

# LONDON BOROUGH OF CROYDON

<b>REPORT:</b>	<b>CABINET</b>
<b>DATE OF DECISION:</b>	<b>24 May 2023</b>
<b>REPORT TITLE:</b>	<b>Croydon Council Companies (excluding Brick by Brick Croydon Ltd) Update Report</b>
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	<b>Jane West Corporate Director of Resources and Section 151 Officer</b>
<b>LEAD OFFICER:</b>	<b>Ian Geary, Interim Head of Corporate Finance</b>
<b>LEAD MEMBER:</b>	<b>Cllr Jason Cummings, Cabinet Member for Finance</b>
<b>KEY DECISION?</b>	<b>No</b>
<b>CONTAINS EXEMPT INFORMATION?</b>	<b>No</b>
<b>WARDS AFFECTED:</b>	<b>All</b>

## 1 SUMMARY OF REPORT

- 1.1 This report provides an update to Cabinet from the Croydon Companies Supervision and Monitoring Panel (CCSMP), established by Cabinet on 26 July 2021, as a response to the Report in the Public Interest 2020.
- 1.2 The report provides an update on the status of Council companies that exist and makes a recommendation to dissolve companies that are no longer required.
- 1.3 The report also contains an update on Croydon Affordable Homes LLP and Croydon Affordable Tenures LLP, with whom the Council is in partnership alongside the Croydon Affordable Housing Charity, to manage affordable housing provision.
- 1.4 The report requests delegation to the Corporate Director of Resources and Section 151 Officer to approve indemnity insurance for company Directors.
- 1.5 Finally, the report sets out the future programme of work for CCSMP and accounting arrangements for group companies.

## 2 RECOMMENDATIONS

For the reasons set out in the report and its appendices, the Executive Mayor in Cabinet is recommended:

- 2.1 To approve the expansion of the Croydon Companies Supervision and Monitoring Panel (CCSMP) Terms of Reference to include oversight of charities.
- 2.2 To approve that the Interim Director of Commercial Investment & Capital may seek the dissolution of Croydon Affordable Dwellings LLP and Croydon Affordable Homes (Taberner House) LLP (subject to formal decision making of the LLPs) and delegate authority to the Corporate Director of Resources and Section 151 Officer to take any steps to finalise and sign any relevant documents to give effect to a dissolution (if approved).
- 2.3 To delegate authority to the Corporate Director of Resources and Section 151 Officer to review, and remove where appropriate, Council Officers from being Directors of companies and charities in those cases whereby the companies/charities are not controlled by the Council.
- 2.4 To delegate authority to the Corporate Director of Resources and Section 151 Officer to approve indemnities for Directors, following the protocol for outside bodies and in consultation with CCSMP.
- 2.5 To note the update on the current position of Croydon Affordable Homes and Croydon Affordable Tenures.
- 2.6 To note the status of companies that the Council has an ownership interest or other interest in, included in the Company companies' matrix in Appendix 1.

## 3 BACKGROUND AND DETAILS

### Overview Of Croydon Companies

- 3.1 In July 2021, Cabinet approved the establishment of a Croydon Companies' Supervision and Monitoring Panel (CCSMP) for the purpose of, and with the responsibilities of, ensuring that the Council's strategic and good governance objectives are met and to support the development of the Council group of companies in line with the Council's regulations and ambitions.
- 3.2 In particular, the terms of reference were set to ensure controls are in place when forming, or financing a company, to enable the Council to protect its investment and achieve its objectives.

- 3.3 An updated companies' matrix is attached as Appendix 1 (not intended as an exhaustive list). It sets out a list of identified organisations:
- Wholly or partly owned by the Council.
  - Not owned by the council, but where the Council has an interest and/or an officer/s of the Council is a Director.
  - Property Management Companies where the Council owns the freehold.
  - Charities where the Council is a Trustee
- 3.4 Although Brick By Brick (Croydon) Limited will have separate reporting and governance arrangements, when CCSMP reports to Cabinet, Cabinet will also be asked to note the reports presented separately on Brick by Brick to ensure holistic consideration of the Council's Group entities.
- 3.5 Recommendation 1 requests that the Terms of Reference (ToR) of the CCSMP is expanded to include oversight of charities, which was not included in the original ToR. The proposed revised ToR is set out in Appendix 2. This will help rationalise the Council's interaction with charitable bodies.
- 3.6 Recommendation 2 requests that the dissolution of two Limited Liability Partnerships (LLPs) be sought:
- Croydon Affordable Dwellings LLP – OC424671
  - Croydon Affordable Homes (Taberner House) LLP – OC420058
- 3.7 They were created in anticipation of being used for two further transfers of properties, in addition to the transfers to Croydon Affordable Homes LLP and Croydon Affordable Tenures LLP. However, the Council no longer intends to follow this direction, and dissolving the companies will avoid any administrative costs while they are dormant. It should be noted that the dissolutions will require the permission of the other LLP member: Croydon Affordable Housing, which will need to be formally sought and decision-making processes of the LLPs will need to be followed.
- 3.8 The following sections give a brief description of the companies identified within the Council's company matrix. This list will be updated should any additional organisations where the council has an interest be identified.
- Croydon Affordable Homes related Companies.
- 3.9 London Borough of Croydon Holdings LLP – this is a partnership between the Council (99%) and Croydon Holdings Limited (1%). This LLP is used to represent the Council's 10% interest in the 4 LLPs with Croydon Affordable Housing LLP.
- 3.10 Croydon Holdings Limited – this company is wholly owned by the Council and is not directly trading.

- 3.11 Croydon Affordable Housing Charity: this is not controlled by the Council but was established by it to hold a 90% share of the LLPs that provide affordable housing. The board consists of two independent trustees, and an officer nominated by the Council.
- 3.12 Croydon Affordable Housing LLP and Croydon Affordable Tenures LLP – these companies are 90% owned by the above charity (the other 10% by London Borough of Croydon Holdings LLP) and provide affordable housing from 344 dwellings that they purchased from the Council between 2018 and 2020.
- 3.13 Croydon Affordable Dwellings LLP and Croydon Affordable Homes (Taberner House) LLP – as set out in paragraph 3.5, it is recommended these are dissolved, as they have never traded, and are no longer required.

#### Taberner House Related Companies

- 3.14 Croydon Central Management Company – this company was created to represent the Council's interest in a Limited Liability partnership with the developers of the Taberner House site. It is wholly currently owned by the Council but is due to be owned jointly with the other owners of the site. It is now to be used as a vehicle for the management of the site now that the Taberner House development (site of previous Council offices) has been completed (now primarily four residential tower blocks).
- 3.15 Croydon TH Ltd and Croydon TH Commercial Ltd – these companies were created to transfer the Council's interest in the Taberner House residential space, and the Taberner House commercial space to its new owners. They are wholly owned by the Council and are not trading.

#### Local Authority Trading Companies

- 3.16 The Octavo partnership was an arm's length mutual trading company for education related services. A decision was taken by the partnership board in 2019 to bring these services back in-house, as the initial contract period was ending, and market conditions had changed significantly since its creation in 2015. The company was formally dissolved in September 2021.
- 3.17 Yourcare (Croydon) Limited is wholly owned by the Council, but is in the process of liquidation, following a decision by the Council in June 2021 to close the company. The company is the retail arm of the Council's insourced Community Equipment Services function, and trades in equipment and daily living aids. The decision to cease trading and wind down the business was in response to the tough trading conditions experienced by Yourcare during the Covid-19 pandemic, the subsequent recession and supply shortages.

#### Council Membership of Other Organisations

- 3.18 Capital Letters (London) – is a pan London company, whose purpose is to increase the supply of rented accommodation for homeless families and represent the interest of its member London Boroughs. The Council is a member, but with no individual significant control.
- 3.19 Real Lettings Property Funds – the Council invested monies into the purchase of properties to be used for the provision of affordable rental accommodation. The share of ownership is based on the proportion of funds invested. The Council is withdrawing funds from the initial partnership and in the process of exiting the second partnership.

Some other companies where the Council has an interest, or a Council Officer has been appointed as a Director.

- 3.20 Croydon Enterprise Loan Fund Limited – this organisation distributes loan funding to businesses in Croydon. The company is not controlled by the Council, but a Council Officer can be appointed as a director of the company.
- 3.21 Croydon Youth Zone – is a company and charity that provides facilities and services to the borough's young people. It is not controlled by the Council, but a Council Officer can be appointed as a director of the company.
- 3.22 The Pegasus Academy Trust – is a company and charity that provides public education in the borough and operates 6 primary phase schools and a nursery school. It is not controlled by the Council, but a Council Officer can be appointed as a director of the company.
- 3.23 Recommendation 3 of this report requests delegated authority to the Corporate Director of Resources and Section 151 Officer to review, and remove where appropriate, Council Officers from being Directors of companies and charities in those cases whereby the companies/charities are not controlled by the Council. This includes a review of the three companies detailed above.

Property Management Companies – via freehold

- 3.24 When the council purchased the freehold of flats, it became a default member of various property management organisations that manage flats on behalf of leaseholders. These are typically the properties the council transferred to CAH LLP and CAT LLP. These are monitored by the Croydon Companies Supervision and Monitoring Panel (CCSMP) for the purposes of completeness.

Charities where the Council is a Trustee:

- 3.25 There are 8 charities established for the maintenance of public grounds, parks or memorials. The council is the trustee for these charities.

3.26 The Civic Mayor of Croydon’s charity fund – this is used to raise charitable funds by the Council’s Civic Mayor.

### Update On Croydon Affordable Homes LLP

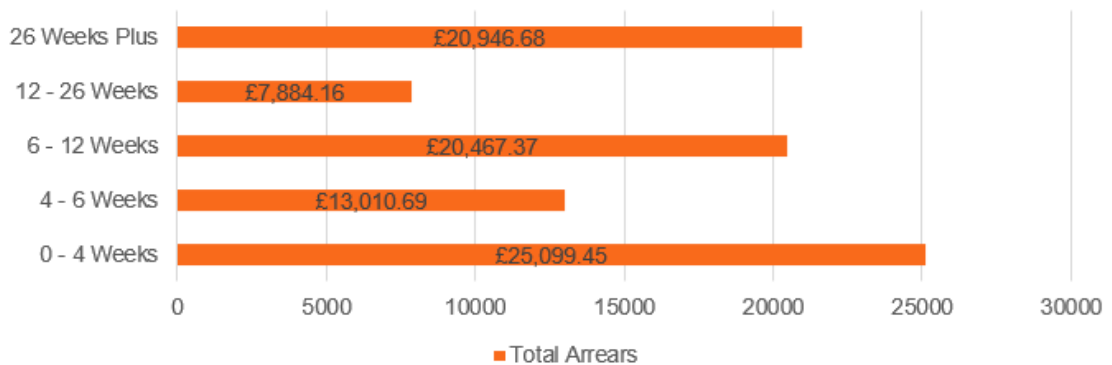
3.27 Croydon Affordable Homes (CAH LLP) owns the leasehold of 96 dwellings transferred to it by the Council in 2018 and is responsible for the management of these properties. CAH LLP has contracted this activity to the Council to perform.

3.28 This section below provides a summary of the latest update provided to the CCSMP and the CAH LLP board in March 2023.

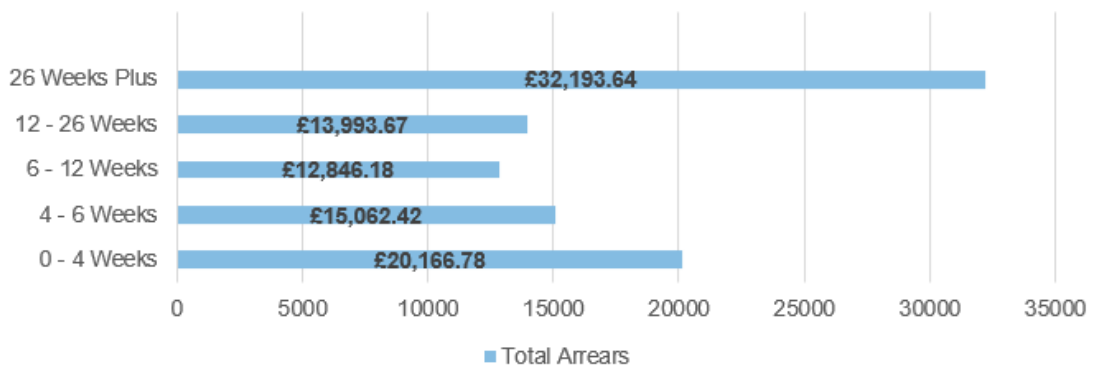
3.29 Arrears have increased from £87,408 in November 2022 to £94,263 in March 2023. For context, the potential annual rent is £1,088,544, and a 2% allowance for bad debt was built into the financial model (£21,771). Over a five years period, this equates to £108,855 cumulative arrears allowed in the financial model (the £94,263 actuals demonstrate lower arrears than allowed for in the model). Work still continues with tenants and the council to recover arrears and ensure prompt payment is made.

The chart below sets out arrears by age:

**Number of Weeks in Arrears - 20 November 2022**



**Number of Weeks in Arrears – 19 March 2023**



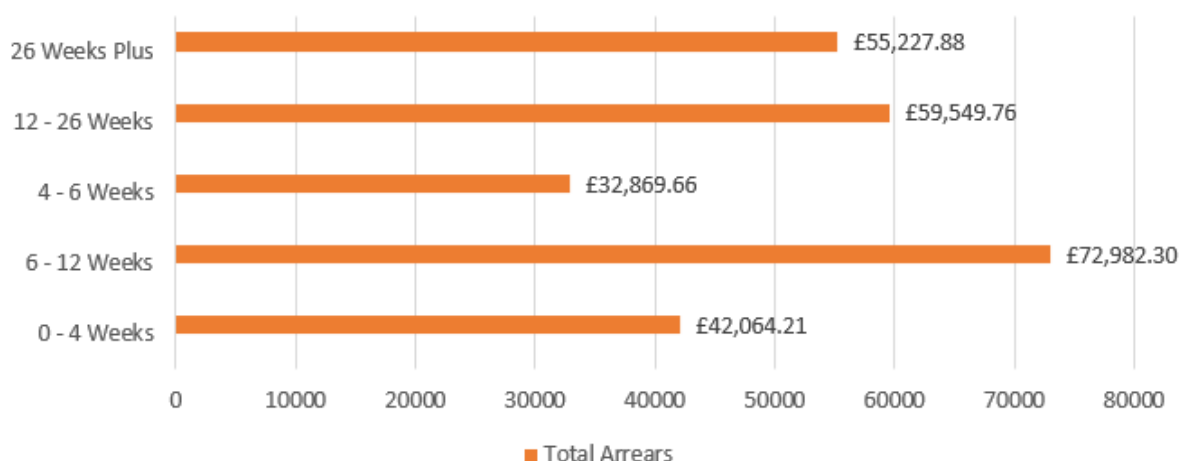
- 3.30 There are 12 legal disrepair cases, and 3 non-legal disrepair cases currently active, which CAH LLP is working to resolve with the tenants and the council's repairs contractor.

### Update On Croydon Affordable Tenures LLP

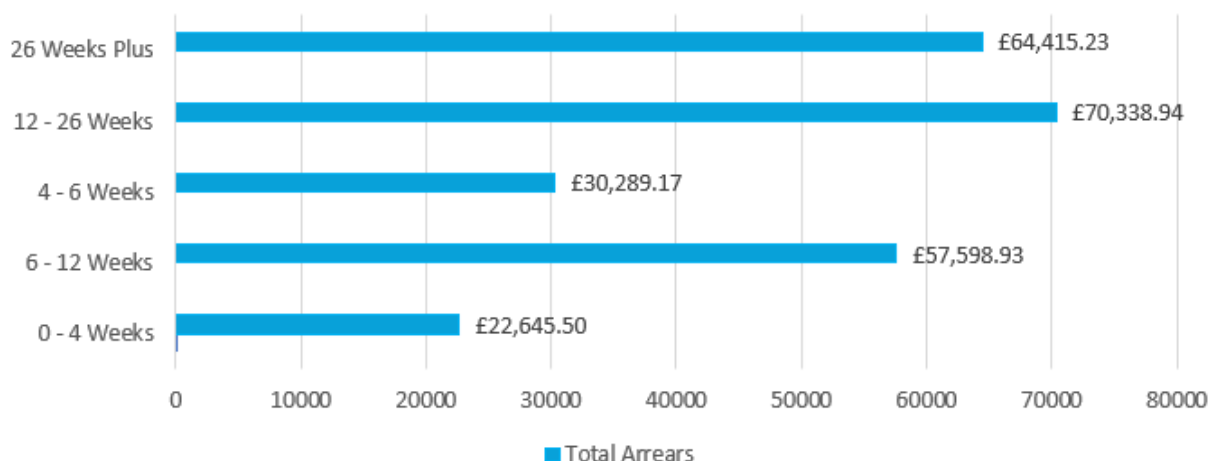
- 3.31 Croydon Affordable Tenures LLP (CAT LLP) owns the leasehold of 248 dwellings transferred to it by the Council in 2019 and 2020, and is responsible for the management of these properties. As with CAH LLP, CAT LLP has contracted this activity to the Council to perform.
- 3.32 Arrears have reduced from £262,694 in November 2022 to £245,288 in March 2023. A 2% allowance for non-collection was incorporated into the CAT LLP business model, which with potential income of £2,871,599 per year, gives a budgeted arrears value of £229,728 for a four years period. The cumulative actual arrears of £245,288 are higher than the expected level (£229,728) from the financial model. As with CAH LLP, work is underway with tenants and the council to recover arrears and improve collection rates.

The chart below sets out arrears by age:

### Number of Weeks in Arrears – 20 November 2022



### Number of Weeks in Arrears -19 March 2023



### Director Indemnity Insurance

- 3.33 The Council has appointed several of its officers as directors, to represent the Council on company boards. It is necessary to ensure insurance is in place to indemnify officers who are acting on a board as part of their role.
- 3.34 Recommendation 4 requests that the Council delegates power to the Corporate Director of Resources and Section 151 officer to approve indemnity insurance in line with the appointment to outside bodies protocol, and in consultation with CCSMP.

### Pan London Vehicle – membership of newly created company

- 3.35 To address a shortage of secure children's home provision in the Capital, and to improve collaboration on joint commissioning programmes for children's social care, a new company is being created by Councils across London. This company is referred to as the Pan London Vehicle (PLV).



- 3.36 Cabinet approved a recommendation on 25 January 2023 to join the PLV, although work has not yet reached a point where the company is active. The status of this company will be included in CCSMP reports as and when it becomes active.

### Future work relating to CAH / CAT

- 3.37 Work is continuing on the accounting treatment of CAH/CAT for the 2019-20 and following years' financial accounts. This work will include liaison with the Council's external auditors (Grant Thornton), external specialist accounting advice, legal advice, the property companies (and their accountants) and DLUHC as appropriate.
- 3.38 The CCSMP is continuing to review the CAH / CAT models and their financial viability and performance.

## **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None.

## **5 CONSULTATION**

- 5.1 None.

## **6. IMPLICATIONS**

### **6.1 FINANCIAL IMPLICATIONS**

- 6.1.1 There are no direct significant financial implications arising from this report.

Approved by Allister Bannin, Director of Finance (Deputy S151 Officer) on behalf of the Corporate Director of Resources (S151 Officer)

### **6.2 LEGAL IMPLICATIONS**

- 6.2.1 The Council has the power to participate as a Member/ Shareholder of a company under the general power of competence (Localism Act 2011), which gives local authorities the power to do anything that individuals generally may do.
- 6.2.2 The companies, limited liability partnerships and charities listed in the Croydon Companies' matrix at appendix 1 are distinct legal entities from the Council and have their own governance arrangements included with their Articles of Association and any Member Agreements, which determine how decisions are made regarding those entities.

6.2.3 In relation to the potential dissolution of Croydon Affordable Homes LLP and Croydon Affordable Tenures LLP, those decisions will need to be made by the LLPs in accordance with their governing documents.

Approved by the Head of Commercial & Property Law on behalf of the Director of Legal Services and Monitoring Officer. (Date 02/05/2023)

### **6.3 EQUALITIES IMPLICATIONS**

6.3.1 Under the Public Sector Equality Duty of the Equality Act 2010, decision makers must evidence consideration of any potential impacts of proposals on groups who share the protected characteristics, before decisions are taken. This includes any decisions relating to how authorities act as employers; how they develop, evaluate and review policies; how they design, deliver and evaluate services, and also how they commission and procure services from others.

6.3.2 Section 149 of the Act requires public bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

6.3.3 Protected characteristics defined by law include race and ethnicity, disability, sex, gender reassignment, age, sexual orientation, pregnancy and maternity, and religion or belief.

6.3.4 Having due regard means there is a requirement to consciously address the three tenets of the Equality Duty within decision-making processes. By law, assessments must contain sufficient information to enable the local authority to show it has paid 'due regard' to the equalities duties; and identified methods for mitigating or avoiding adverse impact on people sharing protected characteristics. Where a decision is likely to result in detrimental impact on any group with a protected characteristic it must be justified objectively.

6.3.5 There are no immediate direct Equalities implications identified within this report. Equalities will need to remain a consideration, as the council seeks to discharge the options outlined in the report at Section 3.33 & 3.34 above.

Approved by Barbara Grant on behalf of: Denise McCausland – Equality Programme Manager

### **6.4 HUMAN RESOURCES IMPLICATIONS**

6.4.1 There are no immediate workforce implications arising from the recommendations in this report. Should any matters arise these will be dealt with under the Council's appropriate HR policies and procedures.

Approved by Dean Shoesmith, Chief People Officer.

## **6.5 PROPERTY AND ASSET MANAGEMENT IMPLICATIONS**

6.5.1 There are no immediate property or asset management implications.

Approved by: Huw Rhys-Lewis, Director of Commercial Investment

## **7. APPENDICES**

Appendix 1: Council Companies' Matrix

Appendix 2: CCSMP Revised Terms of Reference

## **8. BACKGROUND DOCUMENTS**

8.1 None.