



Wholly and Partly Owned Council Companies

Creator	Author(s)	Ann-Marie Johnstone		
	Approved by	Executive		
	Department	Chief Executive's Department		
	Service area	Governance, Policy and Information		
	Head of Service	Ann-Marie Johnstone		
	Director	Erik Scollay		
Date	Created	2022/10/26		
	Submitted	2026/07/29		
	Approved	TBC		
	Updating Frequency	3 years		
Status	Version: 2.0			
Contributor(s)	Head of Chief Executive's Department, Governance and Information Manager, Monitoring Officer, Section 151 officer, Head of Legal Services			
Subject	Governance of wholly and partly owned Council companies			
Type	Policy			
	Vital Record		EIR	
Coverage	Middlesbrough Council			
Language	English			
Document Control				
Version	Date	Revision History	Reviser	
0.1	2022/12/01	Draft	S Hussain	
2.0	2026/03/09	Triennial review	A Johnstone	
Distribution List				
Version	Date	Name/Service area	Action	
1.0	2023/07/28	All staff via the intranet	Approval	
2.0	2026/06/30	All staff via intranet and open data site	Awareness raising	
Contact:	Head of Chief Executive's Department Ann-Marie_Johnstone@middlesbrough.gov.uk			

Summary

1. This policy sets out how the Council will develop, operate, and review Wholly or Partly Owned Council Companies (WPOCC) to strike an appropriate balance between allowing a company the freedom to manage its activities and ensuring that its arrangements provide the Council with assurance that the company is required to achieve the Council's ambitions, the arrangement is providing value for money from activities and there are appropriate corporate governance arrangements in place.
2. The following sections outline:
 - Purpose
 - Definitions
 - Scope
 - Legislative and regulatory framework
 - Policy statement
 - Roles and responsibilities
 - Supporting policies, procedures and standards; and
 - Monitoring and review arrangements.
3. This policy also sets a minimum standard for the establishment, governance and review of any WPOCC (attached at Appendix 1) to support compliance with the aims of this policy.
4. The principle of "comply or explain" is expected in relation to following the requirements of this policy. Compliance with the requirements contained here is mandated, unless there is a good, well-argued, evidence based and documented reason for adopting a different approach, agreed with the Council's S151 Officer and Monitoring Officer. Constitutional and legal requirements must still be followed.

Purpose

5. Through the implementation of this policy, the Council aims to ensure any companies established that it either partly or wholly owns:
 - Are only established following completion of the business case process as set out in the Council's Project and Programme Management Framework which identifies that there is a compelling business case that meets the standards set out in the supporting Minimum Standard
 - Have appropriate controls and freedoms, with sufficient control for the Council, to ensure that its investment is protected, appropriate returns on investment can be obtained and that the activities of the entity are aligned with the values and strategic objectives of the Council
 - Have clear understanding of roles and responsibilities between the Council and any wholly or partly owned council companies. Roles involved in the oversight and operation of the company are occupied by those with the skills and experience to deliver them
 - Have in place arrangements that ensure regular assurance is provided and that the entity continues to be relevant and required.
6. Effective implementation of this policy will ensure that the Council understands its wholly or partly owned council companies, how they contribute to strategic objectives and provision of assurance around good governance.

Definitions

Wholly or Partly Owned Council Company	A separate legal entity, either partly or wholly owned by the Council, established to deliver a specific range of functions and/or commercial activity following the agreement of the appropriate decision-making body within the Council.
Value for Money	Wholly or Partly Owned Council Company uses resources in a way that creates and maximises public value.
Company Governance	The governance arrangements that will be put in place and maintained during the life of the company in order to meet the requirements of this policy and supporting minimum standard.
Council shareholder	The position can be made up by a number of appointees or one individual who review the performance of the board and ensure investments and policy objectives are being delivered by the Company in line with Council expectations.
Company Board Chair	The chair provides clear board leadership, supporting the directors and chief executive of the entity and taking account of the shareholders views.
Executive Directors	They are focused on running the Council Company's business activities and implementing the boards plans and policies. They may be expected to be board members, although this is not essential.
Non-Executive Directors	Non-Executive Directors have a wider role, providing independent and constructive challenge. They are in place to bring independent judgment to bear on issues of subject matter expertise, strategy, performance, resources including key appointments and standards of conduct.
Nolan principles	Seven principles set out by Lord Nolan in 1995, including a code of conduct across public life, outlining the ethical standards public sector workers and elected officials are to adhere to.
Articles of association	Written, published rules that determine how the company is run and is agreed by the shareholders or guarantors, directors and (where there is one) the company secretary.
Shareholder agreement	<p>the shareholders' agreement is a confidential document, whereas the articles of association are open for the public to view at Company House. This may affect the decision about what is included in the articles of association and what should be kept private in the shareholders' agreement.</p> <p>Typically, a shareholder agreement will cover the following:</p> <ul style="list-style-type: none"> • The nature of the company and its purpose • The process for appointing and removing directors • How decisions about the company will be made • How disputes will be resolved • The shareholders' rights to information • How shares will be distributed and sold • Any restraint provisions on shareholders

Scope

7. This policy applies to all arrangements of the Council meeting the corporate definition of

wholly or partly owned council companies outlined in this policy.

8. For partly owned Council companies, this policy will apply where the Council’s position meets the government definition of a ‘person with significant control’ (PSC). Government defines PSC as:

- has more than 25% shares or voting rights in the company
- can appoint or remove a majority of directors
- can influence or control the company or trust.

9. The policy applies to all elected members and employees of the Council (both permanent and temporary).

Legislative and regulatory framework

10. Key elements of the legislative and regulatory framework relevant to partnership governance are set out below.

Localism Act 2011	The Act gave Local authorities new and broader general powers of competence in accordance with section 1 of the act.
Local Government Act 2003	Gives Local Authorities the power to set up companies to trade with a view to making a profit in relation to any of their existing functions.
Companies Act 2006	<p>Sets out statutory duties of directors of companies to be legally responsible for running the company and providing information on the company’s structure and operation to Companies House.</p> <p>Duty on Company Directors to act in the best interests of the company to promote its success including that they must consider the:</p> <ul style="list-style-type: none"> • consequences of decisions, including the long term • interests of its employees • need to support business relationships with suppliers, customers and others • impact of its operations on the community and environment • company’s reputation for high standards of business conduct • need to act fairly to all members of the company.
The Five Case Business Model: HM Treasury, Government Green Book.	HM Treasury Green Book approach to public sector investment, adopting the five-case model, as set out in the ‘Guide to Developing the Project Business Case, Better business cases: for better outcomes’ .
Freedom of Information Act 2000	If the company is wholly owned by one Local Authority, it will be subject to the Act. If it is owned by more than one Council, it is exempt.

11. This policy is also shaped by best practice guidance published by the Chartered Institute of Public Finance and Accountancy (CIPFA).

Policy Statement

12. Each existing or prospective wholly or partly owned council company will have a lead manager of appropriate seniority who sits on the Council's Leadership Management Team. The lead will be responsible for ensuring that wholly or partly owned council companies are developed, governed, and reviewed in line with this policy.
13. Development of any new wholly or partly owned council companies will be a project and be managed in line with the Council's Programme and Project Management Policy and supporting framework.
14. All formal wholly or partly owned council company agreements and structures proposals (incorporated partnerships or other) will be agreed by the Corporate Director of Legal and Corporate Services following approval of a robust business case, in line with the Council's Programme and Project Management Policy.
15. All wholly or partly owned council companies will meet the minimum standard of governance set out in the Minimum Standard appended to this policy.
16. Once established, the performance of wholly and partly owned companies will be reported **quarterly** to the Executive and Lead Manager, and updates to Overview and Scrutiny Board at least annually. Reporting will cover ongoing compliance with this policy, activity and its alignment with the Council's objectives.

Roles and key responsibilities

Executive Members	Responsible for agreement of this policy and adhering to it when acting in line with this policy in their Executive Member capacity or Council appointed company role.
Elected Members	<p>Elected members may be appointed to wholly or partly owned Council companies' boards and will scrutinise the performance of such Council companies in line with its governance arrangements and their appointed roles.</p> <p>Members must be aware of their responsibilities under the Local Code of Corporate Governance and Codes of Conduct for members and employees and ensure that the Council companies that they are involved in comply with this policy. Any concerns should be escalated to Monitoring Officer of the Council.</p>
Company Directors	<p>Act within their powers under the company's constitution. promote the success of the company. A director must act in a way that they consider, in good faith, would be most likely to promote the success of the company for the benefit of its members (shareholders) as a whole.</p> <p>Directors must exercise independent judgement, developing their own informed view of the company's activities.</p> <p>It is the responsibility of all directors to avoid or manage conflicts of interest which may affect their objectivity. If situations arise which impose multiple claims on a director's attention or loyalty, it is essential that they disclose them to fellow board members. It will then be up to the other non-conflicted board members (or the shareholders, in some cases) to decide how to manage or approve the conflict and maintain the integrity of the board's decision-making process.</p>
Company	The designated shareholder(s) responsible for representing the

Shareholder Representative	Council's ownership of the wholly or partly owned council company.
Monitoring Officer	Provide advice on partnership models and governance arrangements where appropriate and signs off all formal arrangements prior to approval. Be provided with regular assurance that the company is operating in line with expected governance arrangements.
Section 151 Officer	Ensure the proposed company's arrangements will provide the Council with Value for Money. Be provided with regular assurance that the company is continuing to provide Value for Money.
Leadership Management Team Lead	Responsible for ensuring any proposed company is established in line with this policy. Once a company is in operation, ensuring that appropriate assurances are provided back to the Council on the governance of its operation and value for money delivery. Providing regular assurance around the ongoing need for the company to be maintained.

Supporting policies, procedures and standards

17. The following policies, procedures and standards will be implemented across the Council to support effective partnership governance.

Risk and Opportunity Management Policy	Sets out how the Council will ensure that risks are effectively managed, and opportunities exploited to maximise delivery of strategic objectives, fully integrated with performance management arrangements.
Performance Management Policy	Sets out how the Council will ensure that performance is effectively managed to deliver strategic priorities for the town.
Programme and Project Management Policy	Sets out how the Council will manage its portfolio of programmes and projects to ensure delivery to scope, cost, time and quality.

Monitoring and Review Arrangements

18. This policy will be reviewed every three years, unless there is significant development that would require a more urgent review e.g., new legislation.