

**Wiltshire Council**

**Environment Select Committee**

**19 September 2017**

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**Subject: Housing Board Governance Review 2017**

**Cabinet Member: Councillor Chuck Berry**  
**Cabinet Member for Economic Development and Housing**

**Key Decision: No**

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### **Executive Summary**

The purpose of this report is to update the Environment Select Committee (ESC) regarding the recent Housing Board Governance Review which included the Housing Assurance Panel (scrutiny). The report presents a range of options for future governance arrangements, seeks the viewpoint and input of the ESC, and seeks agreement for the level of remuneration.

Set out within the report are the following: how the Housing Board came about; how it contributes to the Council's Business Plan; current Board arrangements and remuneration level. There is a brief overview of the legislation and Homes and Communities Agency regulatory framework to place the Board into context and highlight that there is a requirement for the Council to include residents in the management of their homes and ensure that tenant scrutiny arrangements are implemented.

External consultants were procured to conduct the Housing Board Governance Review. The full report is appended and a summary of the options for the future is presented alongside commentary from the service, explaining the positive and negative implications of each option:

- As is structure for the Housing Board and the Housing Assurance Panel.
- As is structure with revised Terms of Reference's.
- No Housing Board, retain the Housing Assurance Panel.
- No Housing Board and no Housing Assurance Panel.

The service supports the second option (As is structure with revised Terms of Reference) for the reasons set out in the report. Continuing with payment is supported to maintain high calibre membership and future applications. For the Board's second term, it should be set at the same level as its first term.

The HAP is to continue without payment, but reasonable expenses are reimbursed.

### **Proposal(s)**

For the Environment Select Committee to note this report and agree the following:

- a) For Housing Services to pursue the 'As is structure with revised Terms of Reference's' option, subject to the Terms of Reference being developed by Housing Services in collaboration with the Housing Board members.
- b) Remuneration level to be continued for the second term of the Housing Board (on and from 4 May 2017).
- c) Recruitment to commence, as soon as reasonably practicable, via the Elected Wire, Housing Matters magazine and Wiltshire Council's website.

### **Reason for Proposal(s)**

The Council is required to review governance arrangements in collaboration with our residents, at least once every 3 years, in order to maintain regulatory compliance.

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20 July 2017

## **Wiltshire Council**

### **Environment Select Committee**

**19 September 2017**

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**Subject: Housing Board Governance Review 2017**

**Cabinet Member: Councillor Chuck Berry**  
**Cabinet Member for Economic Development and Housing**

**Key Decision: No**

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#### **1. Purpose of Report**

**1.1** The purpose of this report is to update the Environment Select Committee (ESC) regarding the recent Housing Board Governance Review which included the Housing Assurance Panel (scrutiny). The report presents a range of options for future governance arrangements, seeks the viewpoint and input of the ESC, and seeks agreement for the level of remuneration.

#### **2. Relevance to the Council's Business Plan**

**2.1** The Council's vision is to "create strong communities in Wiltshire" (Business Plan, p2) and governance arrangements around the Council's housing stock contributes to this vision by; including residents of our housing stock, joining their knowledge with that of Councillors and independents to ensure that by embracing community involvement and working together, everyone is able to take more responsibility for their own wellbeing. Combining knowledge from a range of sources and ensuring that service users are included, can contribute toward the Council's goals of implementing innovative service changes, in turn delivering even better services in a cost conscious commercial manner, and protecting those who are most vulnerable whilst furthering our digitisation ambitions. The strategic direction and future priorities of Housing Services are aligned with and constructed to complement the Council's Business Plan.

#### **3. Overview and Scrutiny Engagement**

**3.1** This report is being presented to the ESC to seek members' viewpoint and guidance around a range of options for future governance arrangements, along with the level of remuneration. If the governance structure were to be amended, agreement would need to be sought from Cabinet, although the Associate Director – Adult Care Commissioning, Safeguarding and Housing has the authority, under the Board's Terms of Reference, to set and/or vary the level of remuneration.

#### **4. Background**

**4.1** At its 22 January 2013 meeting, Cabinet resolved that it approved the setting up of a Management Board for the governance of Council housing

consisting of an equal number of Councillors, tenants and independents, with a recommendation that such a panel should be in place by April 2013.

- 4.2** Appointments to the Board were made in November 2013 and December 2013 and the Board held its inaugural meeting on 17 December 2013. Appointments were linked to the local Government electoral cycle and those appointed were informed that governance arrangements would be reviewed in the future. The Board comprises a total of 9 positions. Board member remuneration, for its first term ending 3 May 2017, was as follows (payments made quarterly and in arrears – no expenses allowed):
- a) Chairman – £8,000 per annum.
  - b) Regular Members – £3,175 per annum.
- 4.3** Housing Board meetings are approximately held on a bi-monthly basis, with the November meeting also serving as the Annual General Meeting.
- 4.4** The Housing Board’s main purpose is to provide strategic guidance to the senior managers of the Housing Revenue Account (HRA). Members are involved in a range of areas, including but not limited to:
- a) Performance monitoring (quarterly and end of year reports).
  - b) HRA Business Plan and strategic priorities.
  - c) Asset Management Strategy.
  - d) Financial monitoring (quarterly updates and end of year report).
  - e) Regulatory compliance, including scrutiny.
  - f) Resident engagement (community involvement).
  - g) Risk monitoring.
  - h) Procurement.
  - i) Policies and procedures.
  - j) General strategic development of the service.
- 4.5** In early 2016, Board members were reminded of the need for the service to review governance arrangements. In the second half of 2016, members were reminded again of the upcoming review of governance arrangements; as the current focus was on finalising the Housing Strategy, and working on the HRA Business Plan and the Asset Management Strategy, the governance review was scheduled for early or mid-2017.
- 4.6** The Housing Assurance Panel (HAP) sits below the Housing Board. To date, the HAP has produced a number of scrutiny reports, the most recent of which was a solo project looking at Anti-Social Behaviour and a joint project with PA Housing looking at New Ways of Working: Recruitment and Collaboration. HAP members are volunteers; they are not remunerated, although reasonable expenses are reimbursed.
- 4.7** The Housing Act 1985 includes (section 21 (1)):
- “The general management, regulation and control of a local housing authority’s houses is vested in and shall be exercised by the authority and the houses shall at all times be open to inspection by the authority.”

**4.8** The Housing and Regeneration Act 2008 created the Office for Tenants and Social Landlords (which used the operating name Tenant Services Authority). Included in the Act is:

“86 Fundamental objectives

...

(4) Objective 3 is to ensure that tenants of social housing have the opportunity to be involved in its management.

...”

**4.9** The Localism Act 2011 transferred powers from the Office to the Regulation Committee of the Homes and Communities Agency (HCA).

**4.10** Wiltshire Council, as a provider of social housing, is registered with the HCA as a Registered Provider. The HCA expects providers to ‘self-regulate’ and discusses this in their ‘Regulating the Standards’ publication:

“Co-regulation

1.10 Mindful of our duty to minimise interference, our fundamental objective of supporting the provision of social housing and our commitment to proportionate regulation, we take a co-regulatory approach. This means:

- We regard board members and councillors as responsible for ensuring that providers’ businesses are managed effectively and that providers comply with all regulatory requirements
- Providers must support tenants to shape and scrutinise service delivery and to hold boards and councillors to account
- We operate as an assurance-based regulator, seeking assurance from providers as to compliance with the standards. In other words, the onus is on providers to demonstrate their compliance to the regulator. Where we lack the requisite assurance, this will be reflected in the judgements we reach[.]”

a) This requires collaboration between the landlord and the residents to enforce the Regulatory Standards.

b) The HCA sets a number of Regulatory Standards (the 3 Financial Standards do not apply to the Council, although the 4 Consumer Standards do).

i) Financial Standards – Governance and Financial Viability Standard, Value for Money Standard, and the Rent Standard.

ii) Consumer Standards – Tenant Involvement and Empowerment Standard, Home Standard, Tenancy Standard, and the Neighbourhood and Community Standard.

**4.11** Attached at Appendix 1 is the HCA’s ‘Tenant Involvement and Empowerment Standard’, of which the ESC should in particular note the following requirements [emphasis as appears]:

**“1 Required outcomes**

...

**1.2 Involvement and empowerment**

- 1.2.1 Registered providers shall ensure that tenants are given a wide range of opportunities to influence and be involved in:
- a. the formulation of their landlord’s housing-related policies and strategic priorities
  - b. the making of decisions about how housing-related services are delivered, including the setting of service standards
  - c. the scrutiny of their landlord’s performance and the making of recommendations to their landlord about how performance might be improved
  - d. the management of their homes, where applicable
  - e. the management of repair and maintenance services, such as commissioning and undertaking a range of repair tasks, as agreed with landlords, and the sharing in savings made, and
  - f. agreeing local offers for service delivery.

...

**2 Specific expectations**

**2.1 Customer service, choice and complaints**

- 2.1.1 Registered providers shall provide tenants with accessible, relevant and timely information about:

...

- h. arrangements for tenant involvement and scrutiny.

**2.2 Involvement and empowerment**

- 2.2.1 Registered providers shall support their tenants to develop and implement opportunities for involvement and empowerment, including by:

...

- b. supporting the formation and activities of tenant panels or equivalent groups and responding in a constructive and timely manner to them
- c. the provision of timely and relevant performance information to support effective scrutiny by tenants of their landlord’s performance in a form which registered providers seek to agree with their tenants. Such provision must include the publication of an annual report which should include information on repair and maintenance budgets
- d. providing support to tenants to build their capacity to be more effectively involved.

...

- 2.2.4 Registered providers shall consult tenants at least once every three years on the best way of involving tenants in the governance and scrutiny of the organisation’s housing management service.

...”

...

- 4.12** Board members operate in a fair and balanced manner, maintain their independence and make recommendations to Housing Services; the Board can also make recommendations to Cabinet; however, powers cannot and have not been conferred on the Board so as to enable it to

make binding decisions, as outlined in the Paper passed by Cabinet on 22 January 2013.

## **5. Housing Board Governance Review**

**5.1** As the Housing Board was nearing completion of its first 4 year cycle, which is linked to the Council's local electoral cycle, this provided a sensible opportunity for the service to strategically assess and review the operations of the Board, both in terms of its work and how it interacts with the Executive structure of Wiltshire Council. This review would include the Housing Assurance Panel (HAP – scrutiny).

**5.2** External independent support was engaged in the form of consultants from Altair Ltd, to strategically assess and review the Housing Board and the HAP, evaluate our current arrangements against those considered as good practice and provide commentary on how other local authorities manage their own council housing stock. The brief included the reviewing of the Board and HAP's Terms of Reference, the relationship between the Board and the Executive, and consideration of other governance options to support the Council in the management of its housing stock.

**5.3** The consultants' report is attached at Appendix 2 and contains:

- a) The brief.
- b) The consultants' approach.
- c) Findings.
- d) Relationship with the Executive.
- e) Sector trends and resident engagement.
- f) Case studies.
- g) Options for the future.
- h) Lists of documents reviewed and persons interviewed.
- i) Spreadsheet (attached at Appendix 3).

**5.4** Within Appendix 2, the ESC is asked to give particular focus to sections 2.2.1 (Housing Board) and 2.2.2 (Housing Assurance Panel) which list a number of strengths and areas for improvement.

## **6. Additional Information**

**6.1** In early January 2017, Miss Powell (former Tenant Member) alerted the service to her departing the Board with immediate effect. As the Board was due to be reviewed, the service did not initiate a recruitment exercise.

**6.2** All appointments to the Housing Board were linked to the local Government electoral cycle. Accordingly, the appointments concluded on 3 May 2017.

**6.3** On 4 May 2017, there was a local election. Ian Tomes (former Councillor Member) was not re-elected; consequently there was a second vacancy. As the Board was being reviewed, the service did not initiate a recruitment exercise.

**6.4** The Housing Board Governance Review report was delivered to the Council in June 2017. The Associate Director – Adult Care Commissioning, Safeguarding and Housing carefully considered and scrutinised the reports’ contents, findings and options, in consultation with the:

- a) Cabinet Member for Economic Development and Housing.
- b) Portfolio Holder for Housing Stock.
- c) Head of Department – Business Change, Performance and Governance.
- d) Head of Housing – Operations and People.
- e) Head of Housing – Strategy and Assets.

**6.5** The Associate Director – Adult Care Commissioning, Safeguarding and Housing contacted all former Board members in late June and early July 2017 to inform them of the Council’s intention to reappoint them for a second term of 4 years, again with the appointments linked to the local Government electoral cycle, although the matter of remuneration would be formally addressed at a later date, once the Council had the opportunity to consult with the Environment Select Committee.

**6.6** A number of Members expressed concern that if the remuneration was withdrawn then they would need to consider their position.

- a) Remuneration has assisted in encouraging high calibre applicants, in turn creating a pool of desirable applicants from which the service was able to select the most appropriate members.
- b) Retaining the current Board members is of particular interest to the service, leading to the service supporting continuing with payment and thereby fulfilling its obligations as prescribed by Cabinet. Moreover, continuing with payments gives the service confidence that the pool of applicants sourced to fill the 2 vacancies’ will be of a high calibre and will ensure that the service can meet the requirements of the Cabinet decision.
- c) Time commitment has proven to be greater than envisaged. Members were originally told that there would only be 6 meetings per annum. Commitment developed quickly and on top of the 6 regular meetings and the associated studying of papers beforehand, it now includes the following: Away-Day sessions, sub-group meetings for policies and procedures, sub-group meetings for Key Performance Indicators and sub-group meetings for the Risk Register, as well as training sessions, development sessions and governance structure review sessions, along with engagement via email for certain issues requiring being expedited as opposed to being placed on hold until the next formal Board meeting.
- d) Withdrawal of payment to Board members, funded from the Housing Revenue Account and not from the General Fund, would most likely have a detrimental impact on Housing Services and the Housing Revenue Account, in that the following may be likely:



- i) Desired members departing from the Board.
  - ii) A reduced focus on strategic matters.
  - iii) A fall in compliance with and a potential breach of the HCA's Regulatory Standards.
  - iv) A temporary failure to comply with the Cabinet decision of 22 January 2013.
  - v) A rise in complaints.
  - vi) Potential negative media coverage.
  - vii) Frustration on the part of residents potentially taking the view that they are being excluded from the management of their own homes, despite regulations demanding that they be included.
  - viii) Recruiting new members of the required calibre would most likely be exceptionally challenging.
  - ix) Reduction in and fewer opportunities for Board diversity.
  - x) Reduction in and fewer opportunities to recruit highly skilled professionals with the relevant experience and those applicants who cannot afford to accept an unpaid role.
- e) HAP members are not remunerated; reasonable expenses are reimbursed.

**6.7** Payments which were due to cover the month of April and the first 3 days of May 2017 were settled in the Council's payroll of July 2017. All payments are now required to be settled through the Council's payroll so as to ensure that the Council is in full compliance with rule IR35; that is, the Council must deduct tax and national insurance at source.

## **7. Options for the Future**

**7.1** Within Appendix 2, there is a section entitled 'Options for the future'. The options have been reproduced below alongside commentary from the service. The ESC is asked to read the following section alongside the applicable section in the attached Appendix 2.

7.2

Option Description	Positives	Negatives
As is structure for the Housing Board and the Housing Assurance Panel.	<ol style="list-style-type: none"> <li>1. Complies with the letter of the Cabinet decision of 22 January 2013.</li> <li>2. Avoids potential negative press coverage.</li> <li>3. Avoids negative perception of preventing residents from being involved.</li> <li>4. Compliance with the HCA's Regulatory Standards.</li> </ol>	<ol style="list-style-type: none"> <li>1. Costs – financial and officer time.</li> <li>2. Failure to capitalise on the opportunity to develop member effectiveness and increase performance.</li> <li>3. Potential negative press coverage due to suggested ineffectiveness and low level impact.</li> <li>4. Perception of preventing residents from being meaningfully involved (although technically involved).</li> <li>5. Questionable compliance with the Council's Business Plan.</li> </ol>
As is structure with revised Terms of Reference's.	<ol style="list-style-type: none"> <li>1. Complies with the letter and the spirit of the Cabinet decision of 22 January 2013.</li> <li>2. Avoids potential negative press coverage.</li> <li>3. Avoids negative perception of preventing residents from being involved.</li> <li>4. Compliance with the HCA's Regulatory Standards.</li> <li>5. Enhanced and robust focus on strategic matters, increased board productivity and creates opportunities for the service to capitalise on commercial expertise – focus on Business Plan objectives of community involvement, commercialism, digitisation, 'delivering together' ("designing services with communities", p3) and protecting the vulnerable (early intervention).</li> </ol>	<ol style="list-style-type: none"> <li>1. Costs – financial and officer time although balanced with the positives and revised Terms of Reference for both costs would most likely constitute good value for money.</li> </ol>

	<p>6. Revision and refocus enhance the services ability to capitalise on the opportunity to develop member effectiveness and increase performance.</p> <p>7. Further support revision and refocus through appointment of high calibre applicants with a focus on those with commercial knowledge, in particular: community involvement, digitisation, 'delivering together' and protecting the vulnerable (early intervention).</p> <p>8. Meet members' aspiration of more communication and feedback from Cabinet on housing discussions by enhancing the relationship and developing an appropriate feedback mechanism with the Portfolio Holder for Housing Stock and/or Cabinet Member for Economic Development and Housing.</p> <p>9. Potentially positive press coverage due to greater effectiveness and higher level impact.</p> <p>10. Potentially positive perception of meaningful involvement.</p> <p>11. Full, complete and meaningful compliance with the Council's Business Plan, helping to contribute positively toward realising the Council's stated goals and objectives.</p>	
<p>No Housing Board, retain the Housing Assurance Panel.</p>	<p>1. Reduce all officers' time commitment, creating negligible level of resource to be redeployed in another area of the business.</p> <p>2. Retain positive and balanced work of the HAP (assuming members do not opt to leave after revision of the structure).</p>	<p>1. Violates Cabinet decision of 22 January 2013.</p> <p>2. Potential negative press coverage.</p> <p>3. Perception of preventing residents from being involved.</p> <p>4. Limited and questionable compliance with the HCA's Regulatory Standards.</p>

	<p>3. Cost saving.</p>	<p>5. Contravenes the spirit, if not the letter, of the Council's Business Plan which requires community involvement, commercialism, digitisation, 'delivering together' ("designing services with communities", p3) and protecting the vulnerable (early intervention) through a lack of oversight, scrutiny and accountability.</p> <p>6. Most likely against TPAS best practice (voluntary).</p> <p>7. Most likely precludes the service from achieving TPAS accreditation, which is currently being pursued (the service has already invested financial and officer resources to achieve this objective).</p> <p>8. Increased level of complaints, potentially leading to unnecessarily wasting officers' time and reducing officers' ability to focus on delivering services.</p>
<p>No Housing Board and no Housing Assurance Panel.</p>	<p>1. Reduce all officers' time commitment to nil, creating resource to be redeployed in another area of the business.</p> <p>2. Cost saving.</p>	<p>1. Violates Cabinet decision of 22 January 2013.</p> <p>2. Potential negative press coverage.</p> <p>3. Perception of preventing residents from being involved.</p> <p>4. Distinctly limited and severely questionable compliance with the HCA's Regulatory Standards.</p> <p>5. Contravenes the Council's Business Plan which requires community involvement, commercialism, digitisation, 'delivering together' ("designing services with communities", p3) and protecting the vulnerable (early intervention) through lack of oversight, scrutiny and accountability.</p>

		<p>6. Virtually certain to be against TPAS best practice (voluntary).</p> <p>7. Virtually certain to preclude the service from achieving TPAS accreditation, which is currently being pursued (the service has already invested financial and officer resources to achieve this objective).</p> <p>8. Increased level of complaints, potentially leading to unnecessarily wasting officers' time and reducing officers' ability to focus on delivering services.</p> <p>9. Potentially lose the goodwill of HAP volunteers and its high quality balanced reports and recommendations.</p>
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## **8. Safeguarding Implications**

- 8.1 There are no significant safeguarding implications associated with this proposal.

## **9. Public Health Implications**

- 9.1 There are no significant public health implications associated with this proposal.

## **10. Corporate Procurement Implications**

- 10.1 There are no significant corporate procurement implications associated with this proposal; although should the Board make recommendations regarding procurement of services to be delivered to residents, then this will become a consideration.

## **11. Equalities Impact of the Proposal**

- 11.1 All Board members operate in and treat all residents in a fair and balanced manner, maintain their independence and make recommendations to Housing Services. Board members do not represent a particular area; they represent all Council residents in the county of Wiltshire and make recommendations in the best interests of all Council residents in Wiltshire.

## **12. Environmental and Climate Change Consideration**

- 12.1 There are no significant environmental or climate change implications associated with this proposal.

## **13. Risk Assessment**

- 13.1 Risks that may arise if the proposed decision and related work is not taken:** Wiltshire Council may fail in its duty, as a Registered Provider of social housing, to comply with the Homes and Communities Agency's Regulatory Standards. Additionally, Housing Services may not be able to operate a Board as required by the Paper passed by Cabinet on 22 January 2013. This could result in a potential deterioration of or missed opportunity to improve services for residents, strengthen the Councils' brand and contribute positively toward realising the Council's goals and objectives, as outlined in the Council's Business Plan.

- 13.2 Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks:** Wiltshire Council's Housing Board may fail to make recommendations which improve services for residents and their families, missing an opportunity for improvement, or make recommendations which lead to a deterioration of service quality, which could result in an ineffective use of financial resources. Risks mitigated by focusing on appointing high calibre applicants to complement the current Board membership; sourced via the Council's Elected Wire, residents' magazine Housing Matters and the Council's website (all zero additional cost methods).

13.3 Powers cannot and have not been conferred on the Board so as to enable it to make binding decisions, as outlined in the Paper passed by Cabinet on 22 January 2013. The Board makes recommendations to Housing Services and can make recommendations to Cabinet.

#### **14. Financial Implications**

14.1 There are no significant financial implications associated with this proposal, other than the remuneration which is set at a maximum of £33.4 thousand (assuming no Member declines payment; during the first term, 1 regular member did decline payment). Payments would be made from the Housing Revenue Account and not from the General Fund.

#### **15. Legal Implications**

15.1 There are no significant legal implications associated with this proposal, other than failing to comply with the Regulatory Standards and the points of Law which underpin the regulators powers.

#### **16. Options Considered**

16.1 A formal report to Cabinet was considered, however the main issue to be resolved is around remuneration and it was felt that the ESC would be best placed to address this matter with the service. The Associate Director – Adult Care Commissioning, Safeguarding and Housing has the authority, under the Board's Terms of Reference, to set and/or vary the level of remuneration.

#### **17. Conclusions**

17.1 There is increasing evidence that Wiltshire Council's Housing Board is having a positive impact on the quality of service provision to residents and their families, has itself created an additional opportunity for residents to engage with the service and shaped further engagement opportunities. It continues to ensure that the service is acting in accordance with the expectations of the Paper passed by Cabinet on 22 January 2013. Maintaining a high calibre of Housing Board member and encouraging applications for vacant positions from high calibre applicants is best served by maintaining remuneration at the current level. Arrangements for scrutiny appear to be functioning well and there does not appear to be a case for making any changes in this area, other than minor changes that the HAP have suggested in their joint report, in order to broaden their appeal, for example, less formality and a simpler group name.

#### **18. Proposal**

18.1 For the Environment Select Committee to note this report and agree the following:

- a) For Housing Services to pursue the 'As is structure with revised Terms of Reference's' option, subject to the Terms of Reference

being developed by Housing Services in collaboration with the Housing Board members.

- b) Remuneration level to be continued for the second term of the Housing Board (on and from 4 May 2017).
- c) Recruitment to commence, as soon as reasonably practicable, via the Elected Wire, Housing Matters magazine and Wiltshire Council's website.

## **19. Reason for Proposal**

- 19.1 The Council is required to review governance arrangements in collaboration with our residents, at least once every 3 years, in order to maintain regulatory compliance.

**James Cawley**

**Associate Director, Adult Care Commissioning, Safeguarding and Housing**

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20 July 2017

## **Appendices**

Appendix 1 – Tenant Involvement and Empowerment Standard (Homes and Communities Agency, July 2017).

Appendix 2 – Housing Board Governance Review (June 2017).

Appendix 3 – Housing Board Governance Review (Supporting Spreadsheet) (June 2017).

## **Background Papers**

The following documents have been relied on in the preparation of this report:

Minutes of the Cabinet Meeting held on 22 January 2013.

National Tenant Engagement Standards (TPAS – Tenant Participation Advisory Service, Year Unknown).