



# Delivering housing through companies

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## The legal framework

# YOUR SPEAKER TODAY



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## Today's content

- The context for Mid Devon
- Reasons why local authorities use companies to deliver housing
- Hertsmere Council – an example
- Blackpool Council – an example
- Council powers
- Procurement implications
- What exactly is a Teckal company?
- Other considerations
- Business cases and business plans
- Examples from elsewhere
- Actions



## The context for Mid Devon

- Draft Housing Strategy for Mid Devon 2021-2025
- “How and where we procure and deliver new Council Housing can be done in several ways and the benefits of each will be weighed up and assessed on a business case basis for each site.”
- Options include: “Direct award to a ‘Teckal’ company”.





## Reasons why local authorities use companies to deliver housing

- To intervene in the local housing market
- To build new housing for sale and also housing for rent (market or affordable)
- To generate a revenue stream
- To optimise development consistent with the Local Plan
- To establish a local responsible landlord of repute
- To enable access to Homes England grant (especially if it is a registered provider)
- To influence the development to a degree greater than possible with a sale of the site to the market
- To fulfil council priorities e.g. attract young people with skills to support the local economy
- To optimise environmental benefits around carbon neutrality
- To enable council-owned sites that are marginal in commercial viability to be developed



## What happens in practice

- Council forms development company
- Council sells a site to the company
- Council lends the company the money to buy the site and to build the houses – at commercial rates
- Majority of houses are sold into the market for sale
- Some houses are sold to a parallel landlord company for renting out at market or sub-market levels
- Real social housing is acquired by the Council or sold to a registered provider (which might be a further vehicle established by the Council)
- Borrowing repaid from sale proceeds
- Profit reinvested in further developments or distributed as dividend to the Council





# Examples from elsewhere

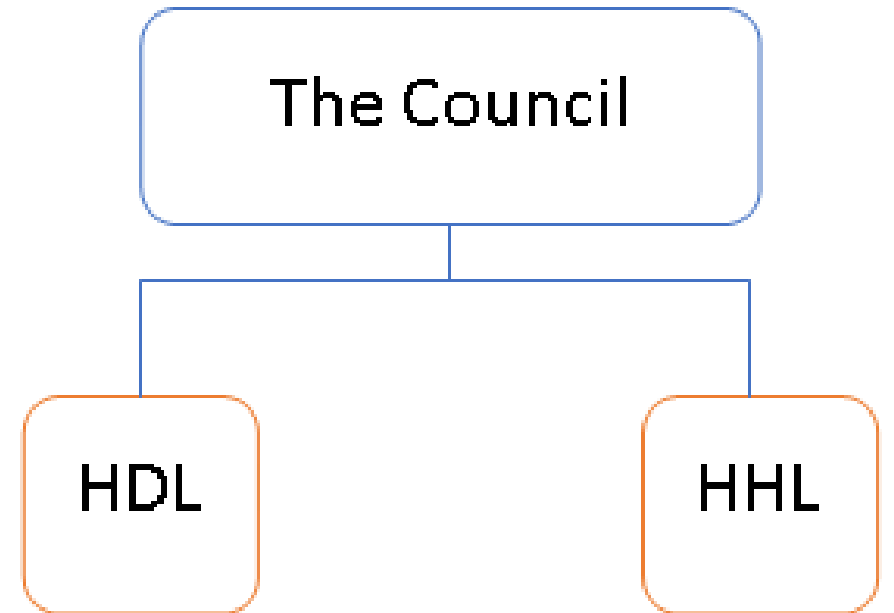


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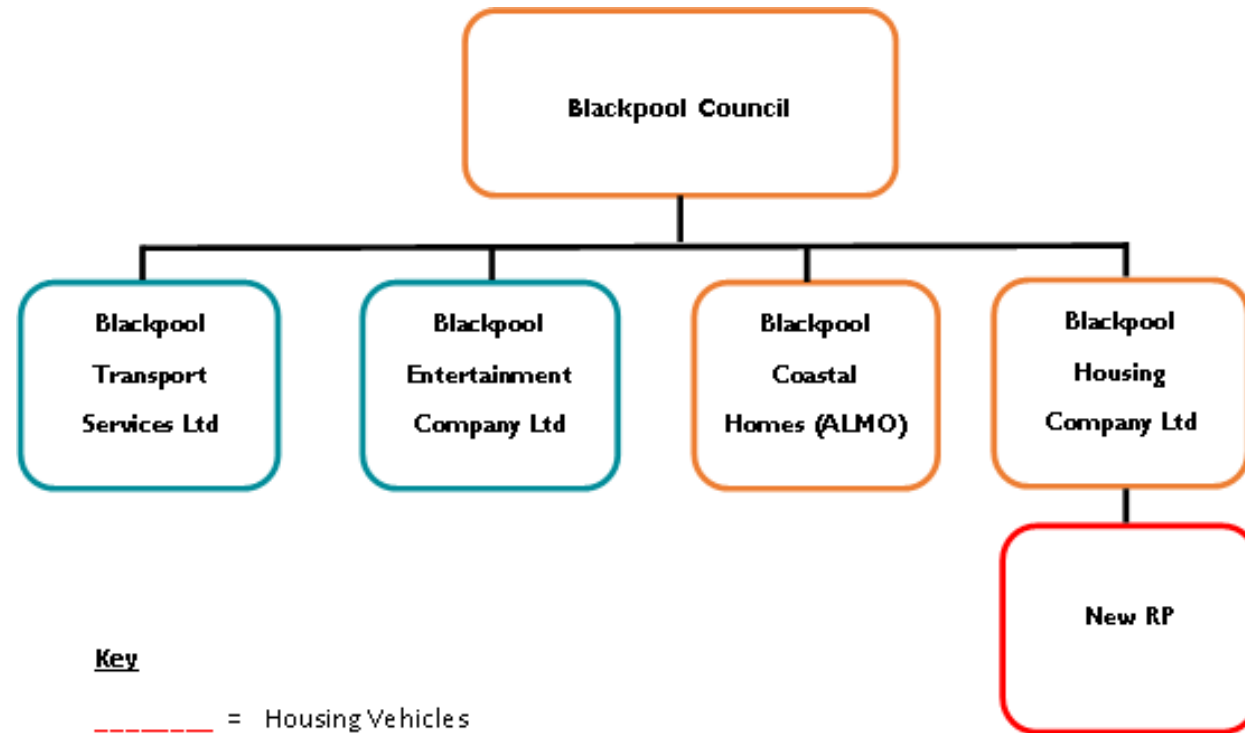
## Example- Hertsmere Borough Council

- Hertsmere Developments Limited
- Hertsmere Homes Limited
- Exploring a registered provider
- Considering joint ventures





# Example- Blackpool Borough Council



## Council powers

- General power of competence
- Power to trade
- Power to borrow
- Power to invest
- Power to acquire land
- Power to dispose of land
- Power to provide housing accommodation
- Power to provide financial assistance for “privately let housing”



## Procurement implications

- Public Contracts Regulations 2015
- Is the Council procuring works, services or goods?
- Is the Council acquiring land?
- Key definition- public works contract – especially (c) “the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work”
- Council standing orders





## What exactly is a Teckal company?

- 3-pronged test:
  - Control similar to that over its own departments
  - More than 80% tasks entrusted by the controlling authority or “other persons controlled by that” authority
  - No “direct private capital participation”
- Control = decisive influence by the authority or an entity it controls in the same way





## Flexibilities with local authority companies

- To Teckal or not to Teckal?
- The Teckal vehicle can provide works, services etc to its controlling authority without PCR 2015 tenders and any other controlled company (even non-Teckal if no private capital) - and vice versa
- Any controlled company (even non-Teckal) in the Council's group can entrust to the Teckal vehicle works and services which will therefore fall within the 80% limit



## Other considerations

- Best consideration
- Subsidy controls (formerly state aid)
- Tax (esp.VAT)



## Business cases and business plans

- Business cases - by the Council
- Business plans - by the Company



# Actions

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## QUESTIONS?

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