WEST SURREY COUNCIL

COMPANY GOVERNANCE PROTOCOL

1. Introduction

1.1 Purpose

This Protocol establishes the framework through which the Council exercises oversight of its interests in Companies and other corporate entities.

The Protocol aims to:

- enable timely decisions to help Companies operate effectively;
- support effective governance;
- ensure accountability for the use of public resources;
- provide clarity regarding roles and responsibilities;
- protect the Council's investment and interests;
- support effective shareholder oversight and management of risk;
- facilitate appropriate democratic accountability; and
- promote good governance consistent with recognised local government and corporate governance principles.

Whilst this Protocol draws from recognised sources of good practice, the Code should be kept under review and updated from Council experience of working with companies (and their experience of working with the Council) and from lessons learned from elsewhere including:

- Delivering Good Governance in Local Government (2016) and the Addendum on Annual Review of Governance and the Annual Governance Statement (May 2025) (the CIPFA / SOLACE framework)
- Lawyers in Local Government (LLG), The Governance of Council Interests in Companies – Code of Practice (2018)
- Local Partnerships, Local Authority Company Review Guidance (2023)
- Best Value Guidance
- Code of Practice on Good Governance for Local Authority Statutory Officers (CIPFA / SOLACE / LLG framework) (July 2024)

1.2 Status of the Protocol

This Protocol forms part of the Council's governance framework and should be read alongside:

- Other parts of the West Surrey Council Constitution;
- the Scheme of Officer Delegations;

- any shareholder or member agreements (or the like) which are applicable to the entity;
- company articles of association (or partnership agreements in the case of LLPs);
- Members' Code of Conduct;
- Officer Code of Conduct;
- Council Code of Ethics; and
- relevant statutory and regulatory requirements.

Where any inconsistency arises, the Constitution and applicable legal requirements shall prevail.

The Monitoring Officer is the lead officer for this Protocol with support from the Chief Finance Officer, the legal and finance teams and Democratic Services as regards the company secretarial support to administer each company properly.

1.3 Scope

This Protocol applies to:

- companies wholly or jointly owned by the Council;
- companies in which the Council has membership rights;
- limited liability partnerships; and
- any other entity where the Council exercises significant ownership, membership, governance or control rights, or where there is significant risk for instance an unincorporated association where there is unlimited liability for the Council

In this Protocol, for the sake of brevity, all such entities are referred to as “companies” as this recognises that most of the Council’s entities fall into this category.

Appendix A to this Protocol provides a list of companies as of 1 April 2027.

1.4 Exclusions

This Protocol does not apply to appointments made by the Council to external organisations (outside bodies) where:

- the Council is not the sole or majority owner nor shareholder;
- the Council does not exercise governance control;
- the role is primarily representative in nature; or
- the organisation is an independent charity, voluntary organisation, community body, trust or similar external organisation.

Such appointments shall continue to be governed by the Council's arrangements for Outside Body Appointments.

2. Governance Principles

The following principles shall underpin all arrangements concerning Council companies.

2.1 Purpose

The establishment and continued operation of companies should support the Council's strategic objectives and deliver a clearly identified public benefit. Where companies are primarily commercial in nature without a service delivery aspect, then the public value and risk of the holding should be clearly identified by the Council when the company interest is established or reviewed.

2.2 Commercial Freedom

Companies should be afforded sufficient operational independence to enable them to fulfil their objectives and discharge directors' duties effectively.

2.3 Accountability

The Council shall retain sufficient oversight and governance arrangements to protect public resources and discharge its responsibilities as shareholder, member, lender, commissioner or strategic partner.

2.4 Clear Roles

The respective responsibilities of:

- the Council;
- the Executive;
- the Shareholder Sub-Committee;
- shareholder representatives;
- officers and councillors;
- directors; and
- company boards

must be clearly understood and respected.

2.5 Good Governance

The Council and its companies shall seek to operate consistently with recognised principles of corporate governance; candour, transparency, frankness, Public Officials Act principles, integrity, accountability and responsible decision-making.

3. Governance Framework

3.1 Separation of Governance Arrangements

The Council and each company operate as separate legal entities. The Council's governance arrangements and the governance arrangements of a company must remain distinct.

The Company Board is responsible for directing the affairs of the company.

The Council exercises influence through those rights reserved to it as shareholder or member. Those rights will be set out in the Articles of Association for a company (or other foundational document for other entities).

3.2 Governance Structure

The principal governance structure shall comprise:

Council

Responsible for adoption and amendment of this Protocol and inclusion in the Constitution, with advice provided by the Constitution Working Group and the Standards Committee.

Executive

Responsible for exercising executive functions relating to companies, except where delegated elsewhere.

Shareholder Sub-Committee

A sub-committee of the Executive which is responsible for exercising delegated shareholder functions on behalf of the Executive.

Shareholder Representative

An officer or an executive councillor, responsible for exercising shareholder rights:

- at General Meetings;
- through Written Resolutions;
- in relation to reserved matters delegated under applicable Articles or Shareholder Agreements.

The Shareholder Representative, where required, will be appointed by the Shareholder Sub-Committee. The Shareholder Representative must not be part of the Company Board and shall not direct company operations.

Officers and councillors

Officers and councillors may take on different roles, and must understand that their role as a director or a shareholder representative is distinct from their normal operational role and that conflicts of interest must be avoided.

Directors

Company directors have a legal duty to ensure that they are acting in the best interests of the Company. Where an officer or a councillor is appointed to a Board, there should be a clear understanding of the possible conflicts which may arise. (See the attached Conflict of Interest Policy).

Company Board

Responsible for management, strategy, risk management and operational oversight of the company. Directors will usually take collective decisions but this differs according to the constitution of each company.

Overview and Scrutiny Committee

Responsible for scrutiny of the effectiveness of the Council's company governance arrangements within the Council and company contribution to Council objectives. Note that the Overview & Scrutiny Committee do not have a role to scrutinise each company and its management; this is a shareholder function sitting with Shareholder sub-committee. Overview & Scrutiny can oversee the effectiveness and performance of the Shareholder Sub-Committee.

Audit and Governance Committee

Responsible for obtaining assurance regarding:

- the governance of wholly owned companies;
- the adequacy of company governance arrangements;
- compliance with this Protocol;
- management of governance risks; and
- assurance arrangements supporting company oversight.

Standards Committee

Keeping this Protocol under review and making appropriate recommendations to the Council for change.

4. Roles and Responsibilities

4.1 Executive

Executive shall:

- determine overall policy relating to Council companies;
- approve establishment, acquisition or disposal of companies where required; and
- receive strategic reporting regarding the Council's company portfolio.

4.2 Shareholder Sub-Committee

The Shareholder Sub-Committee shall act on behalf of the Executive in exercising shareholder functions delegated to it.

Functions may include:

- approval of business plans;
- consideration of company performance;
- monitoring strategic risk;

- approval of reserved matters (or delegating these to a single officer or executive councillor);
- Council director appointments where delegated;
- exercising shareholder decisions; and
- making recommendations to the Executive.

4.3 Shareholder Representatives

The Council may appoint an officer or an executive councillor to act as shareholder representatives.

Shareholder Representatives shall:

- exercise shareholder voting rights;
- attend shareholder meetings;
- exercise delegated shareholder powers;
- report back through the Council's governance framework.

Their authority shall be limited to that provided by:

- the Constitution;
- specific delegations;
- Articles of Association;
- Shareholder Agreements; or
- formal shareholder resolutions.

4.4 Statutory Officers

The Chief Executive, Chief Finance Officer and Monitoring Officer shall provide advice and assurance regarding:

- legality;
- governance;
- financial risk;
- compliance; and
- constitutional requirements.

5. Company Board Governance

The Board remains responsible for:

- company strategy;
- operational direction;

- financial sustainability;
- corporate performance;
- internal control;
- compliance; and
- risk management.

Nothing within this Protocol shall permit the Council, councillors or officers to fetter company directors in the discharge of their statutory duties.

Directors must act in accordance with their duties under the Companies Act and in the interests of the company.

6. Appointments to Company Boards

Appointments shall be:

- merit based;
- transparent;
- skills focused; and
- proportionate to the needs of the company.

The Council shall maintain a clear appointments process.

Board composition should seek an appropriate mix of:

- commercial expertise;
- financial expertise;
- sector knowledge;
- governance experience; and
- independent challenge.

Independent Non-Executive Directors should be considered for all significant Council companies.

7. Conflicts of Interest

The Council recognises that company governance can create actual, potential or perceived conflicts of interest.

All parties shall:

- identify conflicts;
- declare conflicts;

- record conflicts;
- manage conflicts appropriately.

A person acting as a company director owes their primary legal duty to the company.

Where an individual occupies multiple roles, appropriate governance arrangements must ensure independence of decision-making.

No individual shall participate in Council decision-making where a conflict exists which cannot be appropriately managed.

8. Reserved Matters

The Monitoring Officer shall maintain a schedule of reserved matters for each company.

Reserved matters may be contained within:

- Articles of Association;
- Shareholder Agreements;
- Members' Agreements; or
- other constitutional documentation.

Typical reserved matters may include:

- changes to constitutional documents;
- creation of subsidiaries;
- major acquisitions or disposals;
- significant borrowing;
- giving the Council formal notice of significant events;
- approval of business plans;
- appointment, remuneration and removal of directors;
- dividends; and
- winding up.

The Shareholder Sub-Committee may delegate certain reserved matter decisions, notifications or shareholder consents to an appropriate officer or executive councillor where such delegation is proportionate and consistent with the relevant constitutional documentation.

9. Business Planning and Performance Management

Each company is encouraged to maintain an approved business plan.

Business planning shall, as far as possible, align with the Council's financial planning and budget-setting cycle wherever practicable.

The Council shall establish arrangements for:

- annual business plan review;
- budget monitoring;
- performance reporting;
- risk reporting; and
- strategic review.

10. Reporting Arrangements

Companies shall be encouraged to provide reports at intervals determined by the Shareholder Sub-Committee.

Reporting should normally cover:

Financial Performance

- revenue performance;
- expenditure;
- balance sheet;
- cash flow;
- forecasts.

Strategic Performance

- delivery of objectives;
- key performance indicators;
- major projects.

Governance

- board activity;
- compliance matters;
- audit activity.

Risk

- principal risks;
- emerging risks;
- mitigation measures.

Reporting timetables should align with Council reporting arrangements wherever possible.

11. Strategic Review

The Council (through the Executive) shall periodically review each company to determine:

- continuing strategic fit;
- value for money;
- governance effectiveness;
- financial resilience;
- risk exposure; and
- alternative delivery options.

Strategic reviews of each Company should occur within 6 month of Vesting Day and thereafter at least once every three years, although more frequent reviews may be undertaken where circumstances warrant.

12. Assurance, Audit and Governance Reporting

The Council shall maintain appropriate assurance arrangements concerning company governance.

This may include:

- internal audit reviews;
- governance reviews;
- external audit recommendations;
- board effectiveness reviews;
- shareholder reviews.

The Audit and Governance Committee shall receive such reports as are reasonably necessary to discharge its assurance role.

Company governance arrangements shall form part of the Council's consideration of its Annual Governance Statement and wider governance framework.

Appendices

- Appendix A – List of Council interests
- Appendix B – Shareholder Sub-Committee Terms of Reference.
- Appendix C – Shareholder Representative Protocol.
- Appendix D – Director Appointment Framework.
- Appendix E – Conflicts of Interest Protocol.

- Appendix F – Model Reserved Matters Schedule.
- Appendix G – Company Reporting Framework.
- Appendix H – Company Assurance Framework

Appendix A

WEST SURREY COUNCIL COMPANIES

Companies limited by shares (of which the Council is a shareholder)

Companies limited by guarantee (of which the Council is a member)

Limited Liability Partnerships (of which the Council is a partner)

Unincorporated Associations (of which the Council is a member with unlimited liability)

(To be completed by the Monitoring Officer in readiness for 1 April 2027)

Appendix B

SHAREHOLDER SUB-COMMITTEE: TERMS OF REFERENCE

1. Purpose

The Shareholder Sub-Committee is established by the Executive to exercise such shareholder functions as are delegated to it in respect of companies and other corporate entities in which the Council has an ownership, membership or shareholder interest.

The purpose of the Sub-Committee is to:

- represent the Council's interests as shareholder or member;
- oversee the performance and governance of Council companies;
- exercise delegated shareholder powers;
- consider matters reserved for shareholder approval;
- appoint a shareholder representative (where required);
- protect the Council's investment and interests; and
- ensure that company activities remain aligned with Council objectives.

2. Status

The Sub-Committee is a committee of the Executive established under executive arrangements.

The Sub-Committee shall not:

- undertake company management;
- direct company officers or employees;
- substitute itself for the company board; or
- interfere with directors' statutory duties.

3. Membership

Membership shall comprise:

- a minimum of three and maximum of 10 Executive Members as appointed by the Leader;
- such substitute arrangements as may be approved by Executive.

The Chief Executive, Monitoring Officer, Chief Finance Officer and other officers may attend in an advisory capacity.

The Chair of Overview and Scrutiny may be invited to attend as an observer where appropriate.

4. Functions

The Sub-Committee may:

Governance

- exercise shareholder powers delegated to it;
- monitor compliance with this Protocol;
- oversee company governance arrangements;
- review governance concerns and emerging risks.

Business Planning

- review annual business plans;
- review strategic plans;
- consider variations to approved plans;
- monitor delivery against agreed objectives.

Performance

- receive performance reports;
- monitor financial and non-financial performance;
- consider value for money;
- monitor achievement of agreed outcomes.

Reserved Matters

Where delegated, determine shareholder decisions relating to:

- amendments to Articles of Association or equivalent;
- changes to ownership structures;
- creation of subsidiaries;
- major acquisitions or disposals;
- significant borrowing;
- appointment and removal of directors;
- approval of business plans;
- dividend decisions;
- winding-up proposals; and
- any other matters reserved to the Shareholder or Member as set out in the governing documents

Appointments

- recommend Council appointments and dismissals where necessary;
- undertake shareholder appointment functions delegated to it;
- oversee skills requirements for company boards.

Reporting

- report to Executive on significant matters;
- escalate matters requiring Executive approval.

5. Waivers

The Company Articles of Association form a statutory contract between the Company and its Shareholders. On occasion where the Company may not be able to fulfil a requirement of the Articles of Association it may seek a waiver from the Shareholder(s) to achieve a practical outcome. The Shareholder Sub-committee may be able to grant such waivers. This is only really practical for companies where the Council is 100% shareholder / member. (Noting that where a company is not 100% in the ownership / membership of the Council – then the agreement of other shareholders / members for a special resolution is required at a General or Extraordinary members meeting).

Waivers should be used sparingly after taking advice from the Monitoring Officer and Chief Finance Officer. Consideration should be given to making them specific and timebound. Where repeated requests for waivers are made by the Board then this should usually trigger a review of the Company Articles of Association.

6. Meetings

The Sub-Committee shall normally meet quarterly.

Additional meetings may be convened where necessary.

Reports may be considered in private where there is confidential information under consideration or lawful exemptions apply and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Appendix C

SHAREHOLDER REPRESENTATIVE PROTOCOL

1. Purpose

The Council may appoint one or more Shareholder Representatives to exercise shareholder rights on behalf of the Council.

The appointment of a Shareholder Representative shall not alter the governance responsibilities of:

- Executive;
- the Shareholder Sub-Committee;
- company boards; or
- individual directors.

2. Role

The Shareholder Representative may:

- attend Annual General Meetings;
- attend Extraordinary General Meetings;
- sign Written Resolutions;
- vote as shareholder;
- communicate shareholder decisions;
- exercise delegated shareholder functions.

3. Authority

The Shareholder Representative shall only act:

- within powers delegated by the Constitution;
- within authority delegated by the Shareholder Sub-Committee;
- in accordance with shareholder instructions; and
- within powers expressly conferred by Articles of Association or Shareholder Agreements.

The Shareholder Representative shall not create new policy, commitments or obligations without authority.

4. Reporting

The Shareholder Representative shall maintain a record of:

- shareholder meetings attended;
- resolutions considered;

- votes cast;
- decisions made under delegated authority.

All matters decided shall be reported to the next Shareholder Sub-Committee.

5. Other considerations

Where an officer or executive councillor acts as Shareholder Representative they shall:

- act impartially;
- obtain professional advice where necessary;
- take account of the advice of the Monitoring Officer and the Chief Finance Officer;
- exercise powers within delegated authority; and
- report any governance or financial concerns promptly.

Appendix D

DIRECTOR APPOINTMENT FRAMEWORK

1. Principles

Appointments shall:

- be merit-based;
- promote board effectiveness;
- support good governance;
- address identified skills requirements;
- support diversity and inclusion; and
- ensure independence from Council decision making as far as practicable.

The Council recognises that from time to time an officer or a councillor may be the appropriate choice to be nominated and appointed as a Council director on a company board. Where this happens, the Council should avoid nominating the Chief Executive, the Chief Finance Officer or the Monitoring Officer to companies unless there are exceptional circumstances.

2. Officers as Directors

Officers of the Council may be deemed to be the most appropriate appointment to the board of directors of a council company. The Shareholder Sub-Committee should ensure that the officer has the appropriate experience, training and understanding to ensure they are able to comply with their duties as a director. Employee officers owe a contractual duty to the Council to comply with the terms of their employment contract, any employee code of conduct and any Code of Ethics published under the Public Office (Accountability) Act. This will include obligations of confidentiality, particularly in respect of commercially sensitive information.

The Shareholder sub-committee should ensure that appropriate advice has been taken from Insurance and HR for such appointments and that the Council has relevant Directors and Officers indemnity insurance in place, and that employment terms and conditions have been reviewed. Insurance may be arranged via the Council or the Company.

3. Councillors as Directors

Councillors must comply with the Councillor Code of Conduct and any Code of Ethics published under the Public Office (Accountability) Act. Councillors also have duties of confidentiality, particularly in respect of commercially sensitive information towards the Council (and the company). As a councillor and a director of a council owned company, duties owed to the Company may at times conflict with duties as a councillor to the council, and vice versa.

Directors must ensure they make decisions in accordance what is best for the company; they must not act on behalf of or in promotion of the Council or their political party or their personal preferences. As a director, the councillor has a statutory duty to promote the

success of the company and to exercise independent judgement. If the councillor cannot do this without compromising their duty to the council, they should take advice from the Monitoring Officer about their continued role on the Board.

The Shareholder sub-committee should ensure that appropriate advice has been taken from Insurance for such appointments and that the Council has relevant Directors and Officers insurance in place for the councillor (either through the Council or the Company).

4. Board Composition

The Council will encourage company boards to maintain an appropriate balance of:

- executive directors;
- non-executive directors (which may include council nominated directors); and
- independent non-executive directors.

The composition of each board shall reflect:

- the company's purpose;
- the company's size;
- complexity and risk; and
- regulatory requirements.

5. Skills Assessment

Prior to appointments the Council shall consider:

- leadership experience;
- financial expertise;
- commercial experience;
- governance knowledge;
- strategic planning capability;
- legal or regulatory knowledge; and
- sector-specific expertise.

6. Appointment Process

Appointments may include:

- open recruitment or targeted recruitment;
- use of executive search services;

- assessment by the Shareholder Sub-Committee; and
- final nomination by the Shareholder Sub-Committee once these activities have taken place.

A documented assessment process shall be maintained and the objective is to adopt a position of candour, transparency and frankness for all appointments.

7. Induction

All appointed directors should receive appropriate induction covering:

- duties under the Companies Act;
- directors' responsibilities;
- company governance;
- financial responsibilities;
- risk management; and
- conflicts of interest.

Some of these will be delivered by the Company under its own arrangements. The Shareholder Sub-Committee shall maintain an oversight to ensure that this is delivered and the Monitoring Officer and Chief Finance Officer will ensure that Directors have the requisite training and support to be able to deliver the Council's requirements under the Company Governance Protocol.

8. Ongoing Development

Directors should undertake regular development and refresher training and this should be demonstrated to the Council in the annual assurance review.

9. Performance Review

The company board should undertake:

- annual board evaluation;
- periodic skills reviews; and
- periodic assessments of individual contribution.

10. Term of Appointment

Company appointments should be made in writing (by the Company) and reference a relevant Board or Shareholder Sub-Committee in order to specify:

- length of term of appointment;

- renumeration, expenses and benefits;
- renewal arrangements;
- review provisions; and
- removal provisions.

11. Declaration of Remuneration etc

By law, an officer or councillor appointed to a Council company may not receive additional remuneration from the company. This provision should also be reflected in the terms of appointment letter. Where applicable to the circumstances of the company any expenses or other benefits available to directors should be identified in the terms of appointment letter.

Officers and councillors are also remined to make appropriate declarations in their respective personal capacity:

- Register of Interests
- Related Party Transactions
- Register of Gifts and Hospitality

Appendix E

CONFLICTS OF INTEREST PROTOCOL

1. Purpose

The Council recognises that company governance arrangements may generate actual, potential or perceived conflicts of interest.

This Protocol provides a framework for identifying and managing such conflicts.

2. Conflicts of Interest

A conflict of interest is a situation that may arise when a person has competing interests and serving one of those interests could damage or harm the other interest. An interest might include something that benefits an individual, or it can be a duty which someone has taken on. In a local authority context this might typically be a situation where a councillor or officer has an interest outside their role with the local authority which could compete with their duties to the local authority.

Conflicts are not automatically generated by an interest. However, the line between a potential conflict of interest and an actual conflict of interest is both a fine distinction and a blurred one. It is easy to end up on the wrong side of it by accident. In situations where a relationship is built on trust, a perceived conflict of interest may be just as detrimental as an actual conflict.

Conflicts of interest can be actual, potential or perceived.

- **Actual** – as a result of various duties owed, there is a real conflict between the duties and interests of an individual.
- **Potential** – circumstances mean that there could be a conflict between duties and interests.
- **Perceived** - a third party could consider that there is a conflict between duties and interests.

3. Types of Conflict

There are different scenarios which may give rise to a conflict of interest.

Situational conflict. A situational conflict may arise if a director has duties and interests towards more than one organisation, for example if they are sitting on more than one company board and they are a councillor or officer of the Council. Under Section 175 Companies Act 2006, a director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. Any such conflict must be authorised by the remaining directors of the company to continue acting as a director. To ensure that situational conflicts are properly managed, councillors and officers who are appointed as directors of a Council company should declare their role to the Council and the company and seek ongoing guidance from the company secretary. Any declarations of interest should be clearly recorded in the minutes of board meetings.

Transactional conflict. A transactional conflict of interest may arise if a company enters into, or proposes to enter, a transaction or arrangement with a third party (including the Council). Transactional conflicts of interest relate to existing transactions or arrangements (section 182, Companies Act 2006) or proposed transactions or arrangements (section 177, Companies Act 2006). Under sections 182 and 177 of the Companies Act, if a director of a company is directly or indirectly interested in a proposed or existing transaction or arrangement with the company, they must declare the nature and extent of that interest to the other directors. Where the transaction or arrangement is a proposed transaction, a declaration to the other directors must be made before the company enters into the transaction or arrangement.

4. General Principles

Directors must:

- act lawfully;
- act transparently;
- declare relevant interests;
- avoid inappropriate influence; and
- withdraw from decision-making where necessary.

5. Directors' Duties

A director owes statutory duties to the company.

Where an individual acts as a company director, their primary legal responsibility as director is owed to the company.

Under the Companies Act 2006, there are general duties which require that directors:

- Section 171 - act within their powers in accordance with the company's constitution and use those powers only for the purposes for which they were conferred;
- Section 172 - promote the success of the company for the benefit of its members as a whole;
- Section 173 - exercise independent judgement;
- Section 174 - exercise reasonable care, skill and diligence;
- Section 175 - avoid conflicts of interest;
- Section 176 - do not accept benefits from third parties;
- Section 177 - declare an interest in a proposed transaction or arrangement.

6. Declaration of Interests

All relevant interests shall be declared promptly within the Company's arrangements and recorded appropriately and reviewed regularly. Officers or councillors appointed as a

Director should also ensure their respective declarations at the Council are updated to reflect declarations made at the Company.

7. Decision-Making

A conflict may arise at any time when carrying out different functions and it is therefore crucial that councillors and officers always reflect on the creation of conflicts within their day-to-day lives to make sure they are declared appropriately.

The content of this Protocol may assist to identify what a conflict may look like and what steps to take to either avoid that conflict or appropriately deal with it. Council appointed directors should give regard to the creation of a new conflict or the presence of an existing conflict when:

- Making a council decision which impacts the company
- When there are significant personal interests;
- There is a lack of scrutiny/oversight of own decisions and/or performance;
- Receiving gifts and hospitality;
- Accessing information, particularly information of a commercial or sensitive nature.

Where a conflict exists the director shall:

- declare the conflict;
- leave the meeting where required;
- take no part in the decision;
- comply with advice given by the Monitoring Officer.

8. Taking Advice

If you are not sure whether a conflict exists, it is advised that you should always err on the side of caution and take advice from the Company Secretary (or their nominee) and/or the Council's Monitoring Officer. If you are presented with the circumstances of having to making a decision and you are not sure whether there is a conflict of interest, if in doubt, it is best to take a cautious approach and ensure you do not participate in any decision making as either a company director, councillor or officer until such a time that you have sought the appropriate advice regarding the potential conflict.

9. Councillor Directors

Councillors appointed as directors must recognise that:

- they may not participate in Council decisions affecting the company where a conflict exists;
- company interests and Council interests will not always align;
- directors' duties remain paramount when acting as a director.

10. Officer Directors

Officers appointed as directors must ensure:

- separation of roles;
- appropriate reporting arrangements;
- compliance with officer conduct requirements.

11. Reporting Conflicts of Interest

If a conflict exists, you should:

- Notify the Company Secretary (or their nominee) of the conflict and notify the Council's Monitoring Officer as soon as possible and in any event prior to any further decision making.
- Declare any conflicts on a meeting by meeting basis on specific agenda items.

Appendix F

MODEL RESERVED MATTERS SCHEDULE

Unless otherwise provided in Articles of Association, Shareholder Agreements or other governing documents, the following matters should normally be reserved for shareholder approval. This will differ on a case-by-case basis given the risk exposure of each Council company. Shareholder Sub-Committee should consider the sufficiency of these arrangements at appropriate junctures and make recommendations to the Company (when receiving periodic reports) or Executive (as part of its strategic oversight) as appropriate.

Corporate Structure

- amendment of Articles of Association or other constitutional document;
- admission of new shareholders, members or partners;
- changes in share capital;
- creation of subsidiaries;
- acquisition of shares in other entities;
- mergers;
- restructures.

Governance

- appointment of directors;
- removal of directors;
- appointment of chair;
- appointment of auditors;
- adoption of governance policies.

Strategy

- approval of annual business plans;
- approval of strategic plans;
- material change in business activities;
- entry into new lines of business.

Finance

- arrangements for, and approval of, executive director remuneration
- borrowing above approved limits;
- provision of guarantees;
- security over assets;

- significant acquisitions;
- significant disposals;
- capital investment above approved thresholds;
- dividend declarations.

Property

- acquisition of major assets;
- disposal of major assets;
- grant of long leases;
- material property commitments.

Legal Matters

- commencement of major litigation;
- settlement of significant litigation;
- insolvency proceedings.

Corporate Existence

- cessation of trading;
- dissolution;
- winding up.

Delegation

Articles or Shareholder Agreements may provide for specific reserved matters to be exercised by designated officers including:

- Chief Finance Officer;
- Monitoring Officer;
- Chief Executive;
- Shareholder Representative.

Such delegations should be documented and recorded.

Appendix G

COMPANY REPORTING FRAMEWORK

1. Purpose

The purpose of this Framework is to establish consistent reporting arrangements between Council companies and the Council, as far as possible.

2. Reporting Principles

Reporting should:

- be proportionate;
- be timely;
- support effective shareholder oversight;
- support democratic accountability;
- avoid duplication.

3. Quarterly Reporting

Financial Performance

Companies should report:

- profit and loss position;
- balance sheet position;
- cash flow position;
- forecast outturn;
- budget variances; and
- lender covenants.

Strategic Performance

Companies should report:

- progress against business plan;
- performance indicators;
- major projects;
- service performance.

Governance

Companies should report:

- board meetings held;
- director attendance;

- governance issues;
- compliance matters.

Risk

Companies should report:

- key strategic risks;
- emerging risks;
- mitigating actions.

Reserved Matters

Companies should notify:

- actual reserved matters determined;
- anticipated future reserved matters.

4. Annual Reporting

Annual reports should include:

- audited accounts;
- annual business plan;
- strategic review;
- board effectiveness review;
- risk review;
- governance statement.

5. Exception Reporting

Companies shall notify the Council promptly regarding:

- significant financial deterioration;
- material litigation;
- regulatory investigations;
- significant governance failures;
- fraud or suspected fraud;
- insolvency concerns;
- matters creating significant reputational risk.

6. Alignment with Council Processes

Reporting timetables should, wherever possible, align with:

- budget setting;

- medium-term financial planning;
- quarterly finance monitoring;
- performance reporting;
- risk reporting;
- production of the Annual Governance Statement.

7. Review

The Shareholder Sub-Committee shall periodically review reporting requirements to ensure they remain proportionate to:

- the size of the company;
- financial exposure;
- risk profile;
- strategic importance to the Council.

Appendix H

COMPANY ASSURANCE FRAMEWORK

1. Purpose

This Appendix establishes the minimum governance, company secretarial and administrative arrangements that should be maintained by all entities within the scope of this Protocol.

Its purpose is to ensure that:

- entities remain compliant with legal and regulatory requirements;
- directors are properly supported in discharging their responsibilities;
- shareholder oversight can operate effectively;
- the Council can obtain assurance regarding governance compliance;
- appropriate records are maintained; and
- governance risks are identified and managed at an early stage.

2. General Principles

All entities shall maintain governance and administrative arrangements that are proportionate to:

- their size;
- complexity;
- financial exposure;
- risk profile; and
- strategic significance.

The Council expects governance standards equivalent to those that would be expected of a well-run independent commercial organisation.

3. Company Secretary and Governance Support

Each company shall maintain appropriate company secretarial arrangements.

Those arrangements may be provided by:

- an employed company secretary;
- a contracted governance provider;
- professional advisers;
- shared services arrangements; or
- another arrangement approved by the shareholder.

The company must ensure that appropriate support exists for:

- board administration;
- preparation of agendas;
- minute-taking;
- maintenance of statutory registers;
- Companies House filings;
- governance advice;
- constitutional compliance;
- maintenance of corporate records.

The company secretary (or equivalent governance officer) should have direct access to:

- the Chair;
- the Board;
- senior management; and
- shareholder representatives where appropriate.

4. Governance Records

The company shall maintain:

Constitutional Documents

- Certificate of Incorporation.
- Articles of Association (or equivalent)
- Shareholder Agreements or Members Agreements.
- Board Terms of Reference.
- Committee Terms of Reference.

Statutory* and other Registers

- Register of Directors* (and Directors Residential addresses*).
- Register of Members*.
- Register of Secretaries*
- Register of Persons with Significant Control*.
- Register of Allotments or share transfers.
- Register of Charges.
- Register of Conflicts and Interests.

- Register of Gifts and Hospitality.

Corporate Records

- Board agendas.
- Board reports.
- Board minutes.
- Committee minutes.
- Shareholder resolutions.
- Written resolutions.
- Annual reports.

Records shall be retained in accordance with legal requirements and approved retention schedules.

5. Council Records

The Council shall maintain a central record of all entities falling within this Protocol.

The central record should contain:

- ownership details;
- structure charts;
- governing documents;
- board membership;
- shareholder appointments;
- key contracts;
- audit arrangements;
- reporting requirements.

The Monitoring Officer shall maintain, or arrange for the maintenance of, this record.

6. Board Minutes and Governance Information

Approved board and shareholder minutes shall be made available to the Council subject to:

- legal restrictions;
- commercial confidentiality; and
- data protection obligations.

The Council shall maintain secure copies of:

- shareholder meeting minutes;
- shareholder resolutions;
- annual accounts;
- governance reviews;
- governance compliance reports.

This is intended to ensure continuity of corporate knowledge and provide assurance regarding governance compliance.

7. Statutory Compliance

Each company shall maintain procedures to ensure compliance with all statutory obligations.

This shall include:

Companies House Requirements

- Confirmation Statements.
- Annual Accounts.
- PSC filings.
- Director appointment filings.
- Director resignation filings.
- Registered office requirements.

Taxation Requirements

- Corporation Tax returns.
- VAT obligations.
- PAYE obligations.
- Other relevant tax requirements.

Regulatory Requirements

- Sector-specific requirements.
- Licensing obligations.
- Data protection obligations.
- Employment law obligations.

8. Annual Governance Compliance Review

Each company shall undertake an annual governance compliance review.

The review should confirm compliance with:

- This Protocol;
- Companies Act requirements;
- Articles of Association;
- Shareholder Agreements;
- reserved matter procedures;
- board governance requirements;
- statutory filing obligations;
- auditor requirements.

A summary assurance report shall be provided to the Shareholder Sub-Committee.

9. Professional Advice

Companies should obtain independent professional advice where necessary.

The Board should have access to:

- legal advice;
- accounting advice;
- taxation advice;
- governance advice;
- specialist commercial advice.

The Board must be able to seek advice independently of the Council where necessary for the proper discharge of directors' duties.

Nothing within this Protocol shall prevent directors obtaining independent advice where reasonably required.

10. Accounting Arrangements

Companies shall maintain appropriate accounting arrangements.

The Board shall ensure:

- proper accounting records are maintained;
- financial controls operate effectively;
- annual accounts are prepared on time;
- financial reporting is accurate and complete.

The Council's Chief Finance Officer shall have regard to these arrangements as part of the Council's overall assurance framework.

11. Audit Arrangements

Each company shall appoint appropriately qualified external auditors where required.

External auditors should:

- possess appropriate professional qualifications;
- be independent of company management;
- comply with relevant auditing standards.

Where group accounts are prepared by the Council, audit arrangements should facilitate effective communication and cooperation between:

- company auditors;
- group auditors;
- Council finance officers; and
- Council external auditors.

Companies shall provide such assistance as is reasonably required for group accounting and audit purposes.

12. Governance Health Check

At least annually, each company should complete a governance health check covering:

Governance

- Board properly constituted.
- Board induction and training completed.
- Conflicts appropriately managed.
- Reserved matters complied with.

Compliance

- Companies House obligations completed.
- Regulatory obligations completed.
- Required policies reviewed.

Financial Management

- Executive director remuneration agreed correctly;
- Accounts completed.

- Audit completed.
- Internal controls reviewed.

Shareholder Requirements

- Business plan reviewed.
- Reporting completed.
- Governance review completed.

The outcome shall be reported to the Shareholder Sub-Committee.

13. Escalation of Governance Concerns

The following matters shall be reported promptly to the Monitoring Officer and Chief Finance Officer:

- failure to file statutory returns;
- qualification of accounts;
- significant governance failures;
- regulator investigations;
- any fraud;
- significant litigation;
- director misconduct concerns;
- material breaches of Articles or Shareholder Agreements;
- inability to approve accounts;
- significant weaknesses in internal control.

The Shareholder Sub-Committee shall be informed where appropriate.