

**Notice of a public meeting of  
Shareholder Committee**

**To:** Councillors Ayre (Chair) and D'Agorne  
**Date:** Tuesday, 19 November 2019  
**Time:** 4.30 pm  
**Venue:** The Snow Room - Ground Floor, West Offices (G035)

**AGENDA**

**1. Declarations of Interest**

At this point in the meeting Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

**2. Exclusion of Press and Public**

To consider excluding the public and press from the meeting during consideration of agenda item (6), SJB Recycling Proposed Disposal of Subsidiary Reserved Matters on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under Paragraphs 3 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

**3. Minutes** (Pages 1 - 2)

To approve and sign the minutes of the last meeting of the Shareholder Committee held on 3 September 2019.

**4. Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Monday 18 November**. Members of the public can speak on agenda items or matters within the remit of the

committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

### **Filming, Recording or Webcasting Meetings**

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, this will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [http://www.york.gov.uk/download/downloads/id/11406/protocol\\_f\\_or\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

5. **Veritau Ltd - Creation of a subsidiary company** (Pages 3 - 8)  
Members will receive a report seeking shareholder approval for the expansion of Veritau through the creation of a subsidiary company.
6. **SJB Recycling Proposed Disposal of Subsidiary Reserved Matters** (Pages 9 - 20)  
Members will receive a report which seeks to provide approval in principal to the SJB Recycling Limited Board of Directors for the disposal of a subsidiary company.
7. **Urgent Business**  
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Michelle Bennett

Contact details:

- Telephone – (01904) 551573
- Email - [michelle.bennett@york.gov.uk](mailto:michelle.bennett@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

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City of York Council

Committee Minutes

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Meeting	Shareholder Committee
Date	3 September 2019
Present	Councillors Ayre (Chair) and D'Agorne

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## **22. Declarations of Interest**

Members were asked to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they might have in respect of business on the agenda. None were declared.

## **23. Minutes**

Resolved: That the minutes of the last meeting held on 25 March 2019 were approved and then signed by the Chair as a correct record.

## **24. Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme

## **25. Appointment of a Non-Executive Director of City of York Trading Ltd.**

Members received a report which provided background information on the proposed appointment of a Non-Executive Director of City of York Trading Ltd. (CYT)

Resolved: That Members approve the appointment of this candidate to the role of Non-Executive Director of CYT Ltd.

Reason: This is due to the resignation of CYT's previous two external Non-Executive Directors (NEDs) in early

2019. To ensure the Board remains quorate and as resilient as possible moving forward.

Councillor Ayre, Chair

[The meeting started at 4.30 pm and finished at 4.40 pm].

**VERITAU LIMITED****Creation of a subsidiary company – requirement for shareholder approval****1.0 Purpose**

- 1.1 To seek shareholder approval for the expansion of Veritau through the creation of a subsidiary company.

**2.0 Introduction**

- 2.1 Veritau Limited was established in 2009 as a shared service company. The company is jointly owned by North Yorkshire County Council and the City of York Council. Veritau provides internal audit and other assurance services to the two councils.
- 2.2 Veritau expanded in 2012, with the creation of a subsidiary company, Veritau North Yorkshire Limited. Veritau North Yorkshire Limited is 50% owned by Veritau Limited with the remaining shares owned by four North Yorkshire district councils. As well as its member councils, the Veritau group provides services to a range of other public sector bodies, including North Yorkshire Fire and Rescue Service, Doncaster Children's Services Trust, Selby Housing Trust, 3 x National Park authorities, plus various housing associations, town councils and academy schools. The group operates as a single business under a uniform management structure below board level. The group has common policies, procedures and systems. It has also adopted a single brand image.
- 2.3 Since its creation, Veritau has been open to other local authorities joining the shared service providing any expansion is in the best interests of the group and its existing shareholders. Recently discussions have been taking place with a number of other councils about them possibly joining the group. The councils are Redcar and Cleveland Borough Council, Middlesbrough Council and Scarborough Borough Council.
- 2.4 To prevent any dilution in control for NYCC and CYC, any new member councils would need join the group by either becoming a member of Veritau North Yorkshire Limited (subject to the agreement of the existing shareholders of the company) or through the creation of a new subsidiary company (similar to Veritau North Yorkshire). The Veritau Limited shareholders' agreement requires the unanimous consent of both shareholders to any acquisition of shares in any company or business, the establishment of any subsidiaries or participation in any legal partnership or joint venture.

**3.0 Benefits of Expansion**

- 3.1 There are a number of advantages for Veritau and its shareholders in accepting additional council members, including:
- greater efficiencies and cost savings through economies of scale;

- the ability to retain skilled and experienced staff by creating greater critical mass and providing more opportunities for career development and specialism;
- greater resilience and capacity resulting in increased security of supply for clients;
- more opportunities to develop specialist skills (for example data analytics and IT audit), resulting in added value for clients;
- an improved Teckal position (which in turn increases Veritau's ability to sell services to other external clients);
- an increased profile – being seen as the supplier of choice for assurance services in the region;
- the reduced risk that these councils and others might collaborate and create a potential rival service or join up with another existing partnership resulting in increased competition.

#### **4.0 Background**

4.1 Redcar and Cleveland Borough Council and Middlesbrough Council have operated a shared service for internal audit and other assurance services since 2011. Redcar and Cleveland acts as the lead authority for the shared service. There are 7 members of staff currently providing internal audit services to the two councils and the combined programme of work is approximately 1,560 days per annum. Whilst the shared service has been successful it is recognised that it is now too small to be fully effective. The councils have therefore been looking at options for securing the future of the internal audit service and have concluded that joining a larger shared service would be preferable.

4.2 When Veritau North Yorkshire (VNY) was established in 2012, five North Yorkshire district councils joined as member councils. One of those councils, Scarborough Borough Council subsequently opted to leave the shared service and to instead establish its own in-house team for internal audit and fraud services. The council therefore ceased to be a member of VNY in 2014. As a result of subsequent budget cuts this in-house team has now reduced in size and consists of 4 FTE posts including the Head of Internal Audit. The programme of work is approximately 500 days per annum. The Head of Internal Audit post is also now vacant. The council has recognised that the current arrangements are no longer sustainable and has therefore asked to be re-admitted to Veritau North Yorkshire.

#### **5.0 Proposal**

5.1 As noted above, discussions have been taking place with all the interested councils. Agreement has now been reached with Redcar and Cleveland Borough Council and Middlesbrough Council to transfer their existing internal audit service to the Veritau group. It is proposed to achieve this by creating a new company, Veritau Tees Valley Limited (VTV). The company will be jointly



owned by Redcar and Cleveland Borough Council, Middlesbrough Council and Veritau Limited. The shares will be allocated as follows:

Redcar and Cleveland Borough Council – 100 (25%)

Middlesbrough Council – 100 (25%)

Veritau Limited – 200 (50%)

- 5.2 Each shareholder will be required to make a capital contribution to the new company equivalent to £200 per share, to provide the company with its initial working capital. This represents an investment of £40k by Veritau Limited in the new company. The investment will come from reserves. The new company is expected to commence trading on 1 January 2020.
- 5.3 The new company will be shown as an investment in Veritau Limited's accounts. If the company was wound-up then the capital would be returned to the shareholders assuming there were no other outstanding debts. The new company will join the existing Veritau group companies in operating as a single business.
- 5.4 Whilst creating and operating a new company will result in some additional costs, this approach avoids any dilution in existing shareholder control. It also has the advantage that the rest of the group would be protected should the new entity experience financial or operational difficulties in the future. Any risk to Veritau Limited would therefore be limited to the value of the original investment and the existing group could continue trading.
- 5.5 Similarly, an outline agreement has been reached with Scarborough Borough Council (SBC) for internal audit and fraud services to be transferred to Veritau. This would be achieved by the council being re-admitted to Veritau North Yorkshire Limited. The readmission of SBC is a decision for the VNY shareholders. SBC will be asked to make a capital contribution to the company of £10k. This is to reflect the current value of the business.
- 5.6 The proposals have been agreed by the boards of both Veritau Limited and Veritau North Yorkshire Limited.

## **6.0 Other Details**

- 6.1 The registered office of Veritau Limited is West Offices, Station Rise, York, YO1 6GA. Subject to the agreement of City of York Council, the registered office for the new company will be the same. Articles for the new company will be prepared in accordance with the Companies Act 2006.
- 6.2 The company will have a board consisting of four directors. Two of the directors will be appointed by Veritau Limited. The board will be responsible for strategic and policy decisions, and will meet a minimum of three times each year. Specific responsibilities will include agreeing the business plan, approving the annual budget and accounts, and monitoring the financial and operational performance of the company. The new company will not pay remuneration to the directors but

will reimburse reasonable travel and subsistence allowances in accordance with existing Veritau policies.

6.3 The new company will be regulated under the terms of the Local Authorities (Companies) Order 1995. Regulated companies are those classed as either being 'controlled' or 'public sector influenced' by a local authority. The new company falls within the definition of a 'public sector influenced' company and will therefore need to comply with a number of specific governance and accountability rules, including:

- identifying the relevant councils on business documents
- limiting directors' remuneration
- prohibiting party political publicity
- requiring the provision of certain information to the relevant councils and their auditors.

6.4 Those members of staff currently working for the three councils, and considered to be within scope, will transfer in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2013.

6.5 A shareholders' agreement will be required to govern the operation of the new company, the relationship between the company and its shareholders and between each individual shareholder. The agreement will identify those decisions which require the unanimous agreement of all the shareholders, for example the admission of any new members. The other provisions covered by the shareholders' agreement will include:

- shareholders' voting rights
- arrangements for allowing any future changes in the company's membership
- arrangements for appointing and removing Directors
- arrangements for board meetings, including their frequency and quorum
- arrangements for resolving disputes
- exit arrangements
- the information which each company will be required to supply to its shareholders.

6.6 A service contract will be required to specify the services to be delivered to each council. The length of the contract will be determined by each council but is expected to be 10 years plus possible extensions. This is in order to provide a degree of certainty to all parties and to recognise that this is a long-term partnership where the new member councils are able to help shape and direct

the future development of the shared service. Each council will however retain the right to terminate its service contract by giving 12 months written notice.

**7.0 Recommendations**

7.1 To approve the creation of a new subsidiary company, Veritau Tees Valley Limited, to enable the expansion of the Veritau group.

7.2 To approve the capital contribution of £40k required from Veritau Limited.

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19<sup>th</sup> November 2019

## **Shareholder Committee**

Report of the Deputy Chief Executive / Director of Customer & Corporate Services

## **SJB Recycling Proposed Disposal of Subsidiary Reserved Matters**

### **Summary**

1. This report seeks to provide the SJB Recycling Limited Board of Directors approval in principal for the disposal a subsidiary company.

### **Recommendations**

2. The Shareholder Committee is recommended to
  - Agree in principal to the disposal of the subsidiary company
  - Delegate the Council's representative on the Board of Directors to work with his fellow Directors to negotiate and agree the final terms and conditions of the sale.

Reason – in accordance with the Articles and Shareholder agreement

### **Background**

3. CYC is a minority shareholder (22.27%) of Yorwaste Limited and SJB Recycling Limited. North Yorkshire County Council is the majority shareholder of both companies.
4. The City Council operates a Shareholder Committee to make certain decisions on behalf of the shareholder.

### **Proposal**

5. The confidential annex provides detail surrounding the proposed disposal. The annex is confidential as it discloses details of the company and potential sale value that are commercially confident as negotiations are ongoing.

6. It is necessary to obtain shareholder consent as the disposal of a subsidiary is classified as a Reserved Matter under Yorwaste and SJB Limited's Articles of Association.
7. The Board are seeking an in principal decision that would allow an early sale however that is subject to commercially in confidence negotiations.
8. The Shareholder Committee are therefore asked to give due consideration to the request from the Managing Director to provide flexibility to the Managing Director in negotiating any disposal.

### **Consultation**

9. Consultation has been undertaken with the board of Yorwaste Limited and officers of North Yorkshire County Council

### **Options**

10. Option 1 – to provide approval as shareholder as per the recommendations
11. Option 2 - to not provide approval as shareholder as per the recommendations

### **Analysis**

12. This is provided in the confidential annex.
13. Officers can see no reason to reject the request from the SJB Board.

### **Council Plan**

14. The service contracts and Teckal arrangements with Yorwaste ensures resources are available to maintain the key frontline Waste services.

### **Implications**

15. Financial. The proposed sale will have no material impact to the council's shareholding in the company

16. Human Resources (HR) There a no HR implications

17. Equalities - There are no Equalities implications.

18. Legal

- a. Under Yorwaste Limited and SJB's Articles of Association (amending the Model Articles) and the Yorwaste Shareholders Agreement both dated 28<sup>th</sup> Aug 2015 the sale of subsidiary company is considered to be a Reserved (Shareholder) Matter pursuant to Sch. 1 Para. 11(a) of both documents (i.e. "...the disposal of any material asset of the company of more than £100k...") or arguably Sch. 1 Para. 22 of both documents (i.e. "...any other matter (while an Authority (i.e. either NYCC or CYC) is a Shareholder) of which the Authorities (acting together or, where only one Authority is a Shareholder, acting alone) give notice in writing to the directors of the Company, such matter to take effect as a Reserved Matter from the day which is five (5) Business Days after the receipt by the Company of notice by the Authorities...").
- b. Clause 4 of the Yorwaste and SJB Shareholders Agreement requires that:-
  - i. The Company shall not without the prior written approval of all Shareholders carry out any of the Reserved Matters.
  - ii. Each Shareholder is to appoint a representative who shall be authorised for the purposes of giving consent for and on behalf of the Shareholder.
  - iii. The written consent of this representative shall be deemed to be consent of the respective Shareholder and shall be binding upon that Shareholder in respect of the Reserved Matter.
  - iv. All forms of consent requested from a Shareholder must be in a form which provides the Shareholder with the ability to give or refuse consent (e.g. form of consent or

written resolution to be signed by the Representative on behalf of the Shareholder).

- v. All decisions on Reserved Matters must be given within 5 Business Days by each Shareholder. Failure to respond within this timeframe shall not be deemed to be either consent or a refusal.

The procedure for Reserved Matters set out in Arts. 14.5 – 14.8 (inclusive) of the Articles of Association mirrors the provisions of Clause 4 of the Shareholders Agreement summarised above.

- c. The sale of the subsidiary is classed as a Reserved Shareholder Matter further to the Paras. 18(a) and 18(b) above and requires a formal instruction from the Shareholder Committee rather than being left to the Directors on the Yorwaste Board (see Para. 19 of the Committee Terms of Reference Document entitled, “*Distribution of decision making powers for companies*”).
- d. Approval of the proposed disposal therefore requires Shareholder Committee approval.

19. Crime and Disorder There are no crime and disorder implications

20. Information Technology (IT) There are no IT implications

21. Property There are no Property implication

22. Other There are no other implications



**Contact Details**

**Author:**

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Tel No.551633

**Chief Officer Responsible for the report:**

Ian Floyd  
Director of Customer and Corporate Services

**Report Approved**

**Date** 06<sup>th</sup> November 2019

**Specialist Implications Officer(s)** List information for all

Legal  
Dan Moynihan – Senior Solicitor  
Tel No. 554143

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the author of the report**

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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