact	Service Unit/Service <input type="radio"/>	More than 1 SU <input checked="" type="radio"/>	Council/External <input type="radio"/>	6	
4) Priority	Desirable <input type="radio"/>	Highly Desirable <input checked="" type="radio"/>	Essential <input type="radio"/>	3	
5) Costs &/or Savings	Up to £250k <input type="radio"/>	£251k-£500k <input type="radio"/>	Over £501k or if project is to be funded through prudential borrowing <input checked="" type="radio"/>	28	
6) Risk Impact	Low Impact - Minor service disruption/inconvenience, minor injury, small financial loss, isolated service user complaint. <input type="radio"/>	Medium Impact - Service disruption, More serious injury or financial loss, adverse media coverage, numerous service user complaints <input checked="" type="radio"/>	High Impact - Significant or total service disruption, major disabling injury or fatality, high or catastrophic financial loss, adverse national media coverage, ministerial intervention in service running. <input type="radio"/>	5	
				Risk Score	49

A numerical rating is applied to each cell (see Table 1) For example a 'Priority' of 'Highly Desirable' is worth 3 points and a 'Cost' of '£501-£1m' is worth 5 points. Totalling the points scored for each 'criteria' gives a project score. This score is then mapped against a project-risk status in Table 1 below:

Table 1 - Risk Status	
Project Risk Rating	Points Total
Low	Between 10-18
Medium	Between 19-35
High	36+