

Executive Member for Finance & Performance

23rd November 2016

Report of the Director of Customer and Corporate Services

Council Owned Companies

Summary

1. At their meeting on 29th September 2016 the Executive considered and approved arrangements for the new Shareholder Committee but referred the detailed division of responsibilities for further consideration by the Executive Member

Recommendations

- a) The Executive Member is asked to support the proposed division of decision making responsibilities between the Executive, the Shareholder Committee and Officers as set out in the annex to the report.

Reason: To ensure proper governance of Council companies.

Background

2. The Council owns a number of companies either alone or in partnership with other local authorities. Companies are managed by their directors. A company's board of directors can take any decision which is within the powers conferred by its Constitutional documents; however there are some decisions which the Council has decided when establishing a company are so significant that it would not want the company to be able to take without the specific approval of the Council. The Council has therefore placed controls on their companies either in the Articles or, more commonly, through shareholder's agreements which require certain decisions to be referred to the Council.
3. The controls give the Council the opportunity to satisfy itself that significant or unusual decisions are being made in the public interest and with proper consideration of risk. The Council can then either give or withhold approval. It is important to recognise that these are controls. The fact that the Council has the power to grant consent should not imply

that it will. All these decisions though will already have been considered and supported by the directors of the company.

4. The decision to give or refuse consent is an executive decision. The Council's scheme of delegations governs how executive decisions can be made. The Executive has already reserved to itself decisions relating to:
 - Changes to Company governance including amending Articles, shareholder agreements etc
 - Agreements to amalgamation, merger, joint venture, profit sharing or similar arrangements

This does not prevent the Executive dealing with other matters but normally they would be dealt with by either the Shareholder Committee or Officers.

5. The Shareholder Committee has been delegated powers by the Executive within its terms of reference to exercise all the Council's powers arising from its ownership role other than those identified above as being reserved to the Executive.
6. The Shareholder Committee therefore has wide powers. There are, however, company matters which raise no particular strategic issues and where the risks of a proposed transaction are no more than the risks Chief Officers manage on a day to day basis. A balance has to be struck between those matters which properly require full Member scrutiny through the normal Member decision making process and those which require a lighter touch. Part of that consideration is weighing up the need for democratic oversight against the requirements for effective and, in some cases, commercial decision making. There are a range of decisions where, it is suggested, it is appropriate for Council Chief Officers to be the decision makers.
7. The annex to this report described decisions which under the various Shareholders agreements require Council approval and sets out which would fall within the remit of Shareholder Committee and which within Directors' delegated powers. Executive Members may direct Directors not to use delegated powers. The Executive Member may wish to direct that the powers listed as falling within the remit of the Shareholder Committee should not be exercised by a Director.

8. Specialist Implications

Legal – these are contained within the body of the report

There are no specific other implications associated with the report which should be specifically reported.

Consultation

9. Consultation has been undertaken with the Executive and Officers.

Council Plan

10. The new Governance framework for all traded activity will contribute to the objective:-

- i. We are entrepreneurial, by making the most of commercial activities.

Risk Management

11. This report forms parts of a process of rationalising the governance arrangements of existing companies into a single governance framework. This approach is intended to make the structure fit for purpose now and in the future should the Council choose to establish additional companies.

Contact Details

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**Report
Approved**



Date 24th October 2016

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annex

Annex 1 - Proposed division of responsibilities