

AGENDA ITEM

REPORT TO CABINET

11 DECEMBER 2019

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

**Leader of the Council - Lead Cabinet Member – Cllr Bob Cook
Cabinet Member for Regeneration and Housing – Cllr Nigel Cooke**

COUNCIL OWNED COMPANIES BOARD MEMBERSHIP

SUMMARY

This report outlines the requirement to refresh the membership of the Council's wholly owned companies following changes in the senior management structure and in consequence of the hotel project moving successfully into the operational phase.

REASONS FOR RECOMMENDATIONS/DECISIONS

To enable Cabinet to exercise its strategic oversight of the two council owned companies through the appointment of directors on the company boards.

RECOMMENDATIONS

That Cabinet

1. agree the appointments of the company directors to both Stockton Borough Holding Company Limited and Stockton Hotels Company Limited as set out in the Appendix;
2. authorise the Director of Finance and Business Services to exercise the shareholder functions on behalf of the council.

DETAIL

1. In May 2016, Cabinet approved the establishment of the trading companies to support the business case for the new hotel. Members will recall that the purpose of Stockton Borough Holding Company (HoldCo) was to future proof the structure and allow for the grouping of a different companies in a tax efficient way. It is not intended for HoldCo to have any strategic or operational role to play at this time. At the point that the structure was established, it was envisaged that the Council may have needed to create further subsidiary trading companies to sit within the same group. This is kept under review, but so far there has not been a requirement to establish any additional trading companies. Stockton Hotels Company Limited (HotelCo) has a more operationally orientated purpose and is the corporate vehicle through which the business of the hotel is traded.
2. Whilst the business of HotelCo is to ensure the efficient management and running of the new hotel and in particular to comply with the franchise agreement agreed with Hilton. In practice, the day-to-day management is undertaken through a service contract between HotelCo and Interstate. The role of HotelCo is therefore primarily to manage that contract

with Interstate and the relationship with Hilton. There is no hands on hotel management role undertaken by the board.

3. As a shareholder, the Council's role is not to directly manage either the HoldCo or HotelCo, but instead to provide the structure and boundaries in which the company boards are allowed freedom to deliver the operational objectives of the Company, in line with the business case that Cabinet approved. The Council through Cabinet is able to control the strategic direction of the two companies through having the right to approve any substantial changes to the business plan and having the right of appointment of directors.
4. The two companies each have a board of Directors. Cabinet previously agreed that the board should be drawn from suitably competent and qualified Council officers. Ultimately each Board must have Directors with the right skills to be able to manage the business of each company.
5. Given the business case centred on the regeneration of a key site and the construction of a capital asset (the hotel) along with preparing for the hotel to trade, it was considered advantageous that the company directorships were initially taken up as part of existing senior management responsibilities in the relevant areas. This ensured high level focus and drive was maintained for getting the hotel established, keeping it on track and ensuring an appropriate level of oversight. Initially, the then Chief Executive, along with the Director of Finance and Business Services, Director of Economic Growth and Development and Director of HR, Legal and Communications were appointed as the first directors of both companies. Given changes in senior leadership at the Council and the fact that the hotel has now entered fully into the operational phase, there is a need to refresh the board membership.
6. As members will be aware, company directors have a duty to act in the interest of the company they are appointed to. The conflicts which may arise have to be managed within the governance and operational arrangements. It is inevitable that there will be some conflicts, but through appropriate controls, monitoring and review, such conflicts can be managed. Where the Council officers appointed as company directors are also Statutory Officers of the Council (Head of Paid Service, section 151 officer and the Monitoring Officer), there is greater likelihood of conflicts arising with their statutory office and their primary duties to the Council. Now that the hotel has moved into the operational stage, it is not recommended the statutory officers be members of either company board and instead the role of the statutory officers in particular the section 151 Officer will be to provide the shareholder function with responsibility back to cabinet and the full council.
7. As the primary role of the companies at present is to provide oversight and contract management of the relationships with Interstate and Hilton, the Corporate Management Team have identified a small number of senior officers with experience in undertaking these functions and are recommended for appointment as the new company directors. Amongst the appointments the Director of Economic Growth and Development will continue to be the lead officer for the project and is recommended for reappointment to each board. Having been an existing member of both boards he will provide continuity in the transition from the old board membership to the new.
8. Whilst Cabinet will of course retain overall strategic oversight of both companies, in order to discharge these obligations efficiently, it is recommended that the Director of Finance and Business Services as the Council's section 151 Officer be authorised to discharge any shareholder functions on Cabinet's behalf in consultation where relevant with the appropriate Cabinet member.

9. Members will note the ongoing commitment as part of the overall governance arrangements for regular shareholder briefings for all elected members. These has been incorporated so far within the members seminar programme and have been well attended. They provide a useful forum for members to raise questions, challenge and receive feedback about the performance of the hotel directly with the officers who are either undertaking the shareholder or company board director roles and with the management from Interstate. For the HotelCo, engagement between the company and its shareholders and wider stakeholders especially elected members is seen as key in delivering the business case, informing company decision making and strengthening and promoting its long-term success for the benefit of the residents of the borough.

COMMUNITY IMPACT IMPLICATIONS

10. Not applicable.

CORPORATE PARENTING IMPLICATIONS

11. Not applicable.

FINANCIAL IMPLICATIONS

12. There are no additional financial implications arising from the appointment of these company directors. The roles are not remunerated by the company and are undertaken by officers with sufficient seniority that the function would fall within the ordinary requirements of those roles.

LEGAL IMPLICATIONS

13. The Council is the sole shareholder of HoldCo and indirectly through HoldCo own and control HotelCo. The Council has reserved the power of appointment of directors to the two trading companies to itself. The appointment is exercisable cabinet as an executive function
14. Cabinet will note that there are limits placed on the general power when doing things for a commercial purpose. Specifically Section 4 of the Localism Act 2011 requires the power to be exercised through a company within the meaning of section 1(1) of the Companies Act 2006, which therefore required the Council to establish a trading company in order to implement the hotel project.
15. Where necessary any officer appointed as a company director may require their job description to be amended to include work for external bodies. In addition the appointment will require an extension of the standard indemnity under the Council's Scheme of Indemnity for Members and Officers to include the company directorship appointments

RISK ASSESSMENT

16. As outlined within this report, there is an organisational risk impacting officers who are appointed to the company board as a result of possible conflicts of interest with their substantive roles. The recommendations in this report aim to balance that risk by identifying officers with relevant expertise, experience and seniority but outside the statutory officer roles. It is considered that by putting in place an appropriate board membership any conflicts of interest can be managed

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

17. Not applicable – does not relate directly to specific wards.

BACKGROUND PAPERS

Report to Cabinet 20 February 2017

Report to Cabinet 23 May 2016

Name of Contact Officer: Richard McGuckin

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Name of Contact Officer: Garry Cummings

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Appendix

Company Number: 10523559
STOCKTON BOROUGH HOLDING COMPANY LTD

Richard McGuckin	Director of Economic Growth & Development
Chris Renahan	Economic Growth Manager
Jill Douglas	HR and Legal Services Manager
Tony Montague	Deputy Chief Financial Officer

Company Number: 10525068
STOCKTON HOTELS COMPANY LTD

Richard McGuckin	Director of Economic Growth & Development
Chris Renahan	Economic Growth Manager
Jill Douglas	HR and Legal Services Manager
Tony Montague	Deputy Chief Financial Officer