

Information/Discussion Paper

Overview and Scrutiny Committee

30 October 2023

Call in – Cheltenham Borough Homes

This note contains information to assist Members in dealing with this call-in request.

1. Why has this come to scrutiny?

- 1.1 On 17 October 2023, Cabinet considered a report in relation to [Cheltenham Borough Homes](#) and unanimously agreed the following recommendations:
- i. the work and commitment of Cheltenham Borough Homes over the last twenty years is acknowledged by Cabinet;
 - ii. the new regulatory framework for social landlords and the Council's Medium Term Financial Strategy is noted;
 - iii. the options for the future delivery of the Council's Housing Services are noted, and the Chief Executive, Executive Director for Finance, Assets and Regeneration, the Corporate Director and Monitoring Officer, and the Housing Partnership Manager are authorised to undertake the required review to support the Leader in deciding to wind-up Cheltenham Borough Homes;
 - iv. the creation of a consultation framework is commissioned in order to develop a Tenant Offer which will provide tenants and leaseholders with the opportunity to provide their view on the proposed change in management, state their priorities in shaping the future housing service provision, ensure their continued involvement, and complement the new consumer standards;
 - v. the consultation framework is acknowledged and the recommended tenant offer is subject to review by the Council's Overview and Scrutiny Committee upon their request;
 - vi. the Chief Executive is requested in consultation with the Leader and the Cabinet Member for Housing to develop a housing integration action plan;

- vii. the Housing Strategy and Partnerships Manager is appointed as the Council's Health and Safety lead, as detailed in Section 7 of this report. This will be subject to review following the winding up of Cheltenham Borough Homes.
- 1.2** In accordance with the Constitution, the decision is subject to the call-in provisions, which enable a Cabinet Decision to be called in if the Members wishing to exercise the call-in believe that the decision maker did not take the decision in accordance with one or more of the Principles of Decision Making as set out in [Article 13 of the Constitution](#).
- 1.3** A call-in request in relation to this decision was received by the Proper Officer within the call-in period and signed by Councillors Fifield, Flynn, Harman, Nelson and Seacome on 24 October 2023.
- 1.4** After due consideration of the call-in, the Proper Officer has accepted it as partially valid. Full details of the call-in and the response of the Proper Officer are set out in Section 2 below.
- 1.5** Under the rules of call-in, the request must be considered at a meeting of the Overview and Scrutiny committee within 10 working days. After consultation with the Chair of Overview and Scrutiny, the Leader and Cabinet Member it has been agreed that the call-in will be considered under urgent business at the ordinary meeting of Overview and Scrutiny scheduled for Monday 30 October.
- 1.6** Having considered the facts of the call-in and having received any representations from the Member(s) who submitted the request and the decision maker, Overview and Scrutiny Committee may:
- a. Support the decision without qualification or comment, in which case the decision can be implemented immediately; or**
 - b. Make adverse comments (with reference to the [Principles of Decision Making in Article 13](#)) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented immediately and the O&S Committee comments will be set out in a report to be considered by the decision maker; or**
 - c. Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from O&S Committee and decided how to proceed; or**
 - d. In exceptional circumstances (to be determined by O&S Committee and recorded in the minutes), refer the decision to Council for review or scrutiny.**

2. Proper Officer Review and Decision on Validity of Call-In

2.1 The call-in form as submitted has been reviewed by the Proper Officer and accepted as partially valid.

2.2 The following have been **accepted** and are the basis on which the call-in proceeds to the meeting on 30 October 2023 :

2.2.1 Principle (d) *The decision should be taken following due consultation and on the taking of professional advice from Officers*

- “Minimal notice to CBH staff.
- Lack of consultation with the CBH Board.
- If so many other local authorities ceased with their ALMOs several years ago (31 of the 70 had brought social housing back in-house by 2019), why has CBC waited until now? And why the sudden urgency?”

Proper Officer Response:

The question of engagement and consultation with both the CBH Board and Staff is one that is a matter of judgement so call-in can explore this further. In addition, the question relating to the reduction in ALMOs and why the decision has been taken now is something that a call-in can examine but this would be more appropriately aligned with principle (g) aims and desired outcomes.

2.2.2 Principle (g) *There shall be clarity of aims and desired outcomes*

“The comments made in the Cabinet meeting support parts of the report that talk about funding gaps and financial benefits, yet the benefits to those most affected by the decision, the tenants, are unclear. We may have misunderstood but we think the financial benefits come from shifting some kind of spending from the housing revenue account to the general fund account with cuts then having to be made in services already funded by the housing revenue account. Regulatory changes are cited as necessitating the change but recent legislation emphasises that the local authority has final responsibility for health and safety in its homes so we don’t see how this is relevant.”

Proper Officer Response:

If Members state they are unclear on the articulation of potential benefits contained within the report this can be explored further as part of the call-in process.

2.3 The following parts of the call-in are **not accepted** as valid:

2.3.1 Principle (a) *The decision must be lawful and in accordance with all statutory and regulatory requirements and the Constitution.*

“We believe CBC has breached the Regulator of Social Housing’s Consumer Standards, the tenant involvement and empowerment standard, by making the decision to change the way homes are managed without consulting with tenants. A Member of this group has requested that the Regulator investigate.”

Proper Officer Response:

The recommendations are in line with the statutory and regulatory requirements and the constitution. External legal advice was sought on the recommendations specifically in the context of the legislative and regulatory environment and the legal implications were contained within the report.

The recommendations clearly request that officers undertake the required review to support the Leader in deciding to wind-up Cheltenham Borough Homes. It also recommends the creation of a consultation framework which will provide tenants and leaseholders with the opportunity to provide their view on the proposed change in management, state their priorities in shaping the future housing service provision, ensure their continued involvement and complement the new consumer standards.

Section 10.3 of the report further emphasises and underlines the recommendations because it states that for the option of winding up CBH as a company that consultation ‘would be required and recommended in accordance with the legal and regulatory framework.’

This clearly indicates that the report and its recommendations commit the council to consultation prior to the Leader taking the decision to wind up CBH as a company. In addition, the cabinet paper also includes a commitment to involving Scrutiny going forward and I understand that a task and finish group has been discussed with draft Terms of Reference being created. This adds further assurance on Members having oversight of any future consultation.

2.3.2 Principle (f) *There shall be a presumption in favour of openness*

“All discussion on the decision took place and the report published without informing those most affected, the tenants, or the bank bench councillors who represent those tenants; as well as members of the CBH Board and CBH staff.

The apparent speed with which the recommendation (decision) has been made – the Campbell Tickell report was only submitted at the end of September 2023.”

Proper Officer Response:

This decision was taken in a full public meeting. In addition, the item was placed on the public Forward Plan (over 28 days’ notice), well in time for

the October meeting which aligns with the requirements of the constitution. While Members may judge the decision surrounding CBH is of greater significance than perhaps others going to Cabinet, the report on CBH met the same test as all other reports presented to Cabinet. This point on call-in could only be accepted had the CBH report been treated differently e.g. not been placed on the Forward Plan or published late.

- 2.3.3** Principle (h) *Due consideration shall be given to all objections could apply because this has come out of the blue and no opportunity has been given for members or tenants to object.*

Proper Officer Response:

This is not considered relevant or applicable; again, the council has committed to consultation.

- 2.3.4** Principle (d) *The decision should be taken following due consultation, and on the taking of professional advice from Officers*

“The lack of communication with Members and the short notice given to Members (Member Seminar arranged for Friday afternoon October 6th) of the decision going to Cabinet on Tuesday 17th, thus already past the deadline for questions to be submitted to Cabinet (noon Friday 6th).”

- No consultation with tenants

Proper Officer Response:

Please refer to the previous response with regard to tenant consultation, the report has committed to consultation prior to the decision to wind-up the company. There also is no requirement to brief all Members. As stated above, the report and Forward Plan were all published in accordance with the constitution. In addition, the constitution also sets the deadlines for questions for Cabinet and it is a matter for Council as to when question deadlines are set via the constitution which is agreed by Council.

3. Summary of evidence/information

- 3.1** At the Call-in meeting the Members who have submitted the call-in will outline the reasons why they feel a call-in is appropriate.

- 3.2** The following witnesses have been invited to attend:

- Leader of the Council, Councillor Rowena Hay
- Cabinet Member Housing, Councillor Victoria Atherstone
- Chief Executive, Gareth Edmundson

- 3.3** The witnesses will be advised of the potential line of questioning in advance of the meeting. This is intended to provide the broad line of questioning to assist the witnesses in their preparation, but Members may wish to ask additional

questions at the meeting.

Appendices

1. Cabinet report – 17 October 2023
2. Extract from the draft minutes of Cabinet (17 October 2023)

Background Information

[Overview and Scrutiny Rules](#) – Part 4D, CBC Constitution

Contact Officer

Bev Thomas,
Democratic Services Team Leader
01242 264246
bev.thomas@cheltenham.gov.uk