

Title of report: Appointment of Directors

Meeting: Shareholder Committee

Meeting date: Tuesday 18 April 2023

Report by: Cabinet member finance, corporate services and planning;

Classification

Open

Decision type

Non-Key

Wards affected

(All Wards);

Purpose

To appoint council directors to the Board of Directors of Hoople and Cyber Quarter

Recommendation(s)

That:

- a) **Rachael Hart and Ross Cook are appointed to the Board of Directors of Cyber Quarter Ltd;**
- b) **Rachael Hart is appointed to the Board of Directors of Hoople Ltd;**
- c) **A further council officer is appointed to the Board of Directors of Hoople Ltd; and**
- d) **Standard form contract for service and deed of indemnity is issued to each new director as a condition of their appointment.**

Alternative options

1. The alternative is to continue with either the existing Directors or appoint external non-executive directors.
2. It is not considered that the existing Directors have the time/capacity to dedicate to the operation of each company especially in the case where there appears to be no executive directors on the Board of Directors.

3. It is considered that alternative third party directors could benefit the companies but such a decision should be considered and taken with the other shareholders. Additional directors (whether executive or non-executive) can be appointed jointly in addition to the existing shareholder appointed directors.

Key considerations

4. This report concerns the appointments of council directors to certain local authority controlled or influenced companies that the Council is a shareholder.

Hoople Ltd

5. The Council owns 80% of Hoople. The Board consists of exclusively non-executive directors, two are appointed by the Council and one appointee from each of Lincolnshire County Council and Wye Valley NHS Trust. The Articles of Association allow the Council to appoint by simple notification to the company in writing.

Cyber Quarter Ltd

6. The Council holds a minority 19% shareholding in the company. The Articles currently allow each shareholder to appoint their directors. Currently there are 3 directors and 2 are Council appointments. Article 6.1 allows the Council to appoint a maximum of 2 directors by simple notification to the company in writing.

Reasoning for changes

7. The duties of company directors set out in ss171 – 177 of the Companies Act 2006. In particular, there is a duty to promote the success of the company for the benefits of its shareholders as a whole. In practice where there are limited numbers of shareholders and if the shareholders' interests are aligned, then the success of the company will generally be measured by delivery of and to the shareholders' interests.
8. As such the company and the shareholders mutually benefit where the directors understand the business of the company but also the requirements and priorities of the shareholders as the primary customers of the companies. By extension, due to the unique public duties of the shareholders/primary customers, the customers of the companies includes the beneficiaries of the Council's functions (such as private businesses and residents).
9. Broadly, the effect of this is that the success of the company and the customers/shareholders are the same. Where a company delivers a good service to a resident, this benefit is achieved by the Council by the correspondence good discharge of a public duty.
10. The Council therefore wishes to appoint directors that not only have the capacity and relevant expertise but also an understanding of the Council's needs and operations.

Director Appointments

11. The existing directors will stand down or have already stood down from their role. The recommendation is to appoint:
 - a. Rachael Hart as a director of Hoople and Cyber Quarter. Rachael is the deputy s151 officer and Head of Strategic Finance. Clearly she has a strong financial background but an understanding of the delivery of corporate services.
 - b. Ross Cook as a director of Cyber Quarter. Ross is the Corporate Director for Economy and Environment; and

- c. A second director to Hoople who will have expertise in the delivery of Adult Social Care. The name of the second director will be notified at the meeting.

Formalities

12. Each new director will be appointed using a simple contract for services. This will confirm that the role is not remunerated but forms part of their substantive duties. The document will state what is required of the director and will confirm the directorship ends immediately should their role with the Council end or if the Council so requests.
13. A standard indemnity under The Local Authorities (Indemnities for Members and Officers) Order 2004 will be provided to each new director. This will provide the same protections as when discharging council duties.

Other bodies/companies

14. Appointments were considered for the Herefordshire Business Board, Marches LEP, Hereford Enterprise Zone, West Mercia Energy Joint Committee and Herefordshire BID. The current appointments were considered appropriate to the body. HEZ appears not to have traded since 2014 and it may be appropriate to close this company.

Community impact

15. There is no direct community impact by the change of directors.

Environmental Impact

16. There is no direct environmental impact by the change of directors.

Equality duty

17. The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

18. The duties will be performed as part of the officers existing duties and there will not be any resource costs. Any time used for directorship duties will need to be a factor in relation to the officer delivering to their existing duties.

Legal implications

19. The appointments will be made in accordance with the companies Articles or any Shareholder Agreement. Appointments will be secured using the documents mentioned. Director duty training will be offered to the new appointees by the Council.

Risk management

20. The risks are considered below

<u>Risk / opportunity</u>	<u>Mitigation</u>
The Directors do not have the right skills and resources to promote the success of the Council	Service delivery will still be measured in accordance with the existing processes. Third party directors can always be appointed if it is considered that there is a skill deficiency at board level.
The Directors do not have enough time for directorship duties due to their existing officer duties.	The time spent acting as a company director will need to be factored into total duties performed by the officer. Unless more resource is factored in, there will need to be a transfer or stopping of certain duties to make time for the directorship duties.

21. The risks will need to be considered at the relevant directorship and by the shareholder committee.

Appendices

None

Background papers

None

Report Reviewers Used for appraising this report:

Approved by	Claire Porter, Director of Governance and Law	Date 06/04/2023
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