

Executive Shareholder and Trustee Committee Report

Ward(s) affected: All

Report of Director of Resources

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Guildford Borough Council Holdings: Appointment of Directors

Executive Summary

On 29 November 2021 the Board of Directors for Guildford Borough Council Holdings Limited (the "Holding Company") called a meeting whereby Tom Hunt, the only Director, made the decision to request that the Council appoint further Directors in accordance with the Holding Company's Articles of Association.

Recommendation to Committee

That the Committee:

1. Appoints the following Directors to the Board of Guildford Borough Council Holdings Limited for the terms specified:
 - a. Andrew Hodges for a term expiring on 27 April 2024
 - b. Dennis Paul for a term expiring on 28 April 2024
 - c. Ian Doyle for a term of 4 years expiring on 3 January 2026
2. Ratifies all decisions made by the Company over the past 18 months.

Reason(s) for Recommendation:

To fulfil the Council's corporate governance duties in respect of its subsidiary company.

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

- 1.1 This report presents details of the nominations for appointment of the Directors for the Holding Company.

2. Strategic Priorities

- 2.1 The Company supports all the Council's strategic priorities set out in the framework and at present particularly supports homes and jobs and providing and facilitating housing that people can afford.

3. Background

- 3.1 On 23 February 2016, the Executive resolved to establish Guildford Borough Council Holdings Limited (the "Company"). The Council is the sole shareholder of the Company.
- 3.2 Directors are appointed for a term of four years and are then automatically retired, unless they are reappointed in accordance with the Articles of Association. The Company did not reappoint the Directors and therefore the only Director currently appointed is Tom Hunt.
- 3.3 Under Article 13.4.1 of the Company's Articles of Association, where there is no quorum of Directors to make decisions, the remaining Directors may make a decision to request that the Council appoints Directors. At a Board meeting on 29 November 2021 the Director made a decision to request that the following Directors be appointed:
- a. Andrew Hodges for a term expiring on 27 April 2024
 - b. Dennis Paul for a term expiring on 28 April 2024
 - c. Ian Doyle for a term of 4 years expiring on 3 January 2026
- 3.4 The Council as the sole shareholder of the Company is the ultimate owner of the Company. The duty of any company director is to act in the best interests of the company for the benefit of its shareholders as a whole. An elected member on a board of directors therefore has a statutory duty to promote the success of the company and to exercise independent judgement in the same manner as any other director. Under the Companies Act 2006, a director must exercise the care, skill and diligence, which would be exercised by a reasonably diligent person (the full test is set out in more detail within the Companies Act; there is both an objective test and a subjective test).
- 3.5 As the terms of the Directors have expired there is a possibility that decisions have been taken when the Company Board was not quorate. The decisions that have been made over the last 18 months should therefore be ratified by the Committee on behalf of the Council as the sole shareholder as good practice to ensure there can be no challenge to those decisions as taken when not quorate.

4. Consultations

- 4.1 No consultations have been undertaken in relation to this report.

5. Key Risks

- 5.1 Without a quorum at Board Meetings key decisions by the Directors cannot be made. Therefore, appointment of Directors should be resolved at this Committee meeting.
- 5.2 When appointing Directors, the duty of any company director is to act in the best interests of the company for the benefit of its shareholders as a whole. An elected member on a board of directors therefore has a statutory duty to promote the success of the company and to exercise independent judgement in the same manner as any other director. Council Officers and Councillors need to ensure they carry out their appointment in line with this duty. If not, Directors could become liable for their breach of duty to the Company.

6. Financial Implications

- 6.1 There are no financial implications for the report.

7. Legal Implications

- 7.1 The Council, acting through the Executive Shareholder and Trustee Committee, has the power to operate and manage the Company using the General Power of Competence under s1 of the Localism Act 2011. In exercising its powers over the Company, the Council remains subject to its general duties, such as its fiduciary duty, and must exercise the power with a proper purpose.
- 7.2 This report is prepared in compliance with the abovementioned legislation as well as the Companies Act 2006.
- 7.3 It is confirmed that the appointments detailed within this report comply with the requirements of the Articles of Association for the Company.

8. Human Resource Implications

- 8.1 No Human Resource implications apply to this report.

9. Equality and Diversity Implications

- 9.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report

10. Climate Change/Sustainability Implications

- 10.1 No Climate Change and Sustainability Implications apply to this report

11. Summary of Options

- 11.1 The Committee may
 - a. Appoint the Directors put forward by the Company.

- b. Appoint different Directors.
- c. Not appoint any further Directors

12. Conclusion

- 12.1 The Committee is asked to appoint three Directors to the Company and ratify the decisions that have been made by the Company over the past 18 months.

13. Background Papers

Executive Shareholder and Trustee Committee report 26 September 2017
'Shareholder general meeting of North Downs Housing Ltd and Guildford
Borough Council Holdings Ltd'

[Agenda for Executive Shareholder and Trustee Committee on Tuesday, 26th
September, 2017, 6.00 pm - Guildford Borough Council](#)

14. Appendices

None