

**Cheltenham Borough Council
Cabinet – 17 July 2012**

**Proposed changes to the composition of the board of directors of
Cheltenham Borough Homes**

Accountable member	Leader, Councillor Steve Jordan
Accountable officer	Jane Griffiths, Director of Commissioning
Accountable scrutiny committee	
Ward(s) affected	None
Key Decision	Yes
Executive summary	<p>In November 2010, Cheltenham Borough Homes (CBH) considered whether to reduce the size of its board in accordance with guidance from the national housing federation. The current size of the board is 15 and following a review by a CBH Governance Working Group they have come to the conclusion that they would like to keep the board at 15. The review group however also concluded that there should be changes to the way in which tenant and leaseholder board members and independent board members are appointed.</p> <p>The social housing regulator has recently set out the regulatory framework for social housing which indicates there needs to be co-regulation to enable tenants to shape the delivery of the service they receive.</p> <p>This report sets out the implications for the changes along with the updated articles and also how the communication and consultation between the two organisations operates to ensure that it meets the requirements of the regulator. With regard to communication on CBH internal structural matters, it is being recommended that CBH be required to consult with CBC prior to it making any alterations to the structure of its senior leadership team.</p>
Recommendations	<p>To approve board membership of 15 members with effect from October 2012 to be comprised of 4 tenants and 1 leaseholder) (appointed by a panel), 5 independents (appointed by a panel) and 5 Councillors (appointed by the Council).</p> <p>To agree that Cabinet Members are not eligible to be a board member of CBH</p> <p>To agree the changes to the articles of association as set out in appendix 2 .</p> <p>To delegate authority to Director Commissioning in consultation with the Borough Solicitor to amend the provisions of the Management Agreement to include the requirement for CBC to be consulted upon any proposals to alter the structure of CBH’s senior leadership team</p>

Financial implications	No financial implications Contact officer: Paul Jones, head of finance, GO shared service , paul.jones@cheltenham.gov.uk, 01242 775154
Legal implications	<p>The decisions that Cabinet is being asked to make in this report can be made by the Leader exercising his delegated powers. However, the Leader also has the power under the constitution to refer these matters to Cabinet for a decision.</p> <p>If Cabinet agrees the amendments to CBH's Articles of Association, a written resolution to give effect to the changes to the Articles will need to be signed by the Leader.</p> <p>The report refers to CBC approving the members to sit on the CBH board. The Leader can appoint these members with the approval of the Group Leaders. If approval is not given, Council will make the appointments.</p> <p>The different roles of CBC as sole member, council representative (under the Management Agreement) and Board member are set out in appendix 3.</p> <p>Contact officer: Peter Lewis E-mail: peter.lewis@tewkesbury.gov.uk Tel no: 01684 272012</p>
HR implications (including learning and organisational development)	No HR implications Contact officer: Julie McCarthy, GO shared service , Julie.McCarthy@cheltenham.gov.uk, 01242 264355
Key risks	The risks are set out at appendix 1. The key risks are the change in appointment process for tenants which may discourage some tenants from coming forward or that the tenants are not seen as truly representative and the potential risk of the perception of the loss of relationship of the company to tenants and the council with an increase in independent members.
Corporate and community plan Implications	None
Environmental and climate change implications	None

1. Background

- 1.1 In November 2010, Cheltenham Borough Homes (CBH) considered whether to reduce the size of its board in accordance with guidance from the national housing federation. The current size of the board is 15 and following a review by a CBH Governance Working Group (GWG) they have reached the conclusion that at the current time the board size should remain at 15. They do however take the view that over time they may wish to see a reduction to a board of 12.

- 1.2 In April of this year, the social housing regulator issued a regulatory framework for social housing, which includes the principles of co-regulation. Registered providers are required to meet the relevant standards and boards and councillors who govern service delivery are responsible for the standards. The principle of co-regulation also ensures that providers support the tenants to help shape and scrutinise service delivery and to hold boards and councillors to account.
- 1.3 The regulations are clear that governance arrangements should be fit for purpose and reflect the complexity and risk profile for the organisation. Boards and councillors need to set clear objectives and develop a forward looking strategy that enables their organisation to make the most of future opportunities and mitigate potential risks. There should be a continuous focus on effective financial management and improving value for money.

2. Reasons for recommendations

- 2.1 CBH value the work of the current board members but the national housing federation has recommended that boards should be no greater than 12 members to enable a manageable size which facilitates proper discussion and engagement at board meetings about risks and objectives. However it is recognised that currently there have been or will be a number of changes to board membership and it is important to ensure that there is a good skills mix to enable the board to function effectively and therefore a board of 15 with equal representation from the three groups is the most appropriate at the current time. All directors can serve for a maximum of nine years term of office.
- 2.2 The GWG felt that the procedure in place for the recruitment of independent members remained fit for purpose, and independent members bring a range of skills and expertise from the private sector. It is acknowledged however that to ensure transparency any panel appointing new board members should include at least one council, one tenant board member and an independent and the procedures for appointments have been updated. The CBH board appointments panel will now include up to four of its current members (one of which must be the chair of the board). The panel will also include the Chief Executive of CBH.
- 2.3 The Council appoints the council nominations to the board. The council always has members who are willing to volunteer to be appointed but in order to assist members in determining whether they wish to put their names forward for nomination, members will be given an outline of the responsibilities of a board member, the time commitment and the skills which make for an effective company board member. It is proposed that Cabinet members should not be members of CBH board as this could potentially lead to conflict of interest. The lead Cabinet Member can attend the CBH board meetings as a non voting observer and receives copies of all the board papers.
- 2.4 Currently, tenants are required to undergo an election process in order to become (and remain) a board member. October 2011, CBH Board approved the recommendation that all future prospective Board members should be subject to an interview process for the position. It is recognised that this could be potentially daunting for tenants and leaseholders and therefore it is proposed that the 'interview' should be more of an informal assessment. It is proposed that the leaseholder appointment would also be on the same basis. Tenants and leaseholders will be invited to attend 'Meet the Board' sessions to be held within the neighbourhoods. The Community Involvement Team will assist in encouraging prospective members to put themselves forward for the assessment process. In this way, the Board will be able to assess the individual's skills and provide training where necessary so that new members can make an effective contribution to the Board. Any such assessment process would include both council and tenant/leaseholder board members. The assessment process would replace tenant elections.
- 2.5 Under Part 3 of the constitution which was approved by Council and the Leader this year the

executive functions state that the Leader of Council represents the authority as shareholder or member of a company in which the council holds an interest. Cabinet Members have executive functions for services within their portfolio which enables them to monitor the contracts and service level agreements in respect of all non internally provided service level agreements and in the case of CBH, the management agreement. It therefore makes sense from a transparency point of view for these two roles to be kept separate. The Council as sole member of CBH has the power to appoint or remove board members but in the interests of co-regulation it makes sense for the appointments to be undertaken through an appointment process.

- 2.6 The management agreement sets out the relationship between the council and CBH and the role of the council representative (which is the Cabinet Member with the portfolio for housing). Clause 54.2 says that the representative shall have the power to issue instruction to CBH on any matter relating to the provision of services and CBH shall comply subject to the ability of CBH to challenge should the instructions significantly vary the fundamental nature of the service. In practical terms it is the commissioning division which undertakes day to day monitoring of the agreement.
- 2.7 CBH have also recently updated their scrutiny arrangements. These new arrangements will enable CBH to meet the principles of co-regulation and the council will need to ensure that there is a linkage between this group and its own scrutiny arrangements. This group could be asked to nominate tenants to sit on task and finish groups and could receive reports from the group in their own right where issues have arisen which impact on the council or the services it delivers.
- 2.8 Currently, the management agreement at clause 50.1 states that CBH will notify the council's representative of any amendments in CBH's staffing structure. It has been agreed that CBH will consult CBC before making any changes to the structure of the senior leadership team and the management agreement should be amended accordingly.

3. Alternative options considered

- 3.1 The GWG considered alternatives which included a board composition of 3 tenants, 3 councillors and 3 independent plus two other board members who would not be sector specific but appointed because of the skills they brought to the table. The council are not in favour of this option as it was unlikely that these additional board members would be tenants and it was felt that the composition of the board should be of equal weighting.
- 3.2 The board currently does not have the opportunity for leaseholder representation. This could continue as the proportion of leaseholders to tenants is lower but it would seem appropriate to enable them to put their names forward for appointment as they may bring a different range of skills and expertise.
- 3.3 The appointment process for the tenant and leaseholders could continue as now via election but the proposals as set out above enable a more transparent process and ensure that the board has the right level of skills and representation. Tenants would be invited to attend 'Meet the Board' sessions to be held within the neighbourhoods. The Community Involvement Team would assist in encouraging prospective members to put themselves forward for the assessment process. In this way, the Board would be able to assess the individual's skills and provide training where necessary so that new members could make an effective contribution to the Board. The assessment process would replace tenant elections.

4. Consultation and feedback

- 4.1 Paul Davies, the then Chief Executive and Lawrence Boyd, Chair of the Board of Cheltenham Borough Homes attended the Social and Community Overview and Scrutiny Committee on 9

May 2011 and outlined the proposal to reduce the board membership.

- 4.2 The proposals have been discussed several times at CBH board meetings where tenant and council representatives have been able to put forward their views.

5. Performance management –monitoring and review

- 5.1 The management agreement with CBH is monitored through regular officer meetings and update meetings with the cabinet lead. As the company moves to a new board structure the governance issues will be kept under review particularly with regards tenant representation to ensure that tenants are able to fully engage with the management of the company.
- 5.2 The CEO and chair of CBH will meet with the CEO of CBC and leader bi-monthly to ensure that company issues as opposed to service delivery issues are aired and discussed. The cabinet lead will meet with senior officers from CBC ahead of board meetings to ensure that any issues are fed into the board meetings and it will be their responsibility to feedback to council and cabinet as appropriate.
- 5.3 A formal communications protocol will be agreed by the acting chief executive officer and corporate services director from CBH and the director of commissioning from CBC in consultation with the chair of CBH and the leader and cabinet lead for CBC. The protocol will be in place by the end of the calendar year. CBH will also produce a Communication Strategy in 2012 which includes this plus how it intends to communicate with residents, staff and partners. It is also proposed that twice per year there are joint meetings between cabinet and board representatives and senior officers to consider joint strategic issues.

Report author	Contact officer: Jane Griffiths, director of commissioning, jane.griffiths@cheltenham.gov.uk, 01242 264126 Nicola Templeman, corporate services director, CBH nicola.templeman@cheltborohomes.org 01242 775321
Appendices	1. Risk Assessment 2. Articles of Association
Background information	None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-4	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If not managed appropriately the selection process could discriminate against particular groups	Nicola Templeman (CBH)	May 2012	2	3	6	R	Consideration should be given to ensuring that the composition of the board aims to represent diversity in Cheltenham and that those groups with protected characteristics who are currently under represented on the board are actively encouraged to apply. Future board member recruitment will be subject to equality analysis	Ongoing	Caroline Allen (CBH)	CBH risk register
	If the recommendations are not accepted then the Board structures may not be appropriate to manage and control CBH activities	Nicola Templeman (CBH)	May 2012	2	3	6	R	The proposals outlined in the report will enable CBH to meet its obligations under the the co-regulatory approach for housing providers	June 2012	Caroline Allen (CBH)	CBH risk register 4.12