

REPORT TO EXECUTIVE

Date of Meeting: 14 January 2025

REPORT TO COUNCIL

Date of Meeting: 25 February 2025

Report of: Strategic Director for Corporate Services

Title: Review and update of Exeter City Council's Companies, Alternative Delivery Models and Charities.

Is this a Key Decision?

No

Is this an Executive or Council Function?

Executive and Council

1. What is the report about?

This report provides Members with the following:

1.1 An update on companies, alternative delivery models and charities connected with or controlled by Exeter City Council so that Members are aware of their activities and financial performance;

1.2 Recommendations on changes to the structure of the Exeter City Group of companies. This report follows on from the Council's resolution on 17 October 2023 to reduce the operations of Exeter City Living Limited. The recommendations below authorise the shareholder representative to change the Articles of Association of both Exeter City Group Limited (ECG) and Exeter City Living Limited (ECL);

1.3 Recommendations concerning Exeter Business Centre Limited; and

1.4 Recommendations to ensure a more robust governance model is adopted in respect of the entities connected with or controlled by Exeter City Council

2. Recommendations:

Exeter City Group Limited

That Executive recommends that Council resolves to approve:

2.1 To delegate authority to the Chief Executive as shareholder representative to issue and sign the written special resolutions attached at Appendix 1 in order to amend the Articles of Association of ECG and ECL to:

2.1.1 Reduce the objectives of both companies to holding and managing property;

2.1.2 Operate with a minimum of one Director;

2.1.3 To delegate authority to the Chief Executive as shareholder representative to make any further amendments to the constitutional documents of ECG and ECL

- and where appropriate any subsidiaries of ECG to reduce the company structure to a single company;
- 2.1.4 To delegate authority to the Chief Executive as shareholder representative to wind-up and dissolve the dormant subsidiaries of ECG namely Exeter City Homes Limited and Exeter City Living Property Limited and, at a later date ECG, itself;
 - 2.1.5 To approve the Business Plan for 2025-26;
 - 2.1.6 To delegate authority to the Strategic Director for Corporate Resources to annually agree the management fee percentage with the Director of ECL to ensure that the Company remains solvent but does not generate profits.

Exeter Business Centre Limited

That Executive recommends that Council resolves to approve:

- 2.2 The initiation of a review of Exeter Business Centre to consider whether it is still meeting the objectives set for it when originally established;
- 2.3 To approve a budget of up to £10,000 to conduct the review funded from the General Fund Balance.

All Companies

That Executive approves the following:

- 2.4 That authority to appoint Directors and Client Leads (where appropriate) be delegated to the Chief Executive;
- 2.5 That authority to appoint Shareholder Representatives be delegated to the Chief Executive in consultation with the Leader of the Council;
- 2.6 That a report be provided to Council and Executive in six months' time to update Councillors on the performance of each Company.

3. Reasons for the recommendation:

3.1 With regard to the Exeter City Group Limited group of companies, to enable the Council to continue with the process of reducing the operations of ECL in accordance with the resolution of Council of 17 October 2023 and also to reduce the remit of ECG and ECL by authorising amendments to the Articles of Association of the companies.

3.2 Exeter Business Centre Limited (EBC) is no longer trading in line with its original purpose. The Companies and organisations occupying the space are not necessarily start-up businesses and EBC has limited financial ability to manage and maintain the premises appropriately. A review of the Company is appropriate given that the lease on the building occupied by EBC ends in 2026.

3.3 Delegating authority to the Chief Executive will ensure, where appropriate, that all the companies referred to in this report and the Council have the appropriate representation. This is intended to strengthen the governance arrangements.

4. What are the resource implications including non financial resources

4.1 With regard to the Exeter City Group of companies, the revised objects clause of the Articles of Association of the companies will have no impact on Council resources. In reducing the number of Directors of the Exeter City Group of companies from three to one, this will have no impact given the reduction of operations of the companies and will reduce the costs to the Council of running the companies as remuneration to Directors will be reduced.

4.2 With regard to Exeter Business Centre Limited, the request for an additional budget of £10,000 is to initiate a review of its activities and whether it is still meeting its original objectives.

4.3 With regard to the proposals to appoint Directors, Client Leads and Shareholder Representatives, this will not have any immediate financial implications, although consideration will need to be given in due course as to whether Officers appointed to Director roles should receive additional remuneration for doing so. From a non-financial perspective, the appointments will place greater responsibilities on those Officers appointed to Director posts.

5. Section 151 Officer comments:

5.1 The report sets out the latest position regarding each of the Council's Companies and enables the Council to finalise the scaling back of ECL. Given that most of the subsidiaries and associate Companies have undertaken a review in the past two years, it is appropriate to carry out a review of Exeter Business Centre, given that the lease of the building ends in 2026.

6. What are the legal aspects?

6.1 Exeter City Group Limited and Exeter City Living Limited

Both Companies are governed by separate Articles of Association and a Management Agreement dated 18th December 2018 between by the Council, ECG and ECL.

The Articles of Association set out the objects i.e. the powers to act of the Companies and state a minimum of three Directors are required to make decisions.

The Management Agreement provides that the Council is the sole shareholder of ECG and ECG is the sole shareholder of ECL and states:

- At Clause 5, ECG expressly consents to decisions which it would ordinarily make in respect of ECL as its shareholder being made by the Council and the Council's Representative; and
- At Schedule 3 para 1.12 amendments to the Articles (constitutional documents) are reserved matters for Full Council.

The powers of the council's representative also known as the Council's shareholder representative are delegated to the Council's Chief Executive under part 3d of the Council's constitution.

Articles of Association of a company can only be amended by special resolution in accordance with section 21 of the Company's Act 2006 ('the Act'). A special resolution requires at least 75% of eligible shareholders to vote in favour of the proposal. As sole shareholder the Council can pass a special resolution. A General Meeting of the company is not required where a special resolution is properly moved as a written resolution. Under section 297 of the Act a proposed written resolution lapses if not passed within 28 days of the circulation date.

Once a written resolution is made the companies must send a copy of the resolution and the amended Articles of Association to Companies House within 15 days of the amendment taking effect (date of the written resolution).

The Management Agreement provides that the appointment and removal of directors is a reserved matter for the Council's shareholder representative.

The companies must comply with the filing requirements at Companies House once any changes are made.

Additionally, the other companies in the Group, Exeter City Homes Limited and Exeter City Living Property Limited are dormant and performing no activities and have not done so since their incorporation in 2018. Accordingly, they can be dissolved.

6.2 Exeter Business Centre Limited

Members will note the comments below under 'report details' concerning the activities of ECB and the proposal that its activities be reviewed in light of changing market conditions.

6.3 Other Entities:

Members will note the comments below under 'report details' concerning the activities of other entities in which Exeter City Council has an interest and will note the recommendations to put more formal governance arrangements in place where required.

7. Monitoring Officer's comments:

7.1 The Council's external auditors, Grant Thornton, have advised that the Council should review the alternative delivery models with which it is involved, and then to assess where it is appropriate to continue with the arrangements in place. This report sets out the alternative delivery models with which it is involved with proposals in relation to a number of those organisations.

In accordance with Grant Thornton's recommendations the proposals in this report are to review the various models and to review the appointment Directors, Client leads and shareholder representatives where appropriate in order to strengthen the governance arrangements of the alternative delivery models. This will enable a more focussed approach to the governance of the alternative delivery models and for the Council to agree the objectives and benefits expected through partnership working which can be monitored by Officers and Members.

8. Report details:

8.1 Exeter City Council Companies and Charities:

8.1.1 ECC has a range of interests in a number of Companies (and a Charity) for a range of purposes. This report provides information to Members concerning those entities connected to Exeter City Council and the role of the Council within those organisations.

8.1.2 Attached at Appendix 2 of this report is a list of the Companies and a Charity in which ECC has an interest, along with details as to who fills the key roles in respect of interactions with the various entities with. Appendix 3 provides the financial information in respect of each of the entities. Set out below is a short summary of each organisation and the issues identified.

- **Strata Service Solutions Limited (Incorporated 15 May 2014)**

Strata is the Council's ICT Company and is owned in equal shares with East Devon District Council and Teignbridge District Council. Strata has been successful in delivering the savings it was required to achieve in its early period of existence and has continued to adapt with the aim of delivering the services each Council wants.

The Council has appointed individuals to each of the three key roles. The appointed Director is the Strategic Director for People and Communities, and the Client Lead is the Head of Service Digital and Data. The Leader of the Council is a member of the Strata Joint Executive Committee (Shareholder Representative), supported by the Chief Executive. The Strata Joint Executive Committee meets on a regular basis and the minutes of the meetings of the Joint Executive Committee are published and are put before full Council. The Strata Business Plan 2024/25 was put before the Joint Executive Committee at its meeting held on 30 January 2024 and approved.

- **Exeter Science Park Limited (ESPL) (Incorporated 24 February 2009)**

ESPL is a company in joint ownership between Exeter City Council, Devon County Council, the University of Exeter, and East Devon District Council. There are different shareholdings amongst the four owners.

ESPL is one of the most commercially driven Companies in which the Council has an interest, but under the agreement the Council is unable to take dividends from any profits.

ESPL has grown to a level where it can break even and has a reasonably healthy balance sheet, but its owners are not in a position to take it further without external support.

ESPL was the subject of a report to Extraordinary Council and considered on 28 May 2024. Members approved proposals to convert the Council's outstanding loan to equity in the science park. As part of the agreement to convert the loan to equity, the other shareholders in ESPL were required to do the same.

The reason for the recommendation was to '...put ESPL in a position where it can attract investment to continue to develop the science Park in line with the objectives set by the owners...to provide clarity to Council of the decision-making process that the Council will

follow...' and '[t]o enable the Company to have a clear direction for future development of the science park.' Delegated authority was also granted to the section 151 Officer '...to support the implementation of the recommendations as set out in the recent review undertaken by Deloitte:

- (a) To develop a clear marketing and business development strategy;
- (b) To deliver a sustainable operating and funding model via cost reduction and a restructuring of the debt;
- (c) To improve the governance by reviewing the Further Agreement and Reserved Matters; and
- (d) To secure an updated Local Development Order and start the process to bring in either a private sector investor or private sector developer to support delivery of the remainder of the Science park

Although Council has delegated authority to the Shareholder Representative to vote on matters arising at shareholder meetings where there is no financial implication for the Council, matters are reserved in relation to:

- (a) Decisions which have an impact on the financial position of the Council;
- (b) Amendments to the Further Agreement and/or Reserved Matters;
- (c) Approval of a Business Plan for the Science Park; and
- (d) A decision to change the strategic direction of the Science Park.

Members will note that the Council has appointed a shareholder representative with Officer support, and a Director. The Council does not intend to appoint a client lead on the basis that it does not take services from the Company.

- **Exeter City Group Limited (Incorporated 7 June 2018) and Exeter City Living Limited (Incorporated 12 June 2018)**

The activities of Exeter City Group limited (ECG) and, primarily, its subsidiary, Exeter City Living Limited (ECL), were substantially reduced following the report to Council in October 2023 following a review carried out by Local Partnerships LLP commissioned by the Council's Chief Executive. The original purpose of ECL was, as the Council's wholly owned company, to deliver housing. At full Council on 17 October 2023, Members approved the winding-down of the activities of ECL and that it continue for the limited purpose of holding and managing property.

At present the companies have one Executive Director, a Council Officer, and two non-executive Directors. These Directors are independent and not Officers or Members of the Council.

The activities of Exeter City Living Limited have been scaled back to the limited role of holding and managing property. It now holds and manages the six flats at the Guildhall Shopping Centre. Given that the activities of ECG and ECL have substantially reduced, the number of Directors can be reduced from three to one. The objectives of the Company will also be amended in to properly reflect its considerably reduced remit.

Members will note the recommendations concerning ECG and ECL and the additional information set out in 8.2.

The Chief Executive is presently the shareholder representative. This will be reviewed in line with the recommendation to delegate authority to the Chief Executive to appoint a Member as Shareholder Representative and given the reduced remit and activities of the Companies.

- **Exeter City Homes Limited and Exeter City Living Property Limited (Both incorporated 12 June 2018)**

These companies are the two other subsidiaries of Exeter City Group Limited. Both companies are dormant, perform no activities, and have not done so since they were incorporated in 2018. They should be wound-up and dissolved.

Members will note the recommendations concerning ECG and ECL and the additional information set out in 8.2.

- **South West Audit Partnership Limited (SWAP) (Incorporated 14 September 2012)**

Members will recall that full Council approved joining the South West Audit Partnership on 6 February 2024 and this was effective from 1 April 2024. Exeter City Council has a share of the ownership of the Company along with 23 other Councils, Police forces, Police & Crime Commissioners and Fire and Rescue Services. There is a Board of Directors. Exeter City Council does not have a Director on the board of SWAP and there is no requirement to do so.

The Chair of Audit & Governance has been appointed as the Shareholder Representative of the Council (in line with many other owners) and the Strategic Director for Corporate Services supports him. The Head of Finance acts as the Council's client lead.

- **Exeter Business Centre Limited (EBC) (Incorporated 5 March 1986)**

EBC is based in a warehouse on the Marsh Barton Industrial Estate that the Company leases from a third party. The original intention of the company is to provide office space and workshops to 'start ups' on short-term leases to allow Companies that don't succeed to exit without significant leasehold obligations.

Despite the original intention, there are now a range of organisations being run out of the Centre on a longer-term basis. It is also the case that there are now more businesses that specialise in providing office accommodation on a short-term basis, and arguably the original purpose of EBC is not as exclusive as it once was.

The Company is small with a turnover in the region of £250,000 and has reserves of approximately £88,000 for the financial year 2022-2023. Unfortunately, EBC has made a small loss of the last couple of years and importantly, the Council has a responsibility to bail it out financially if its reserves were to go negative.

Commercial Assets and Finance provide services to EBC and this is regarded as onerous and time consuming. Finance is paid £3,000 and Commercial Assets £10,000 per annum for the services they provide to the Company. This does not consistently cover costs as the management of finances and tenants (For example, preparing separate VAT claims,

chasing bills, and managing new and existing tenants is not cost effective for the Council). Other areas also provide Services to the Company free of charge (HR and Democratic Services) .

Members will note the additional information set out in 8.3.

- **DextCo Limited (Incorporated 1 December 2016)**

Dextco limited is a District heating Company which was set up with partners in the City (Devon County Council, Royal Devon University Healthcare NHS Foundation Trust as well as Teignbridge District Council) with the intention of delivering a City Centre district heat network and an additional district heat network in the West Exe part of the City. The proposals did not go ahead and there are no current projects being progressed by the company. The company is not presently undertaking any projects and the future of Dextco needs to be reviewed with the other shareholders.

The Council has appointed a Council Officer as a Director, A shareholder representative needs to be appointed. There is no present requirement for a client lead as the Council does not receive services from the company.

- **Monkerton Heat Company Limited (Incorporated 3 November 2015)**

Monkerton Heat Company was set up with each Developer at Monkerton in relation to the District Heat Network which was installed by various developers with Eon as condition of section 106 agreements for construction of residential developments at Monkerton. The Company exists for the sole purpose holding the Head Lease with Eon for the pipework comprising the district heat network. As each developer completes their involvement in their scheme, they will resign as Directors and relinquish their shareholdings, and ultimately ECC will be the sole owner. Although it is an active company, it does not trade.

The Council has appointed a Council Officer as Director. A shareholder representative needs to be appointed. There is no requirement for a client lead as the Council does not receive services from the Company.

- **Exeter Canal and Quay Trust Limited (Incorporated 17 December 1981)**

Exeter Canal and Quay Trust Limited is a charity which was set up in December 1981 to manage and improve a range of properties primarily at the Quay. The properties are owned by Exeter City Council and let to ECQT primarily on long leases with decades to run. In some instances, the freehold interests have been transferred to ECQT.

Its board of Trustee Directors comprises eight Members of Exeter City Council and four non-Councillor Directors. It is a condition set out in the Articles of the Company that it should be structured in this way. The objectives of the Trust have changed over the years since incorporation and now, in addition to maintaining and letting properties, it also has a focus on improving and enhancing the quay experience, including providing financial support for events at the quay.

Whilst historically it was very conservative with its funds it has spent more funds in recent years. Whilst this is not a company, the Council does have significant interest in the

Charity and it is therefore proposed that this also forms part of the future performance reporting framework.

8.2 Exeter City Group of Companies: Exeter City Group Limited, Exeter City Living Limited, Exeter City Homes Limited, and Exeter City Living Property Limited

- 8.2.1 The Council resolved on 17th October 2023 to reduce the operations of ECL and in March 2024 completed the transfer of assets from ECL to the Council.
- 8.2.2 Following the asset transfer the companies moved from 5 to 3 Directors and officers have been tasked with taking steps to reduce the minimum number of Directors from 3 to 1 together with reducing the Companies objects to holding and managing property.
- 8.2.3 The Council resolution of 17th October 2023 did not grant authority for ECG's remit/objects to be amended. Nor was authority granted to amend both companies' Articles of Association to reflect the reduced operations and amend the minimum number of Directors.
- 8.2.4 The proposed resolution will enable the Council's shareholder representative carry out these steps and then changes to the Management Agreement can be progressed.
- 8.2.5 Discussions with the current Non-Executive Directors have been held to ensure they are aware of the pending written special resolution and its effect.
- 8.2.6 Council still has to approve a Business Plan under the existing agreement and therefore a business plan, focussed on the reduced activity is attached at Appendix 4.
- 8.2.7 As costs will vary from year to year, it is important that the Council ensures that the ECL remains solvent but does not make excessive profit. The entire income comes from the management agreement for the six flats and is income that would otherwise be limited in its use as Guildhall Shopping Centre income. To meet the objective, it is recommended that delegated authority is granted to the Strategic Director for Corporate Resources to ensure these objectives are met. The actual percentage agreed will be reported to Council each year in the Companies report.

8.3 Exeter Business Centre Limited (EBC)

- 8.3.1 EBC was incorporated in 1986, the Memorandum of Association is attached at Appendix 5. Its primary object was to provide on licence or on lease industrial and commercial workspaces of any kind including small workshops, studios, offices, yards or other premises or land to **new** sole traders, infant businesses, and small firms whether corporate or incorporate.
- 8.3.2 Their latest accounts now state the principal activity is letting industrial units for small enterprises.

- 8.3.3 As a Company there is a fiduciary duty on the Directors to ensure that the Company is financially viable and therefore the Centre has to ensure occupancy remains high. This does not translate into ensuring the businesses are new as per the original object.
- 8.3.4 The latest accounts show a Balance Sheet that is very close to becoming negative. As a Company limited by guarantee, it will fall on the Owner, ECC, to ensure that the Company is financially viable and capable of trading.
- 8.3.5 The Council has not had to inject funds into the Company since the early 2000's, but it is a possibility in the near future.
- 8.3.6 EBC leases the property from a third party. It is not owned by the City Council or the Company. The property lease has a 6-month break clause and is due for renewal in 2026. The Company is supported by the Commercial Assets team in terms of running the business and the Finance team in terms of the financial support to the Business. The Company pay a small amount for this support, but it is unlikely that this covers the costs of the support provided. In addition, there is some other support provided by Council Services for which the Council receives no payment.
- 8.3.7 There are currently 42 businesses occupying the Business Centre and 10 vacant units. Many do not meet the original criteria of new businesses and therefore the Company is no longer meeting its primary objective.
- 8.3.8 The Company is likely to require some financial support from the Council in the future unless the financial position significantly improves.
- 8.3.9 It is proposed therefore to undertake a review of the Company (similar to that of ECL but on a smaller scale) to make a recommendation about the future of the Company.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 The recommendation in this report supports the Council's Corporate Priorities of Leading a Well-Run Council – Well Managed Assets: In reviewing the activities of the companies and the proposals to reduce or cease certain activities, the Council is taking a proactive approach to managing those alternative business structures where it has an interest.

9.2 It also supports the Corporate Priority of a Balanced budget by reviewing the activities of companies and by making recommendations to reduce financial exposure and company activities where that is seen to be necessary.

10. What risks are there and how can they be reduced?

10.1 The Companies may fall into administration if they are unable to meet their financial liabilities placing considerable pressure on Directors.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation, and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and

- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies, and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage, and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because the report's recommendations address Companies not individuals. Members will note the attached Equality Impact Assessment.

12. Carbon Footprint (Environmental) Implications:

12.1 There are no direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

13.1 The Purpose of the recommendation in this report is to put robust arrangements in place to ensure that continuing with the entities is appropriate and provides best value for money. This will support the Council in agreeing the objectives and benefits which will be expected from those organisations. The proposed arrangements and action points in this report are intended to result in more effective performance monitoring of those entities. Members will be able to undertake financial and performance monitoring through these measures.

Director Strategic Director Corporate Resources

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

See the appendices to the report.

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