

Borough Council of
**King's Lynn &
West Norfolk**



Shareholder Committee

Agenda

Tuesday, 23rd April, 2024
at 11.00 am

in the

Council Chamber
Town Hall
Saturday Market Place
King's Lynn

Remote Meeting on Zoom and available for the public to view on
[WestNorfolkBC on You Tube](#)



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
Telephone: 01553 616200

Dear Member

Shareholder Committee

You are invited to attend a meeting of the above-mentioned Task Group which will be held on **Tuesday, 23rd April, 2024 at 11.00 am** in the **Council Chamber, Town Hall, Saturday Market Place, King's Lynn PE30 5DQ** to discuss the business shown below.

Yours sincerely

Chief Executive

AGENDA

1. **Minutes of the previous meeting** (Pages 5 - 7)
2. **Apologies for absence**
3. **Declarations of Interest** (Page 8)

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

4. **Chair's correspondence**
5. **Members present under standing order 34**

To note the names of any Councillors who wish to address the meeting under Standing Order 34.

Members wishing to speak pursuant to Standing Order 34 should inform the Chair of their intention to do so and on what items they wish to be heard before a decision on that item is taken.

6. Urgent Business

To consider any business, which by reason of special circumstances, the Chair proposes to accept, under Section 100(b)(4)(b) of the Local Government Act 1972.

7. Committee Forward Plan (Pages 9 - 11)

8. Shareholder Committee Terms of Reference (Pages 12 - 15)

9. Responses from West Norfolk Housing Company and West Norfolk Property Company on Section 21 Notices (Pages 16 - 24)

10. Date of future meeting

post 11th June – tbc

11. Exclusion of the Press and Public

The Committee is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the items below on the grounds that they involve the likely disclosure of exempt information as defined by paragraphs 3 and 5 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PRIVATE ITEM

Details of any representations received about why the following reports should be considered in public will be reported at the meeting.

12. Housing Companies Financing (Pages 25 - 224)

To: **Shareholder Committee:** A Beales, C Morley and S Ring

Officers

Alexa Baker, Monitoring Officer

Michelle Drewery

Debbie Gates, Executive Director Head of Central & Community Services

Lorraine Gore, Chief Executive

Geoff Hall, Executive Director, Development and Environment

Honor Howell, Assistant to the Chief Executive

Oliver Judges, Executive Director

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

SHAREHOLDER COMMITTEE

**Minutes from the Meeting of the Shareholder Committee held on Monday,
20th November, 2023 at 3.15 pm in the Council Chamber, Town Hall,
Saturday Market Place, King's Lynn PE30 5DQ**

PRESENT: Councillor A Beales (Chair)
Councillors C Morley and S Ring

An apology for absence was received from Councillor

1 MINUTES OF THE PREVIOUS MEETING

RESOLVED: The Minutes of the meeting held on 23 October 2023 were agreed as a correct record and signed by the Chair.

2 DECLARATIONS OF INTEREST

None

3 CHAIR'S CORRESPONDENCE

None

4 MEMBERS PRESENT UNDER STANDING ORDER 34

Councillor Kemp was present in person.
Councillor Ryves was present for part meeting on zoom.

5 URGENT BUSINESS

None

6 COMMITTEE FORWARD PLAN

RESOLVED: The Committee's workplan was noted.

7 REVIEW OF WEST NORFOLK HOUSING COMPANY GOVERNANCE DOCUMENTS

The Committee was informed that West Norfolk Housing Company had reviewed their governance documents to ensure compliance with the latest legislation and regulations. In accordance with the Shareholder Agreement, amendments to the company's Memorandum and Articles of Association must be approved by the council as the Shareholder.

The amendments were considered and noted.

RESOLVED: That the proposed amendments to the memorandum and Articles of Association for West Norfolk Housing Company be noted and the amendments be agreed.

Reason for Decision

To ensure West Norfolk Housing Company's governance documentation continues to be compliant with the latest legislation and regulations as well as the new NHF Code of Governance which the Board of Directors has agreed to transition towards.

8 **DATE OF FUTURE MEETINGS**

The following meeting dates were noted:

22 January 2024 at 4.00pm

20 March 2024 at 3.00pm

9 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED: That under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.

10 **WEST NORFOLK HOUSING AND WEST NORFOLK PROPERTY COMPANIES BUSINESS PLANS**

The Committee considered a report which set out that the council's wholly owned housing companies were West Norfolk Housing Company, and West Norfolk Property.

The Shareholder Agreements for the companies were explicit that each company Board of Directors shall provide a draft updated business plan annually for the Shareholder to comment on and to endorse the plan. The business plans were not able to be adopted or varied unless the Shareholder had given consent.

Appended to the report were the draft business plans for West Norfolk Housing Company and West Norfolk Property for consideration by the Shareholder Committee. Comments would be conveyed to the company boards to consider. The final draft would be presented to the

Shareholder Committee in January 2024 with final agreement scheduled for March 2024.

In considering the Draft Plans the Committee sought clarification and commented on elements of them including financing, thin capitalisation and tenancy terms. It was noted that there was a requirement for compliance in the Plans so the Boards should have a plan of action to ensure compliance with changes in legislation and be able to inform the Committee of how they were planning to address them.

Under standing order 34 Councillor Kemp addressed the Committee seeking clarification on the benefits of purchasing properties as opposed to spending on bed and breakfast for homeless families. She also asked about working arrangements with Freebridge. The need to acquire properties was acknowledged, it was also confirmed that the second point was for the Council to address.

Under standing order 34 Councillor Ryes sought clarification on lending and financing terms available to the company to which the S151 Officer gave a full explanation.

RESOLVED: That the Shareholder Committee note the draft business plans for West Norfolk Housing Company and West Norfolk Property having asked for clarification on a number of issues giving due regard to the strategic outcomes defined in the council's Corporate Strategy in respect of the provision of affordable housing.

Reason for Decision

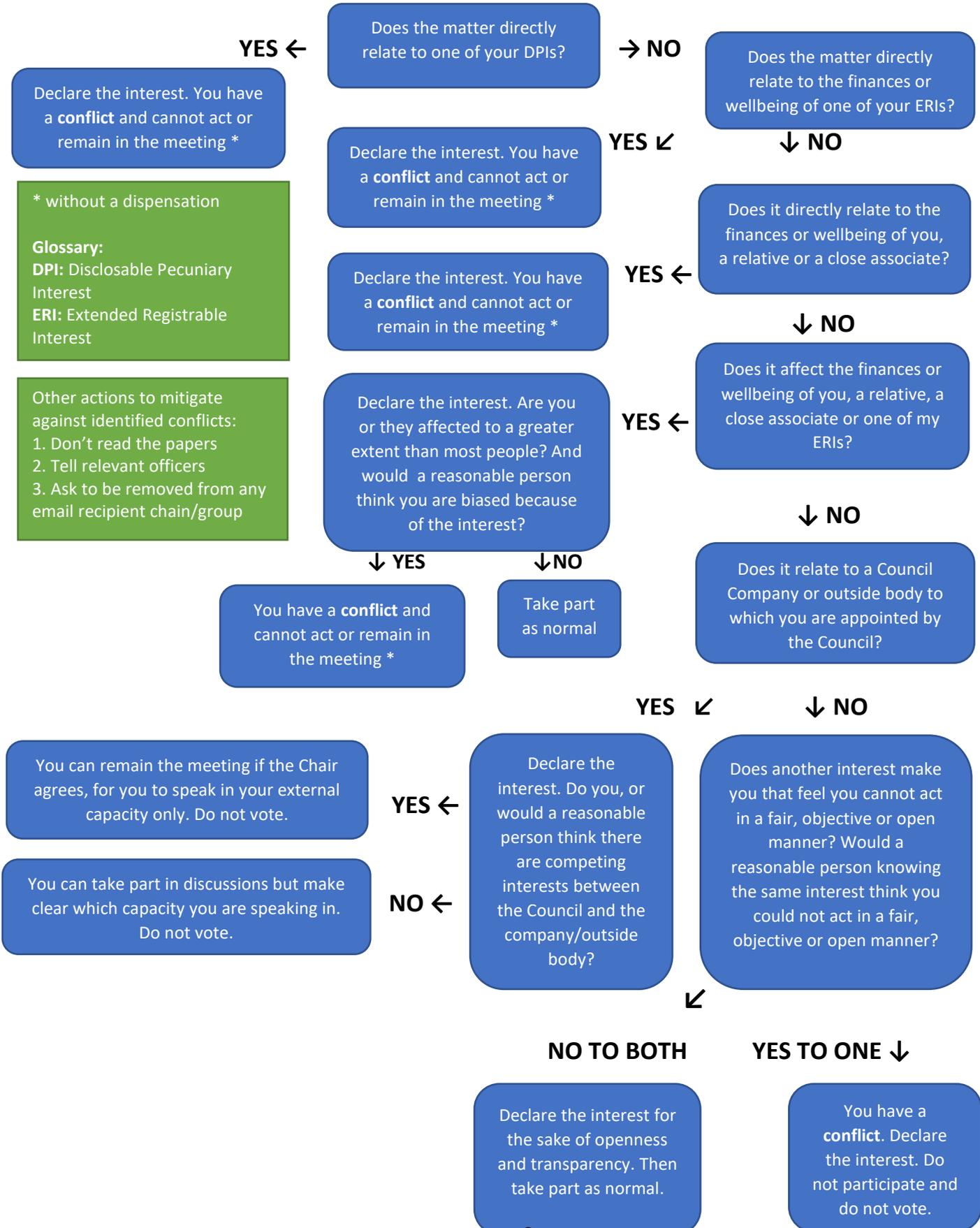
To enable the Board of Directors for the council's wholly owned Housing Companies to plan the appropriate actions to meet their strategic aims and objectives. The Committee sought explanation and reassurance on a number of issues contained within the draft plans.

The meeting closed at 4.18 pm

DECLARING AN INTEREST AND MANAGING ANY CONFLICTS FLOWCHART



START



Declare the interest. You have a **conflict** and cannot act or remain in the meeting *

* without a dispensation
Glossary:
DPI: Disclosable Pecuniary Interest
ERI: Extended Registrable Interest

Other actions to mitigate against identified conflicts:
1. Don't read the papers
2. Tell relevant officers
3. Ask to be removed from any email recipient chain/group

You have a **conflict** and cannot act or remain in the meeting *

Take part as normal

You can remain the meeting if the Chair agrees, for you to speak in your external capacity only. Do not vote.

You can take part in discussions but make clear which capacity you are speaking in. Do not vote.

Declare the interest. Do you, or would a reasonable person think there are competing interests between the Council and the company/outside body?

Does another interest make you that feel you cannot act in a fair, objective or open manner? Would a reasonable person knowing the same interest think you could not act in a fair, objective or open manner?

Declare the interest for the sake of openness and transparency. Then take part as normal.

You have a **conflict**. Declare the interest. Do not participate and do not vote.

SHAREHOLDER COMMITTEE FORWARD PLAN

Date of Meeting	Report Title	Decision Maker	Cabinet Member Lead and Lead Officer	List of Background Papers	Public or Private Meeting
22 January 2024 – meeting postponed	Responses from WNH and WNP regarding Section 21 Notices	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder Council Companies Alexa Baker – Monitoring Officer		Public
	Review of draft business Plan for AWN	Shareholder Committee	Cllr Simon Ring – Portfolio Holder – Leisure Honor Howell – AWN Client Officer		Private – Contains exempt information under para 3 – information relating to the business affairs of any person (including the authority)
	Consideration of WNP and WNH business plans following initial feedback	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder Council Companies Duncan Hall/Karl Patterson – Housing Companies		Private – Contains exempt information under para 3 – information relating to the business affairs of any person (including the authority)
	Appointment of new Director to WNPL	WNPL Board	Cllr Alistair Beales – Portfolio Holder Council Companies Karl Patterson		Item scheduled at end of agenda should the committee determine to exclude the Press and Public to consider the report

Date of Meeting	Report Title	Decision Maker	Cabinet Member Lead and Lead Officer	List of Background Papers	Public or Private Meeting
20 March 2024 <i>Meeting Postponed</i>	Council Companies Funding	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder for Business Michelle Drewery – Section 151 Officer Duncan Hall/David Ousby – Housing Companies	Cabinet Report 5 December 2023	Part public and part Private – contains exempt information under Para 3 – information relating to the business affairs of any person (including the authority)
Date of Meeting	Report Title	Decision Maker	Cabinet Member Lead and Lead Officer	List of Background Papers	Public or Private Meeting
23 April 2024	Shareholder Committee Terms of Reference	Shareholder Committee	Leader Monitoring Officer – A Baker		Public
	Responses from WNH and WNP regarding Section 21 Notices	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder Council Companies Alexa Baker – Monitoring Officer		Public
	Financing of Housing Companies	Cabinet	Cllr Alistair Beales – Portfolio Holder Council Companies Michelle Drewery – Section 151 Officer David Ousby – Assistant Director Programme and Project Delivery		Private – Contains exempt information under para 3 – information relating to the business affairs of any person (including the authority)
Date of Meeting	Report Title	Decision Maker	Cabinet Member Lead and Lead Officer	List of Background Papers	Public or Private Meeting
June 2024	Service Level Agreement with WNPL	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder for Business Alexa Baker – Monitoring		

			Officer Duncan Hall/Karl Patterson – Housing Companies		
	Shareholder Agreement - WNPL	Shareholder Agreement	Cllr Alistair Beales – Portfolio Holder for Business Alexa Baker – Monitoring Officer Duncan Hall/Karl Patterson – Housing Companies		
	Approval of Business plans for WNP WNH	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder for Business Alexa Baker – Monitoring Officer Duncan Hall/Karl Patterson – Housing Companies		Private – Contains exempt information under para 3 – information relating to the business affairs of any person (including the authority)
	Appointment of new Directors to WNPL	Shareholder Committee	Cllr Alistair Beales – Portfolio Holder for Business Alexa Baker – Monitoring Officer		Item scheduled at end of agenda should the committee determine to exclude the Press and Public to consider the report

REPORT TO SHAREHOLDER COMMITTEE

Open		Would any decisions proposed:			
Any especially affected Wards	Mandatory/	Be entirely within Shareholder Committee powers to decide YES/NO			
	Discretionary /	Need to be recommendations to Council			YES/NO
	Operational	Is it a Key Decision			YES/NO
Lead Member: Cllr Beales, Cllr Ring and Cllr Morley E-mail:		Other Cabinet Members consulted:			
Lead Officer: Alexa Baker, Monitoring Officer E-mail: alexa.baker@west-norfolk.gov.uk		Other Members consulted:			
Other Officers consulted: Chief Executive					
Financial Implications YES/NO	Policy/ Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO	Environmental Considerations YES/NO

Review of the Shareholder Committee’s Terms of Reference

Date of meeting: 23 APRIL 2024

Summary

To carry out a review of the Shareholder Committee’s Terms of Reference.

Recommendation

1. Shareholder Committee is recommended to review its Terms of Reference and to make any identified proposed changes as recommendations to Cabinet.

Reason for Decision

To ensure that at a review is undertaken at least annually of the terms of reference of the Shareholder Committee, which, as a sub-committee of Cabinet, must refer any recommended changes back to Cabinet; this being the body that set the Terms of Reference on 15 November 2022.

**TERMS OF REFERENCE OF THE BCKLWN SHAREHOLDER COMMITTEE
SUB-COMMITTEE OF CABINET**

1. Definitions

Council Companies	means the private limited companies in which BCKLWN is the majority shareholder/owner
Governance Documents	means, as the context requires, the Articles of Association, Business Plan, Shareholder Agreement and/or Intragroup Agreement
Shareholder Function	Means the functions set out in paragraph 4 of these terms of reference (and for ease of reference is intended to equally apply to any company limited by guarantee)

2. Overview

- 2.1 The Shareholder Committee is a sub-committee of Cabinet, the purpose of which is to fulfil the Council’s Shareholder Function in relation to the Council Companies, this being an executive function.
- 2.2 The Shareholder Committee will exercise the Council’s Shareholder Function in any company, limited by shares or guarantee, wholly owned by the Council for the purposes of service provision and/or trading activities.
- 2.3 The Shareholder Committee will exercise the functions delegated to it by Cabinet as set out in paragraph 4 below

3. Composition & Operation

- 3.1 The Shareholder Committee shall comprise of three Cabinet Members, to be appointed by the Leader.
- 3.2 Members of the Shareholder Committee can only be substituted by other Cabinet Members who are not Directors of the Council Companies.
- 3.3 The Shareholder Committee shall appoint its own Chair and Vice-Chair annually at the first meeting of the municipal year.
- 3.4 Quorum is three voting Members.

- 3.5 A Shareholder Committee meeting shall be held no less than 4 times per annum.
- 3.6 The Chief Executive, Section 151 Officer and Monitoring Officer (or their nominees) will support the Shareholder Committee.
- 3.7 Any decisions made by the Shareholder Committee must be notified to the Company Directors as soon as reasonably practicable following such decision being taken.
- 3.8 Advisors may be invited to attend the Shareholder Committee as required.

4 Functions delegated to the Shareholder Committee

The Shareholder Committee will have responsibility for the following:

- 4.1 Any decisions identified as being reserved to the Shareholder within the Governance Documents, subject to paragraph 4.3 below.
- 4.2 Any decisions that the Shareholder is required by legislation to make, subject to paragraph 4.3 below.
- 4.3 In respect of paragraphs 4.1 and 4.2, decisions may be taken provided that where a proposed recommendation is outside the Council's budgetary or policy framework, the Shareholder Committee will consider the recommendation and provide a recommendation to Full Council.
- 4.4 Approval of the Business Plan for each of the Council Companies on an annual basis.
- 4.5 Holding each of the Council Companies to account for their performance against the respective Business Plan.
- 4.6 Approval of Shareholder Agreements with the Council Companies, including any variations thereto.
- 4.7 Responsibility for holding the Council Companies to account for compliance with the respective Shareholder Agreements.
- 4.8 Reviewing the Governance Documents on an annual basis with a view to making any changes to improve governance and/or performance requirements of the Council Companies.

5 Scrutiny of the Shareholder Committee

- 5.1 All decisions of the Shareholder Committee are subject to the call-in arrangements set out in the Council's Standing Orders.
- 5.2 The Review and Development Panels may otherwise scrutinise the performance of the Shareholder Committee and require that it reports to them on the status and progress in relation to any of the Council Companies and how the Shareholder Function is being performed.
- 5.3 Audit Committee are to receive assurance that there is sound system of internal control and risk management process in place for each of the Council's companies.

6 Review

- 6.1 The Shareholder Committee will review the Terms of Reference annually

REPORT TO SHAREHOLDER COMMITTEE

Open/		Would any decisions proposed:			
Any especially affected Wards	Mandatory/	Be entirely within Shareholder Committee powers to decide YES/NO			
	Discretionary /	Need to be recommendations to Council		YES/NO	
	Operational	Is it a Key Decision		YES/NO	
Lead Member: Cllr Alistair Beales E-mail: cllr.alistair.beales@west-norfolk.gov.uk		Other Cabinet Members consulted:			
		Other Members consulted:			
Lead Officer: Alexa Baker, Monitoring Officer E-mail: alexa.baker@west-norfolk.gov.uk		Other Officers consulted:			
Financial Implications YES/NO	Policy/ Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO	Environmental Considerations YES/NO

Voluntary ending the use of Section 21 Notices

Date of meeting: **23 April 2024**

Summary

At it's meeting of 23 October 2023, the Shareholder Committee resolved to request the Board of Directors of the council's wholly owned housing companies, West Norfolk Housing Company, and West Norfolk Property to submit written reports to the Shareholder Committee on the following matters:

- The number of notices served under section 21 of the Housing Act 1988 ("section 21 notices") within the last two years by the company or it's contracted housing management provider.
- The number of tenancies the company has, or their contracted housing management provider has in which a section 21 notice could be served.
- The predicted impact, financial or otherwise, on the company or their contracted housing management provider if the company was to voluntarily choose to never use section 21 notices going forwards
- Confirmation of any changes that would be necessary in legal contracts with any contracted housing management provider (and where possible confirmation of whether the housing management provider is willing to agree such change) in order to codify the voluntary removal of section 21 notices as an option for tending a tenancy.
- Whether, with reference to its Business Plan, the Board of Directors considers it is in the best interests of the company to implement a company decision to voluntary remove section 21 notices as an option for use for ending a tenancy

Recommendation

The Shareholder Committee is recommended to note the written responses from West Norfolk Housing and West Norfolk Property (Appendix A and B respectively attached).

Reason for Decision

To support the priorities in the Corporate Strategy on supporting communities and helping to prevent homelessness across the borough.

1 Background

1.1 In support of the Corporate Strategy on supporting communities and helping to prevent homelessness, this administration wishes to explore the fast-tracking of the removal of section 21 notices (referred to as ‘No Fault Evictions’) from the range of options available to its wholly owned companies, West Norfolk Property Limited and West Norfolk Housing Company Limited, to terminate tenancies issued by the company or their contracted housing management provider.

1.2 At its meeting of 23 October 2023, Shareholder Committee resolved:

‘That the Board of Directors of West Norfolk Property Limited and West Norfolk Housing Company Ltd be respectively requested to submit a written report addressed to the Chair of the Shareholder Committee on the following matters:

- The number of notices served under section 21 of the Housing Act 1988 (“section 21 notices”) within the last two years by the company or its contracted housing management provider.
- The number of tenancies the company has, or their contracted housing management provider has in which a section 21 notice could be served.
- The predicted impact, financial or otherwise, on the company or their contracted housing management provider if the company was to voluntarily choose to never use section 21 notices going forwards
- Confirmation of any changes that would be necessary in legal contracts with any contracted housing management provider (and where possible confirmation of whether the housing management provider is willing to agree such change) in order to codify the voluntary removal of section 21 notices as an option for ending a tenancy.
- Whether, with reference to its Business Plan, the Board of Directors considers it is in the best interests of the company to implement a company decision to voluntarily remove section 21 notices as an option for use for ending a tenancy

2 Options Considered

- 2.1 The Board of Directors of the Housing Companies have provided the written responses as requested and are appended to this report.

3 Policy Implications

- 3.1 The recommendation links to the Corporate Strategy adopted by full council on 23 November 2023.

5 Personnel Implications

- 5.1 None

6 Environmental Considerations

- 6.1 None

7 Statutory Considerations

- 7.1 The recommendation relates to the use of notices under section 21 of the Housing Act 1988 in order to end a tenancy and instead using the grounds set out in section 8 of the Housing Act 1988.

8 Equality Impact Assessment (EIA)

(Pre screening report template attached)

- 8.1 Not applicable at this stage as considering the response from the Boards of Directors.

9 Risk Management Implications

- 9.1 None at this stage

10 Declarations of Interest / Dispensations Granted

- 10.1 None

11 Background Papers

- 11.1 Report to Shareholder Committee October 2023.

Appendix A

West Norfolk Property Limited

Response to Shareholder Committee request regarding S21 notices

January 2024

Summary

It should be noted that whilst private landlords often use Section 21 notices to carry out “no fault evictions”, for example when they wish to sell a property, a section 21 notice can also be used to end an assured shorthold tenancy due to breaches to the tenancy at the end of a fixed term.

The company is committed to providing a high-quality professional service to its tenants as evidenced by the 3-year fixed term tenancies which offer tenants *a level of security that is not commonly offered in the sector*. S21 notices can only be used at the end of a fixed term, therefore the long term tenancies offered mean there is limited scope for the company to use section 21 notices.

The Council can be assured that West Norfolk Property would, in no circumstances, use a Section 21 notice to carry out a “no fault eviction”. A Section 21 notice would only be used to end a tenancy at the end of the fixed term where the tenant has breached the terms of their tenancy and attempts to resolve the breach have been unsuccessful.

In some circumstances a Section 21 may be the most appropriate tool available to enable the company to effectively manage its stock and resolve issues which may be having significant impacts of the community.

Therefore, the Board of Directors believe that it is not in the best interests of the company to voluntarily remove section 21 notices as an option for use for ending a tenancy prior to the implementation of the Renters Reform Bill.

The Board of Directors has agreed to make the service of a Section 21 notice a matter reserved for the board in order to give reassurance that a section 21 notice will only be used where all options have been fully considered.

Full Response

- 1. The number of notices served under section 21 of the Housing Act 1988 (“section 21 notices”) within the last two years by the company or its contracted housing management provider;**

Zero.

- 2. The number of tenancies the company has or their contracted housing management provider has in which a section 21 notice could be served;**

The company currently has 74 properties on fixed term Assured Shorthold Tenancies.

Ordinarily, “Buy-to-let landlords” offer short-term tenancies of six or twelve months (enabling them e.g., to avoid repairs or to sell when property prices are rising), these often roll on to periodic tenancies at the end of the fixed term meaning that the landlord can then serve a Section 21 notice giving 2 months’ notice at any time giving tenant very little security of tenure.

In contrast, WNPL, as a responsible landlord, currently offers tenants a standard three year tenancy with a tenant only break clause should a tenant wish to move on. This recognises the importance of stability for tenants enabling them and their families to feel settled in their homes. At the end of the 3-year fixed term, if there are no breaches to the tenancy, tenants are offered a further 3-year fixed term. The company does not currently have any tenants on periodic tenancies.

A Section 21 notice can only be used to end a tenancy either at the end of a fixed term or where there is no fixed term (periodic tenancies). Therefore, whilst the company could technically serve Section 21 notices on any tenants that have lived in their home for more than 4 months, due to the extended fixed term tenancies offered, in most cases this would have to give much longer than the normal 2 months.

The Council can be assured that West Norfolk Property would, in no circumstances, use a Section 21 notice to carry out a “no fault eviction”. A Section 21 notice would only be used to end a tenancy at the end of the fixed term where the tenant has breached the terms of their tenancy and attempts to resolve the breach have been unsuccessful.

3. The predicted impact, financial or otherwise, on the company or their contracted housing management provider if the company was to voluntarily choose to never use section 21 notices going forwards;

Committing to not use Section 21 notices, without the benefit of the additional grounds being introduced within the Renters Reform Bill would reduce the tools available to the company to effectively manage their stock.

The only other option for ending an Assured Shorthold Tenancy is a Section 8 notice. The court process for obtaining a possession order following a S8 notice tends to be much more lengthy and costly than for S21 notices. This could result in additional costs to the company.

There may also be circumstances where a tenants behaviour is having a significant impact on the local community and serving a section 21 notice is the most effective method for resolving the situation.

4. Confirmation of any changes that would be necessary in legal contracts with any contracted housing management provider (and where possible confirmation of whether the housing management provider is willing to agree such change) in order to codify the voluntary removal of section 21 notices as an option for ending a tenancy;

No changes necessary.

5. Whether, with reference to its Business Plan, the Board of Directors considers it is in the best interests of the company to implement a company decision to voluntary remove section 21 notices as an option for use for ending a tenancy.

The company's objectives set out in its Business Plan include to

"Improve the general private rented sector offer through increased competition – in essence raising the bar in terms of quality, professional management, and a tenancy term appropriate to household circumstances"

The Business Plan also states

"the company remains committed to not carrying out "no fault evictions". If the company needs to sell any of its stock in the future, it will seek to do so as properties become vacant. Where substantial works are required to a home through no fault of the tenant, the company will seek to do these in a way that causes as little disruption to tenants as possible. If this requires the tenants to vacate their home, the company will seek alternative accommodation for them within its own stock."

Therefore, it is clear that the company is committed to providing a high quality, professional service. The long term tenancies offered by the company already give tenants a sense of security that is not commonly offered in the sector. However, it remains the case, that in some circumstances a Section 21 may be the most appropriate tool available to enable the company to effectively manage its stock.

Therefore, the Board of Directors believe that it is not in the best interests of the company to voluntarily remove section 21 notices as an option for use for ending a tenancy prior to the implementation of the Renters Reform Bill.

The Board of Directors is happy to make the service of a Section 21 notice a matter reserved for the board in order to give reassurance that a section 21 notice will only be used where all options have been fully considered.

Appendix B

West Norfolk Housing Company

Response to Shareholder Committee request regarding S21 notices

January 2024

Summary

It should be noted that whilst private landlords often use Section 21 notices to carry out “no fault evictions”, for example when they wish to sell a property, a section 21 notice can also be used to end an assured shorthold tenancy due to breaches to the tenancy.

As regulated registered providers of social housing, West Norfolk Housing and its housing management partner, Broadland Housing Association, would never utilise section 21 notices to carry out a no-fault eviction and section 21 notices have not been used in relation to any West Norfolk Housing homes to date. However, there may be rare occasions where a section 21 notice would be the only effective mechanism to resolve an issue being caused by a tenant which is having a significant impact on the community. Broadland would only use a section 21 notice a last resort.

Therefore, the Board of Directors does not believe that voluntarily removing section 21 notices as an option for ending a tenancy would have any tangible benefits for the company, its tenants, or the wider community and it could impact negatively on the company’s ability to effectively manage its stock.

Full Response to request

1. The number of notices served under section 21 of the Housing Act 1988 (“section 21 notices”) within the last two years by the company or its contracted housing management provider;

Zero.

2. The number of tenancies the company has or their contracted housing management provider has in which a section 21 notice could be served;

West Norfolk Housing itself does not have any tenancies where a Section 21 notice could be served. The Temporary Accommodation operated by the company is let on licences in accordance with Homelessness legislation and Shared Ownership homes are occupied on leases of 125 to 990 years.

The company’s general needs rented stock is leased to Broadland Housing Association. Broadland offer Starter Tenancies for 1 year and if there are no outstanding breaches to this tenancy, an Assured (lifetime) Tenancy will be offered. A Starter Tenancy is a form of Assured Shorthold and therefore technically this can be ended by a Section 21 notice. Broadland have advised that it is extremely rare for them to use a Section 21 notice to end a Starter Tenancy.

Where there is a breach to the tenancy they will ordinarily extend the term of the Starter Tenancy and work with the tenant to resolve the breach. If the breach cannot be resolved, as a last resort they will seek possession using a section 8 notice wherever possible.

A Section 21 notice would only be used in rare cases where the breaches would not meet a mandatory ground for possession, but the circumstances are having a significant impact on the community such as anti-social behaviour.

It should be noted that Broadland Housing Association are a regulated Registered Provider of Social Housing and were a founding member of Homes for Cathy, a group of Housing Associations working together to end homelessness.

The Council can be assured that West Norfolk Housing and Broadland Housing would in no circumstances, use a Section 21 notice to carry out a “no fault eviction”

3. The predicted impact, financial or otherwise, on the company or their contracted housing management provider if the company was to voluntarily choose to never use section 21 notices going forwards;

Committing to not use Section 21 notices, without the benefit of the additional grounds being introduced within the Renters Reform Bill would reduce the tools available to Broadland which could have an impact on their ability to effectively manage West Norfolk Housing’s homes.

Removing Broadland’s ability to serve S21 notices would effectively remove their ability to use Starter Tenancies on West Norfolk Housing’s stock. It should be noted that the “probationary period” offered by starter tenancies can provide households with adverse housing histories a critical opportunity to prove themselves and achieve appropriate settled housing. Removing the option of Starter Tenancies could make it more difficult for Broadland to offer tenancies to these households.

4. Confirmation of any changes that would be necessary in legal contracts with any contracted housing management provider (and where possible confirmation of whether the housing management provider is willing to agree such change) in order to codify the voluntary removal of section 21 notices as an option for ending a tenancy;

Leases to Broadland currently allow underletting by way of an Assured Tenancy or an Assured Shorthold Tenancy (Starter Tenancy). In order to codify this change, this would need to be amended to only allow Assured Tenancies to be used. Broadland have indicated that they would not be in favour of this amendment for the reasons set out above.

5. Whether, with reference to its Business Plan, the Board of Directors considers it is in the best interests of the company to implement a company decision to voluntary remove section 21 notices as an option for use for ending a tenancy.

As both West Norfolk Housing and its Housing Management Provider, Broadland Housing are regulated Registered Providers of Social Housing, S21 notices would only be used in very rare circumstances and would not be used to carry out “no fault evictions”. Therefore, the Board of Directors do not believe that voluntarily removing section 21 notices as an option for ending a tenancy would have any tangible benefits for the company, its tenants or the wider community.

However, it would have the potential to negatively impact on the effective management of the company’s stock and may make it more difficult to meet the needs of some of the most vulnerable households in the community. Therefore, the Board of Directors do not believe that this would be in the best interest of the Company.

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 12

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