

LEISURE AND ENVIRONMENT COMMITTEE

22 SEPTEMBER 2020

ACTIVE4TODAY – GOVERNANCE AGREEMENT

1.0 Purpose of Report

- 1.1 To consider and approve the draft Governance Agreement between the Council and Active4Today.

2.0 Background Information

- 2.1 At its meeting on 19 November 2019, the Committee agreed to the principle of introducing a Governance Agreement between the Council and Active4Today, to sit alongside the Articles of the Company and underline the Council's role as shareholder in exercising a decisive influence over both: strategic objectives and significant decisions of the Company.
- 2.2 There are various provisions contained within the Company's Articles that cover the balance of control and decision-making between the Council and the Company, for example the Council's reserve power to act by special resolution to direct the directors. However, there is no 'parallel' Governance Agreement between the Council and the Company, similar to that which the Council has with Arkwood Developments Limited. This is a discrete document (separate from the Company's Articles), which covers in one place: the business plan; matters reserved to the Council for decision; accounting and financial provision; information; scrutiny and accountability. This is in contrast to the position with A4T, where the equivalent provisions are scattered between the Articles and the Service Contract.
- 2.3 Therefore, from a governance perspective there is a gap between the 'high level' requirements of the Company's Articles, and the commissioning role that the Council plays under the Service Contract. It is recognised by the Council and its auditors that it is good practice to have in place a governance agreement (which is akin to a shareholder's agreement) to plug this gap.

3.0 Proposed Governance Agreement

- 3.1 A proposed Governance Agreement has been drafted for the Council by Anthony Collins Solicitors, based very much upon the version they prepared for the Council for its other company, Arkwood Developments Ltd. This provides the benefit of consistency of approach by the Council in its control and overview of its wholly owned companies. A copy of the draft document is attached, as **Appendix A**, to this report.
- 3.2 The document is fairly clear and straightforward, and seeks to provide greater clarity around governance arrangements:-regulating the Council and Company's respective responsibilities around the operation and management of the Company and the relationship between both parties. It will secure greater transparency between the Council and the Company and reinforce the Council's role as shareholder. For instance, included are: provisions regarding the ability of the Council to have a representative (who would not be a director of the Company) to attend the Company's board meetings as an observer; a requirement for the Company to provide full management accounts and financial forecasts

to the Council; and those decisions that are specifically reserved for Council approval; etc. This mirrors the provisions that the Council already has in place for Arkwood Developments Ltd.

3.3 Subject to the consideration and approval of the draft governance document by the Committee, it is proposed that officers consult and negotiate with the Company to secure approval by the Board to enter into the Agreement.

4.0 Equalities Implications

4.1 There are no new equalities implications arising from this report.

5.0 Financial Implications – Ref No:-FIN20-21/551

5.1 There are no direct financial implications arising from this report. Schedule 2 (Reserved Matters) of the draft Governance Agreement (**Appendix A**) outlines for various situations the circumstances in which officer, Board and Member approval would each be appropriate. In these situations and others, officers will advise the relevant decision-making body (officers, the Board or Members) of the potential financial implications.

6.0 RECOMMENDATION that:

The Committee consider and approve the draft Governance Agreement, as appended to the report, and authorise officers to consult and negotiate with the Board of Active4Today to secure the execution of the Agreement between the parties.

Reason for Recommendations

To ensure that the Governance arrangements between the Council and its wholly owned company are effective and clear.

Background Papers

For further information please contact Karen White on Ext 5240.

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