

**Agenda Item No: 6**



Report of Overview and Scrutiny Committee to Cabinet

**O&S Recommendations to Cabinet – A Better Choice for Property Ltd**

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**The Overview and Scrutiny Committee recommends to the Cabinet:-**

- I. That the Board of Directors for A Better Choice for Property Ltd produce a statement for Members clarifying whether the company will seek to acquire or provide properties outside of the borough.
  - II. That the appointment of non-executive Directors to A Better Choice for Property Ltd should be subject to appropriate background and credit checks being completed and the adoption of an anti-bribery and fraud policy.
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**Date of O&S meeting:** Tuesday 28 August 2018

**Chair of O&S Committee:** Cllr Brendan Chilton

**Date of Cabinet Meeting:** Thursday 8 November 2018

**Key Decision:** No

**Significantly Affected Wards:** None specifically

**Relevant Portfolios:** Corporate Property and Projects  
Finance and IT

**Management Team Comment:** Management Team has considered the report of the Overview and Scrutiny Committee (see paragraphs 13-16) and recommends the following:

**Recommendation 1 – ADOPT**

**Recommendation 2 – ADOPT**  
(for future non-executive director appointments)

**Background  
Papers:**

**A Better Choice for Property Ltd – Trading Company,**  
report to Overview and Scrutiny Committee, 22 May 2018  
**Minutes of Cabinet,** 19 July 2018

**A Better Choice for Property Limited (Report of the  
Director of Law and Governance) (CONFIDENTIAL),**  
report to Overview and Scrutiny Committee, 28 August 2018

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## O&S Recommendations to Cabinet – A Better Choice for Property Ltd

### Introduction and Background

1. During scrutiny of the council's draft 2018/19 budget, the Budget Scrutiny Task Group felt that there would be benefit in the full Overview and Scrutiny Committee examining the governance arrangements and performance of the council's trading company, A Better Choice for Property Ltd, and the Trading and Enterprise Board.
2. The Portfolio Holder for Corporate Property and Projects; Portfolio Holder for Finance and IT; Deputy Leader (as the shareholder representative for the council and chair of the Trading and Enterprise Board) Director of Finance and Economy; Head of Corporate Property and Projects, Interim Head of Finance, Head of Legal and Democracy and Senior Accountant attended the Committee on 22 May 2018 and presented a number of reports relating to the company's history, business planning and trading activity; as well as reports relating to the governance arrangements for the company and the Trading and Enterprise Board (TEB).
3. From discussion of the reports presented at this meeting, the Overview and Scrutiny Committee made five recommendations to Cabinet relating to the governance of the TEB and A Better Choice for Property Ltd; being:
  - i) **That the six monthly updates to TEB should include a table setting out affordable social rented property, local needs housing and specific accommodation for vulnerable people provided by the property company.**
  - ii) **That TEB's right to appoint or remove Directors of the company is no longer subject to approval by the Leader.**
  - iii) **That an experienced non-executive Director be appointed to the property company to minimise the risk of governance failings**
  - iv) **That a firm be appointed to carry out a review of the tax affairs of the property company and address whether the UK Corporate Interest Restriction rules apply to the property company as it is 'grouped' with the council and whether the Criminal Finances Act 2017 could apply to councillors.**
  - v) **That the financial regulations of the company are changed to ensure that a Director can no longer act singularly to purchase property.**
4. These recommendations were submitted to the Cabinet at its meeting of 12 July 2018, where the Cabinet resolved to note the five recommendations for

further examination and report back to the Chairman of the Overview and Scrutiny Committee in due course.

5. Following consideration of these recommendations (the May recommendations) by Cabinet, the Overview and Scrutiny Committee resolved at its meeting of 24 July 2018 that further scrutiny of the TEB and A Better Choice for Property Ltd was required in light of matters arising from the Trading and Enterprise Board meeting of 9 July 2018 and the Full Council meeting of 19 July 2018.
6. At its meeting of 28 August 2018 the Committee considered papers prepared by the Director of Law and Governance, Director of Finance and Economy and Head of Legal and Democracy in respect of the company, TEB and resolutions made by both Council and TEB.

### **May Recommendations**

7. Noting that the May recommendations made by the Overview and Scrutiny Committee had not been adopted or rejected by the Cabinet, Members reviewed these in light of the papers presented. Members noted that the original aims of the company as reported to Cabinet in 2013 included the provision of homes on a variety of tenures, including social and intermediate rents as well as market rents and outright sale, however this had been changed in response to market conditions in 2016 with the company resolving to provide properties at market rents.
8. The Committee noted that its previous recommendation 2 had now been implemented with the approval of revised governance arrangements by the TEB at its meeting of 9 July. The Committee also noted that the appointment of experienced non-executive directors had been made to the company as per its previous recommendation 3.
9. Members noted advice given on the financial operation of the company by various bodies at the company's inception and at the point of drawing down loans from the council and the report of the independent auditors of the company satisfied the committee's prior concerns regarding transfer pricing and the company's status.
10. Members had previously expressed concern regarding the alterations to the company financial regulations in respect of permitting Directors of the company to act singularly in approving property purchases by the company and were pleased to note that this had been amended to require that all property purchases were put to a vote of the Company Board as per the committee's previous recommendation 5.

### **August Recommendations**

11. In reviewing the report of the Director of Law and Governance and Head of Legal and Democracy presented to TEB on 8 August 2018, Members felt that the proposed company objectives contained within the report were unclear

regarding the intended scope of the property company's operations, and felt that the Board of Directors for the company should produce a statement for Members clarifying whether the company will seek to acquire or provide properties outside of the Borough of Ashford (**Recommendation 1**).

12. Members also felt that there would be benefit in the appointment of non-executive directors of A Better Choice for Property Ltd being subject to the completion of appropriate background and credit checks and the adoption of an anti-bribery and fraud policy (**Recommendation 2**).

## **Management Team Comment**

13. Management Team has considered the report and wishes to submit the following comments for the attention of the Cabinet.

### **Recommendation 1**

14. One of the principal aims of the council in setting up A Better Choice for Property Ltd was the generation of an income stream for the council to off-set the withdrawal of formula grant by central government, and whilst the company's acquisitions to date have been entirely within the Borough of Ashford, Management Team are of the opinion that the company should not be precluded from pursuing viable opportunities to deliver against its objectives on the basis of geographical location.
15. Management Team have no objection to the production of a clarifying statement for Members and would advise Cabinet to **adopt recommendation 1**.

### **Recommendation 2**

16. Management Team support the introduction of additional background checks and the adoption of anti-bribery and fraud policies for future non-executive director appointments to the company and would advise Cabinet on this basis to **adopt recommendation 2**.

## **Conclusion**

17. The Overview and Scrutiny Committee thanks the Portfolio Holders and Officers for their attendance and the reports presented, and recommends the following to Cabinet:
  - i) **That the Board of Directors for A Better Choice for Property Ltd produce a statement for Members clarifying whether the company will seek to acquire or provide properties outside of the Borough.**
  - ii) **That the appointment of non-executive Directors to A Better Choice for Property Ltd should be subject to appropriate background and credit checks being completed and the adoption of an anti-bribery and fraud policy.**

## Contact and Email

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