

NOTICE OF MEETING

Meeting: SPECIAL MEETING OF THE CORPORATE OVERVIEW
AND SCRUTINY PANEL

Date and Time: THURSDAY, 22 NOVEMBER 2018, AT 9.30 AM*

Place: BRADBURY ROOM,, APPLETREE COURT, LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
023 8028 5588 - ask for Andy Rogers
Email: andy.rogers@nfdc.gov.uk

PUBLIC PARTICIPATION:

*Members of the public may speak in accordance with the Council's public participation scheme:

- (a) immediately before the meeting starts, on items within the Panel's terms of reference which are not on the public agenda; and/or
 - (b) on individual items on the public agenda, when the Chairman calls that item.
- Speeches may not exceed three minutes. Anyone wishing to speak should contact the name and number shown above.

Bob Jackson
Chief Executive

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This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

Apologies

1. MINUTES

To confirm the minutes of the meeting held on 27 September 2018 as a correct record.

2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

3. PUBLIC PARTICIPATION

To note any issues raised during the public participation period.

4. BROADBAND PROVISION IN THE NEW FOREST - UPDATE (Pages 1 - 24)

To receive updates from providers and users of Broadband in the New Forest.

5. NEW FOREST DISTRICT COUNCIL'S PROPERTY HOLDINGS COMPANY LTD - BUSINESS PLAN 2018 (Pages 25 - 120)

To receive an update on progress with the Property Investment Strategy, including details of the creation of a Council controlled holding company.

6. BUDGET TASK AND FINISH GROUP REPORT (Pages 121 - 128)

To receive the report of the Budget Task and Finish Group.

7. ICT INVESTMENT UPDATE (Pages 129 - 134)

To receive an update on progress with the ICT investment programme.

8. ASSET MAINTENANCE & REPLACEMENT PROGRAMME AND GENERAL FUND CAPITAL PROGRAMME FOR 2019/20 (Pages 135 - 144)

To consider the Asset Maintenance and Replacement and Capital Programme for 2019/20.

9. WORK PROGRAMME (Pages 145 - 146)

(a) To consider the Panel's future Work Programme, including any reviews of previous work undertaken; and

(b) To receive any updates on Task and Finish Group work.

10. PORTFOLIO HOLDERS' UPDATES

To receive an oral update from the Portfolio Holders for Corporate Affairs, Finance, Corporate Services & Improvement and Local Economic Development, Property & Innovation on developments within their Portfolio areas.

11. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

To: **Councillors:**

M A Steele (Chairman)
A K Penson (Vice-Chairman)
A R Alvey
W G Andrews
G C Beck

Councillors:

M J Kendal
Mrs A E McEvoy
A D O'Sullivan
D B Tipp
C A Wise

CORPORATE OVERVIEW & SCRUTINY PANEL – 22 NOVEMBER 2018

UPDATE ON NEW FOREST BROADBAND PROVISION

1. INTRODUCTION

- 1.1 This report provides an update to the Hampshire Broadband Programme and supports the presentation to be given by Hampshire County Council and BT at the meeting. It follows the previous update to Corporate Overview and Scrutiny Panel given in May 2017.

2. BACKGROUND

- 2.1 Hampshire County Council are currently working on Wave 2 of the Hampshire Superfast Broadband project which aims to reach 97% of premises across the county as a whole. This phase of the project is scheduled to be completed at the end of 2019.
- 2.2 Superfast connections are classified as those which are obtaining a minimum download speed of 24Mbps.
- 2.3 The current Universal Service Obligation (USO) states that the minimum download speed any premises should receive is 2Mbps.

3. COVERAGE IN THE NEW FOREST

- 3.1 Figures from September 2018 (see Appendix 2) show that 93.5% of New Forest premises are receiving superfast download broadband speeds. This compares against 96.2% for England and 95.0% for Hampshire.
- 3.2 Premises receiving under 2Mbps download speeds (the current USO) represent 0.97% of the New Forest total; compared to 0.64% for Hampshire and 0.43% for England.
- 3.3 Take-up of enabled broadband (the percentage of premises purchasing broadband services) in the New Forest varies significantly from ward to ward. Marchwood has the highest proportion of take-up at 81.1% followed up Forest North West (73.1%) and Ringwood and Sopley (70.3%). Those with the lowest proportion of take-up are Ringwood North (22.2%) and Hythe West and Langdown (23.5%). The average for New Forest District is 47.2% compared against the Hampshire average of 46.2%. These take-up figures are significant as the greater the proportion of premises connected, the more funds are available for further coverage. This is referred to as Gainshare.
- 3.4 The majority of New Forest District is served by traditional phone line broadband only. However, Virgin provide a cable service in Totton and more recently New Milton which can allow for speeds of up to 300Mbps to be delivered.

4. POTENTIAL SOLUTIONS

- 4.1 Premises falling under the 2Mbps minimum are eligible to apply for a £350 Better Basic Broadband subsidy to install and set up a satellite or fixed wireless solution. Applications for eligible properties can be made via the Hampshire Superfast Broadband Team at Hampshire County Council.

- 4.2 In June 2017, Hampshire County Council launched the £1M Community Match Funding Scheme (CMFS) to assist residents and communities who are not in current build programme (under the Wave 2 rollout). This scheme allows individual communities in the final 2.6% to effectively buy into the County Council's rollout programme with Openreach and to access an upgrade for their premises. The County Council will provide 50% funding towards the cost of an Openreach solution with a ceiling of £1,650 per property, costs beyond this must be met by the premises owner.
- 4.3 The Gigabit Voucher Scheme is designed to give businesses and surrounding communities access to gigabit connectivity; that of up to 1000Mbs. The voucher scheme allows businesses to claim up to £3000 against the cost of a gigabit connection. Residents can claim for a voucher worth £500 as part of a group which must include at least one business.
- 4.4 BT Openreach operate a scheme of Self-funding which allows communities failing in the final 3% to privately fund their own scheme. This requires individual communities to enter into direct contracts with BT Openreach. This model has been successfully implemented in the Dock Lane area of Beaulieu where 40 premises were connected with the cost spread.

5. FUTURE DEVELOPMENTS

- 5.1 There are plans to increase the USO to 10Mbs by 2020. Beyond this there are plans to provide fibre to the premises (FTTP) for all by 2033.

6. CONCLUSIONS

- 6.1 It is recognised that broadband is an increasingly important element of everyday life and vital to the success of the local economy. With regard to the latter, it is recognised that in particular this impacts on the growth of indigenous businesses but also those who wish to work from home with the ambition of reducing their daily commute. For this reason it is highlighted as an action in the recently approved NFDC Economic Development Strategy 2018-23
- 6.2 Despite the various measures outlined in Section 4 of this report, there are will remain a number of premises in New Forest District who are not connected to superfast speeds at the end of the current Wave 2 rollout. It is estimated that this is likely to be in the region of 3000 premises.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications for New Forest District Council under the current Broadband Programme.

8. CRIME & DISORDER, ENVIRONMENTAL & EQUALITY & DIVERSITY IMPLICATIONS

- 8.1 There are none

9. DATA PROTECTION IMPLICATIONS

9.1 There are none

10. RECOMMENDATIONS

10.1 That members of the Corporate Overview and Scrutiny Panel note the contents of this report

10.2 That New Forest District Council continue to work with the Hampshire County Council Broadband Team, BT Openreach and other influential partners to further implement the rollout of covering in New Forest District.

10.3 That existing initiatives by way of grants and/or schemes to further broadband coverage are communicated to the residents and businesses of New Forest District to ensure the greatest possible take-up. Furthermore that where superfast is enabled, take-up of these services is promoted to ensure that the maximum Gainshare is enabled.

For further information contact:

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Economic Development Manager
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matt.callaghan@nfdc.gov.uk

Background Papers:

Appendix 1: Hampshire County Council
Cabinet Report – December 2017.
Providing update on Superfast Broadband
in Hampshire
Appendix 2: Summary of local broadband
speeds / coverage – September 2018
Appendix 3: Table of feedback from local
residents/businesses of broadband service
and related map

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HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	11 December 2017
Title:	Superfast Broadband in Hampshire
Report From:	Director of Culture, Communities and Business Services

Contact name: Patrick Blogg, Assistant Director Transformation

Tel: 01962 845038 **Email:** patrick.blogg@hants.gov.uk

1. Executive Summary

- 1.1. Cabinet were provided with an update on the Hampshire Superfast Broadband Programme in March 2016 and a subsequent report was given to the Executive Member for Policy and Resources in December 2016.
- 1.2. In the last 12 months, the Hampshire Superfast Broadband Programme has made considerable progress. The Wave 1 contract has been concluded and has delivered connectivity to in excess of 80,000 premises, over 65,000 of which achieve superfast speeds (over 24 Mbps). The Wave 2 contract is underway and has upgraded connections to an additional 19,000 premises so far, with a target of 46,000 premises by the end of 2018 and 54,000 premises by the end of 2019. The combined number of premises reached by Wave 1 and Wave 2 of the programme to date is in excess of 99,000 premises.
- 1.3. The Hampshire programme continues to deliver on its targets, with strict budget control of the limited public funding available, assurance from central government and rigorously holding Openreach to account for delivery. However, it is important to differentiate between this success of the Hampshire programme and the wider, national broadband market failure which, in the case of the county of Hampshire, means that broadband providers still have no plans for the remaining 2.6% (circa 15,000 premises). The programme is acutely aware of the position of these residents in the last 2.6% and continues to look for innovative solutions to assist where this is possible.
- 1.4. Uptake of services continues to grow, with more than 43,500 paying customers taking a service from the improved broadband network. Nationally, the Hampshire programme is in the top quartile of take up of all programmes.

- 1.5. In January 2017, the County Council injected a further £6.8m into Wave 2. This funding has been sourced from savings in the delivery of Wave 1 and a rebate triggered by higher than expected uptake. This funding will enable an additional 7,500 premises to be upgraded during 2019, extending coverage to 97.4% of premises in Hampshire.
- 1.6. Technology has continued to develop during the course of the programme and consequently the delivery of Wave 2 includes a range of newer technologies. One of these is Ultrafast broadband, which has fibre provided directly to the premises (FTTP) and the potential for significantly faster speeds than superfast. More than 12,000 premises will be upgraded to Ultrafast FTTP broadband connections during Wave 2. The County Council is in discussion with the newly formed government body, Local Full Fibre Partnerships, regarding plans to extend this number even further and has recently submitted an Expression of Interest in response to a call from government for ideas to support the Full Fibre programme.
- 1.7. In June 2017, the County Council launched the £1M Community Match Funding Scheme (CMFS) to assist residents and communities who are not in current plans. This scheme will allow communities in the last 2.6% of premises (approximately 15,000) that are beyond the current programme to buy into the County Council's programme with Openreach to access an upgrade for their premises. The County Council will provide 50/50 funding towards the cost of an Openreach solution with a ceiling of £1,650 per property. A small community in Silchester has been the first to take advantage of this scheme and seventeen properties will shortly have access to superfast services that would otherwise have been left behind. A link to details of the Silchester scheme can be found [here](#).
- 1.8. Recognising that the programme is delivering significant connectivity to areas that are not being served by the commercial sector, and the additional investment for the community schemes, the programme is constantly striving to do more to reach the last 2.6%. This includes seeking further funding from other sources such as central government, engagement with Town and Parish Councils and bolstering the team's resources to drive take up and maximise financial rebate to further delivery.

2. Context for Superfast Broadband in Hampshire

- 2.1. The demand for broadband connectivity continues to increase. The UK has the largest digital economy in the G7 after the USA and reliable high speed broadband is important to citizens and businesses as they seek to take advantage of the opportunities that the digital economy offers. High speed connectivity is becoming increasingly important in the delivery and efficient operation of public services, including education and care for the elderly.
- 2.2. At a more local level, access to superfast broadband is an issue which continues to grow in importance because of multiple factors, including:
 - Flexible working arrangements with employees changing working patterns to work from home, with encouragement by employers to better employees' work/life balance and reduce commuting and congestion;

- An increasing shift for school children to complete their homework online;
- Access to employment and educational resources for adults;
- Entrepreneurs/ people running businesses from home or in rural areas need good connectivity;
- Helping reduce social isolation through allowing greater connectivity for the growing array of communication methods available;
- Helping elderly and immobile people to live independently for longer – reducing pressure on Adult Social Care budgets.

All of these requirements make access to superfast broadband more essential than ever.

- 2.3. In common with almost all UK local authorities, delivery of Hampshire's Superfast Broadband Programme rests with BT Group and their arm's length infrastructure division, BT Openreach. Earlier in 2017, as a requirement of the telecoms regulator, Ofcom, BT agreed a formal legal separation of Openreach. All of the BDUK work is now delivered through contracts with Openreach.
- 2.4. BT Openreach installs and operates open access infrastructure which offers consumers access to a wide range of competing service providers including Sky, BT Retail, Plusnet, and TalkTalk. Access to this network also ensures that residents have access to pricing equivalence across the UK.
- 2.5. The County Council currently holds two contracts with BT to deliver superfast broadband infrastructure to areas where market failure has occurred. In this paper the two contracts are referred to as Waves 1 and 2.
- 2.6. Hampshire's programme has been running since 2012 and continues to be a success. This includes delivering against targets agreed with central government and also through developing innovative arrangements to go beyond these targets and help communities across Hampshire who are not in current plans.
- 2.7. The County Council has a strong and collaborative working relationship with Openreach but rigorously holds them to account for delivery of targets. Performance is monitored closely and assured by central government. The programme continuously seeks to accelerate delivery where possible and keep communities informed where there are technical delivery challenges.
- 2.8. The targets and funding arrangements for the programme have been well documented in previous reports, representing a complex picture of different funding sources, recycled rebate funding in the contract, additional monies through contract underspend and match-funding monies allocated by the County Council. For clarity, these are set out in the table below:

	Value	HCC Contribution	District Contribution
Wave 1	£ 10,000,000	£ 3,759,000	£ 1,241,000
RCBF	£ 1,040,000	Govt funded	-
Innovation Fund	£ 1,200,000	Govt funded	-
Wave 2	£ 16,450,000	£ 9,200,000	-
Wave 2 Extension 2017	£ 6,800,000	Gainshare	-
Total	£ 35,490,000	£ 12,959,000	£ 1,241,000

Note1: RCBF is the Rural Communities Broadband Fund, which is funding secured following a bid to DCMS.

Note2: Wave 2 Extension is a combination of gainshare and contract underspend from Wave 1.

- 2.9. The County Council has put nearly £13M into the programme for delivering infrastructure through the contract, as well as providing additional revenue funding to fund the Hampshire programme delivery team.

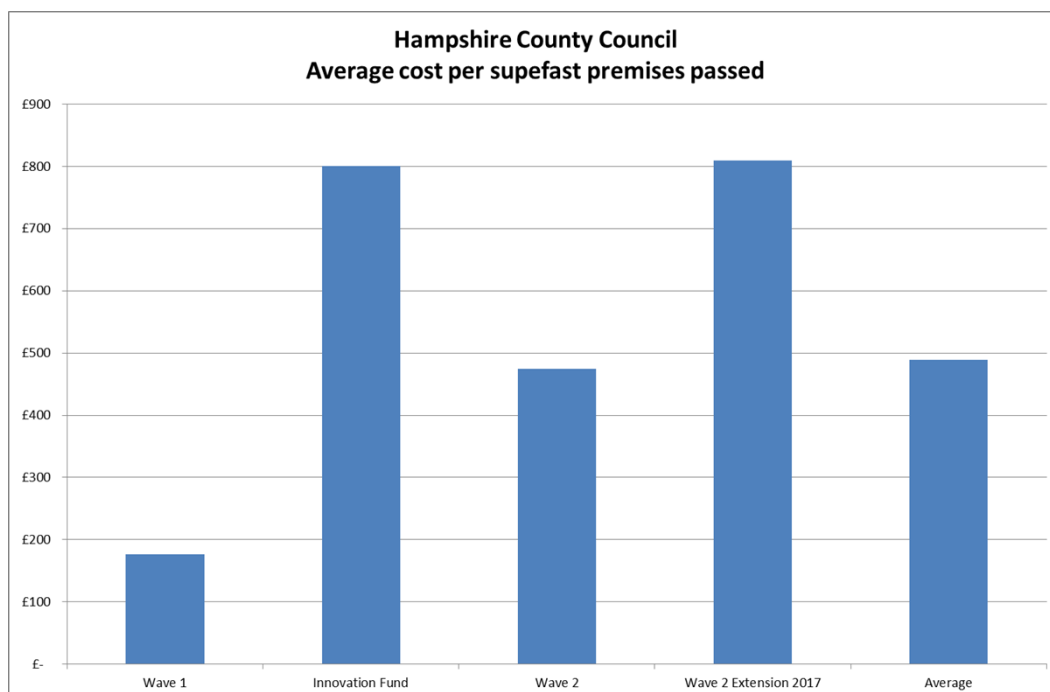
3. Progress in Hampshire

- 3.1. 2017 has seen continued strong growth in the delivery of superfast broadband services across Hampshire. 128 roadside cabinets have been installed across 79 different exchange areas, ranging from Abbots Ann to Yateley, connecting more than 16,000 premises to fibre broadband in the year to date.
- 3.2. The scheduling of roll out has been covered in detail in previous reports but it is worth restating the principles for prioritisation. The contracts with Openreach were negotiated nationally between BT and Broadband Delivery UK (BDUK – part of the Department for Digital, Culture, Media and Sport). The contracts are predicated on maximising the number of premises connected for the public subsidy available, but only in the intervention area that is not covered by commercial providers' plans.
- 3.3. All electoral divisions in the County Council have seen an improvement in their connectivity, though some have seen a greater improvement than others. The overriding factor influencing coverage is property density per square kilometre. Areas with lower property density are more expensive to reach and therefore have lower availability figures. Appendix 1 contains a full list of project coverage by electoral division.
- 3.4. Table 1 provides details of the 11 electoral divisions which the County Council estimates will have coverage of less than 95% at the end of 2019.

Table 1 - Details of the 11 electoral divisions which the County Council estimates will have coverage of less than 95% at the end of 2019

HCC Electoral Division	Total Premises	% covered at end of Contract 1	Total Premises Upgraded During Wave 2	Number not in programme but potential for CMFS	% Superfast in Electoral Division
Alton Rural ED	6,792	60.7%	2,271	396	94.2%
Andover West ED	8,635	76.4%	1,531	509	94.1%
Baddesley ED	6,984	89.4%	350	389	94.4%
Basingstoke North ED	7,582	91.3%	51	608	92.0%
Brockenhurst ED	8,574	64.7%	1,273	1,756	79.5%
Lymington & Boldre ED	9,377	83.2%	968	607	93.5%
Lyndhurst & Fordingbridge ED	8,798	72.1%	1,873	585	93.3%
Petersfield Hangers ED	7,470	77.3%	1,259	440	94.1%
Romsey Rural ED	7,390	47.3%	2,435	1,461	80.2%
Test Valley Central ED	7,163	45.7%	2,484	1,406	80.4%
Whitchurch & The Cleres ED	7,474	70.5%	1,567	640	91.4%

- 3.5. The programme continues to face considerable technical challenges as it operates in some of the most tightly regulated environments in the UK. Most notable of these is the New Forest, which is regulated by the Verderers' Court, Natural England, New Forest National Park Authority, Forestry Commission and District Council. Considerable effort from all these parties involved has led to a successful conclusion regarding how and where to install the new additional hardware required. As a result, infrastructure is being installed to reach parts of East Boldre, Beaulieu and Brockenhurst with further installations being planned.
- 3.6. It has previously been stated that the numbers of premises delivered are done on a value for money basis. As the programme moves towards areas that are generally more sparsely populated, the cost per delivery of each premises increases. The graph below shows the average cost per premises of the various stages of the project. The first stage of Wave 2 will extend coverage from 90-96% and has a subsidy figure of £475 per premises passed.
- 3.7. The £6.8M extension to Wave 2, taking coverage from 96% to 97.4%, sees the subsidy per premises increase to over £800. This subsidy is from public sector contributions including central government as per the table in paragraph 2.8.



- 3.8. To illustrate the variation in cost per premises through the life of the programme, the results of the Innovation Fund Trial in Ropley, Bramdean and Froxfield are a case in point. Hampshire was selected to be one of the 10 national trials into technology options for the 'last 5%' set up by the Department for Digital, Culture Media and Sport (DCMS). In 2015, Call Flow was awarded a contract by DCMS and work started shortly afterwards. Members will note from the graph above that the average subsidy per premises passed for this project reached £800, a figure that we are not seeing across the rest of the programme until the 2019 phase. The residents of this area have therefore received a service some four or five years earlier than otherwise expected.
- 3.9. It should be noted that the average subsidy per premises passed for the entire project stands at slightly less than £500 per property enabled with superfast speeds.

4. Community Match Funding Scheme and Engagement

- 4.1. In June 2017, the County Council launched the £1M Community Match Funding Scheme (CMFS) to assist residents and communities who are not in current plans.
- 4.2. This scheme allows communities in the last 2.6% of premises (approximately 15,000) that are beyond the current programme to buy into the County Council's programme with Openreach to access an upgrade for their premises. The County Council will provide 50/50 funding towards the cost of an Openreach solution with a ceiling of £1,650 per property.
- 4.3. There has been considerable interest in the scheme and two communities have already raised funds and signed a contract with the County Council for

a bespoke solution for their area. One of these is a small community in Silchester, who was first to take advantage of this scheme and 17 properties will shortly have access to superfast services that would otherwise have been left behind. A link to details of the Silchester scheme can be found [here](#).

- 4.4. The County Council's scheme is one of the first of its type in the country and similar schemes are now being developed by other county projects.
- 4.5. In addition to the CMFS, the programme team has been assisting a community in Test Valley in helping promote their Virtual Town Project, consisting of a number of villages where many of the properties are not in current plans for delivery under the HCC or private sector commercial programmes. The proposed scheme follows a successful campaign by residents in response to Virgin Media's 'Cable my Street' demand-led initiative. The residents have been able to attract enough signatures and expressions of interest for Virgin Media to proceed to the final design and build stage, and have undertaken to make a financial contribution to the scheme. The community hopes that Virgin Media will start building in 2018, delivering a fibre to the premises scheme.
- 4.6. The programme continues to administer the government's Universal Service Commitment (USC) scheme, which allows residents who experience broadband speeds of less than 2Mbps to apply for a voucher towards a bespoke solution. Residents are able to use the voucher towards the cost of an installation from a range of broadband suppliers and plans, with the potential to aggregate the subsidy towards a fixed wireless or fixed line broadband provision for the wider community. Hampshire has amongst the highest take up of the USC scheme in the country. This scheme was scheduled to come to an end in December 2017 but a recent announcement from government has confirmed an extension to the scheme.

5. Challenges in Hampshire and Future Plans

- 5.1. As well as keeping focused on the delivery of the contracted programme that plans to deliver to 97.4% of the county, the team is constantly striving to do more to reach the last 2.6%. This includes seeking further funding from other sources such as central government and bolstering the team's resources to drive take up and maximise financial rebate to further delivery.
- 5.2. Central government has put forward a proposal called the Universal Service Obligation (USO) where, from 2020, all residents should be able to demand a minimum speed of 10Mbps to their property. The mechanism to achieve this has not been defined yet, but it appears likely that the onus will be placed on suppliers in the market place rather than local authorities.
- 5.3. Community engagement remains a significant part of the programme team's activity. At the end of October, the programme had received more than 4,000 enquiries via Twitter and email during the previous 10 months. The team also provides tailored briefings for Members, local Members of Parliament, Town and Parish Councils, specific communities and meetings

with individual residents. Additionally, the team supports these organisations/individuals at public meetings.

- 5.4. Take up continues to rise and forms an important part of the Council's forward strategy for reaching close to 100% coverage. Within the contract there are mechanisms that provide a rebate to the County Council when take up is greater than the original estimates in Openreach's commercial bid. To date, rebates and savings have added a further £7.8M of delivery to the programme without requiring additional capital funding. The Council expects a further rebate in the next 12 months, and additional rebates in subsequent years. The County Council could see up to an additional c.£4M made available in the next 12 months, though this is still to be confirmed by Openreach. The most expedient way to convert this to more coverage is through recycling this in the existing contract, which was the principle adopted for the previous rebate.
- 5.5. It should be noted that as the programme starts to deliver services to the last 2.6% of properties in Hampshire currently without superfast speeds, the difficulties encountered so far when operating in areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, National Parks and on Crown Estate land are only likely to increase.
- 5.6. The complexity of operating in these environments inevitably leads to delay and additional expense. It will be increasingly important and necessary to manage expectations, supporting the team in communicating with residents that this complexity and any resulting delays are often not the responsibility of the County Council or the company installing the equipment. The team will however continue to work with the various stakeholders to make the delivery as smooth as possible.
- 5.7. In respect of new housing sites, the County Council continues to encourage developers to engage with telecommunications suppliers to ensure that superfast services are installed on new sites from the outset. However, there are still instances where suppliers are involved too late in the build process, with new occupants in properties unable to access adequate infrastructure. The programme continues to engage developers and encourage Local Planning Authorities to explore opportunities to mandate superfast coverage as part of the planning approval process.
- 5.8. The programme continues to explore additional funding sources to help deliver to the areas where there are no plans currently. This includes recent engagement with the Enterprise M3 Local Enterprise Partnership (LEP) and Local Full Fibre Partnerships (part of DCMS). On the latter, the County Council has recently submitted an Expression of Interest following a call for their Full Fibre Networks Programme, which is making a proportion of the £740M Government's Infrastructure Fund available nationally to support the deployment of fibre connectivity. A call for full proposals is expected later this year.
- 5.9. The County Council continues to engage with central government on wider broadband policy discussions given the importance of national policy and funding as principal drivers to address the last few percent coverage. There

is an increasing demand being placed on all residents to be able to interact with the public sector via electronic means, particularly with those central government services provided through GOV.UK. Without full coverage, residents, particularly in rural communities, are concerned that the expectation of this means of communication is not matched by central government action to address full coverage.

- 5.10. In addition to superfast and ultrafast broadband, there is increasing demand for improved mobile connectivity, particularly along main commuter routes, both rail and road. DCMS is exploring 5G pilots as a parallel piece of work to the Full Fibre Networks Programme and the County Council is already in discussions with DCMS on how to be a part of this.

6. Conclusions

- 6.1. Hampshire's Superfast Broadband Programme continues to deliver on its targets, with strict budget control of the limited public funding available, assurance from central government and rigorously holding Openreach to account for delivery. However, it is important to differentiate between this success and the wider, national broadband market failure which, in the case of the county of Hampshire, means that broadband providers still have no plans for the remaining 2.6% (circa 15,000 premises). The programme is acutely aware of the position of these residents in the last 2.6% and continues to look for innovative solutions to assist where this is possible.
- 6.2. The Hampshire Programme has already taken coverage across the county from 80% to over 90% and has plans in place to take coverage to 96% by the end of 2018 and 97.4% by the end of 2019. More than 12,000 premises will be connected to ultrafast services. There is potential to increase coverage as further rebates (gainshare) are made available.
- 6.3. By the end of the programme more than £30M of public money, £13M of which has come from the County Council, will have been invested.
- 6.4. The broadband programme has been a successful pilot for the Government's Universal Service Commitment, and has amongst the highest take up of this scheme in the country. The programme has also been a successful pilot for the Government's last 5% trials with the highest project recognition status.
- 6.5. The programme continues to work with DCMS regarding opportunities for Full Fibre deployments and 5G networks.
- 6.6. Superfast broadband is a topical issue that concerns many thousands of residents across Hampshire and will experience increasing numbers of enquiries from the public. It will continue to attract criticism from those residents and businesses in the remaining few premises that are beyond current plans. Communication of these plans and progress, as well as community engagement, is critical.
- 6.7. Take up of superfast broadband continues to gather pace, indicating that demand for these services is considerable. Existing contracts with BT share the risk such that if take up is higher than expected, the public sector

receives a rebate, whilst if take up is below expectations the public sector is not liable for any further financial commitment. This illustrates the need to continue with the already successful marketing campaigns to drive take up and rebate for further reinvestment.

7. Recommendations

It is recommended that Cabinet:

- 7.1. Notes the good progress on the delivery of the Hampshire Superfast Broadband Programme for the public funding available, but recognises the wider broadband market failure which means that there are still 2.6% (circa 15,000 properties) where there are no plans currently.
- 7.2. Acknowledges that, even though there are areas where market failure has meant that plans are not in place and public funding will not meet the demand, the programme still continues to help all residents across Hampshire where possible through innovation such as the Community Match Funding Scheme.
- 7.3. Notes that the Community Match Funding Scheme is being positively received by communities across Hampshire.
- 7.4. Approves that the programme continues to extend and maximise coverage under the existing contracts by seeking to reinvest rebate (gainshare) and contract delivery underspend with the existing supplier and continue to apply pressure to the supplier to accelerate delivery of existing contract targets.
- 7.5. Agrees that the County Council should continue to proactively seek funding from the LEPs and DCMS, as well as other external funding sources, and considers running additional procurements if necessary or advantageous to residents.
- 7.6. Continues to support the programme through engagement with District Councils, Parish Councils, communities and residents.

Appendix 1 - Full list of project coverage by Electoral Division

HCC Electoral Division	Total Premises	% covered at end of Contract 1	Total Premises Upgraded During Wave 2	Number not in programme but potential for CMFS	% Superfast in Electoral Division
Aldershot North ED	7,455	95.3%	256	97	98.7%
Aldershot South ED	8,227	99.0%	72	7	99.9%
Alton Rural ED	6,792	60.7%	2,271	396	94.2%
Alton Town ED	8,408	97.5%	166	47	99.4%
Andover North ED	5,880	79.1%	1,036	195	96.7%
Andover South ED	8,662	94.0%	325	195	97.8%
Andover West ED	8,635	76.4%	1,531	509	94.1%
Baddesley ED	6,984	89.4%	350	389	94.4%
Basingstoke Central ED	8,718	97.1%	93	161	98.1%
Basingstoke North ED	7,582	91.3%	51	608	92.0%
Basingstoke North West ED	7,136	99.4%	36	10	99.9%
Basingstoke South East ED	9,533	92.3%	650	84	99.1%
Basingstoke South West ED	8,052	99.0%	67	17	99.8%
Bishops Waltham ED	7,673	75.3%	1,697	197	97.4%
Bishopstoke & Fair Oak ED	6,326	91.8%	368	153	97.6%
Botley & Hedge End North ED	6,449	95.1%	219	96	98.5%
Bridgemary ED	8,021	97.8%	167	13	99.8%
Brockenhurst ED	8,574	64.7%	1,273	1,756	79.5%
Calleva ED	5,582	69.3%	1,455	261	95.3%
Candovers, Oakley & Overton ED	6,474	75.6%	1,269	309	95.2%
Catherington ED	6,910	93.3%	367	99	98.6%
Chandler's Ford ED	6,574	96.2%	238	11	99.8%
Church Crookham & Ewshot ED	7,102	98.1%	99	38	99.5%
Cowplain & Hart Plain ED	6,882	99.3%	51	-	100.0%
Dibden & Hythe ED	8,628	90.1%	668	185	97.9%
Eastleigh North ED	7,537	94.3%	259	173	97.7%
Eastleigh South ED	8,143	94.3%	310	158	98.1%
Emsworth & St Faiths ED	8,036	97.8%	166	7	99.9%
Fareham Crofton ED	7,213	95.0%	339	22	99.7%
Fareham Portchester ED	8,110	98.4%	94	37	99.5%
Fareham Sarisbury ED	6,629	90.0%	630	36	99.5%
Fareham Titchfield ED	7,135	93.7%	312	136	98.1%
Fareham Town ED	13,729	96.7%	414	35	99.7%
Fareham Warsash ED	7,318	96.6%	228	18	99.8%
Farnborough North ED	7,551	99.2%	51	12	99.8%
Farnborough South ED	8,877	91.1%	643	148	98.3%
Farnborough West ED	7,727	99.8%	1	13	99.8%

HCC Electoral Division	Total Premises	% covered at end of Contract 1	Total Premises Upgraded During Wave 2	Number not in programme but potential for CMFS	% Superfast in Electoral Division
Fleet Town ED	7,946	97.2%	185	41	99.5%
Hamble ED	8,286	94.2%	446	37	99.6%
Hardway ED	7,772	98.7%	78	21	99.7%
Hartley Wintney & Yateley West ED	8,122	83.2%	1,109	256	96.9%
Hayling Island ED	8,871	95.2%	377	52	99.4%
Hedge End & West End South ED	6,343	97.5%	89	67	98.9%
Itchen Valley ED	7,488	66.2%	2,164	367	95.1%
Lee ED	7,015	97.8%	134	20	99.7%
Leesland & Town ED	14,698	98.0%	275	22	99.9%
Liphook, Headley & Grayshott ED	7,551	82.7%	1,118	190	97.5%
Loddon ED	7,732	94.3%	292	145	98.1%
Lymington & Boldre ED	9,377	83.2%	968	607	93.5%
Lyndhurst & Fordingbridge ED	8,798	72.1%	1,873	585	93.3%
Meon Valley ED	6,843	69.3%	1,782	317	95.4%
New Milton ED	8,768	97.6%	174	35	99.6%
New Milton North, Milford & Hordle ED	9,153	86.7%	1,047	172	98.1%
North East Havant ED	8,591	99.1%	73	8	99.9%
North West Havant ED	8,186	98.6%	108	10	99.9%
Odiham & Hook ED	7,229	79.8%	1,361	99	98.6%
Petersfield Butser ED	8,076	87.6%	787	213	97.4%
Petersfield Hangers ED	7,470	77.3%	1,259	440	94.1%
Purbrook & Stakes South ED	6,746	99.9%	-	4	99.9%
Ringwood ED	7,740	82.1%	1,065	318	95.9%
Romsey Rural ED	7,390	47.3%	2,435	1,461	80.2%
Romsey Town ED	8,097	93.3%	237	302	96.3%
South Waterside ED	7,121	94.7%	327	52	99.3%
Tadley & Baughurst ED	6,842	90.1%	589	88	98.7%
Test Valley Central ED	7,163	45.7%	2,484	1,406	80.4%
Totton North & Netley Marsh ED	8,041	93.3%	215	320	96.0%
Totton South & Marchwood ED	8,356	94.9%	335	91	98.9%
Waterloo & Stakes North ED	7,746	97.5%	152	38	99.5%
West End & Horton Heath ED	5,610	90.9%	435	75	98.7%
Whitchurch & The Cleres ED	7,474	70.5%	1,567	640	91.4%
Whitehill, Bordon & Lindford ED	6,983	92.7%	486	27	99.6%
Winchester Downlands ED	7,907	81.5%	1,286	180	97.7%
Winchester Eastgate ED	9,111	84.2%	1,367	77	99.2%
Winchester Southern Parishes ED	6,195	81.0%	1,014	162	97.4%
Winchester Westgate ED	6,924	97.3%	162	26	99.6%
Yateley East & Blackwater ED	8,048	97.3%	192	22	99.7%
Total	593,073	89.2%	48,265	15,621	97.4%

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	No
Maximising well-being:	Yes
Enhancing our quality of place:	Yes

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
Hampshire Superfast Broadband – Getting Connected	EMPR 22/01/2015 Ref: 6456
Hampshire Superfast Broadband	Cabinet 21/03/2016 Ref: 7363
Hampshire Superfast Broadband – Beyond 96	EMPR 14 December 2016 Ref: 7926

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

- (a) The County Council is not entering into the provision of Superfast Broadband services to any individual or business. Residents in areas where these services are available will purchase services relevant to their requirements from private sector providers operating in the retail market. As the responsible 'local body', the County Council will seek to implement Government policy to make it possible for all residents and business premises to access a service capable of operating at a download speed of at least 2 Mbps.

1. Impact on Crime and Disorder:

1.1. None identified.

2. Climate Change:

- 2.1. How does what is being proposed impact on our carbon footprint / energy consumption? Positive impact.
- 2.2 How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? Positive impact.

Broadband speeds / coverage – September 2018

(data aggregated from ONS, Cisco, ISPreview, Thinkbroadband, Analysis Mason, own data sources. No HCC data used)

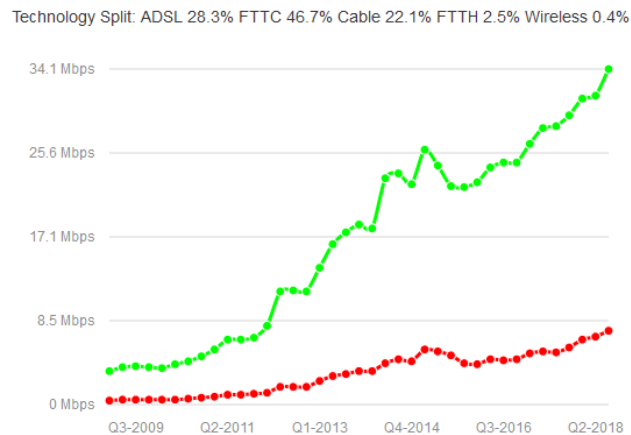
Premises passed

Download speed:	> 24 Mbps	>30 Mbps	> 30 Mbps	< 2 Mbps	< 10 Mbps	< 15 Mbps	FTTP/H	Any speed, over 'fibre' partial/full
	24 Mbps 'Superfast' BDUK definition	30 Mbps 'Superfast' EU/Ofcom definition	Openreach network only (i.e excludes Virgin)	2 Mbps Current USO	DL/UL 10/1 Mbps Ofcom proposed USO	15 Mbps 'High Speed Broadband' definition	Openreach network only (i.e. excl. Gigaclear etc)	VDSL2 / G.fast / Cable / FTTP/H
England	96.15%	95.86%	90.33%*	0.43%	2.83%	2.34%	2.66%*	98.02%
Hampshire	94.96%	94.50%	92.08%	0.64%	3.38%	3.55%	1.30%	97.92%
New Forest	93.45%	92.58%	92.29%	0.97%	3.39%	5.22%	0.37%	98.40%

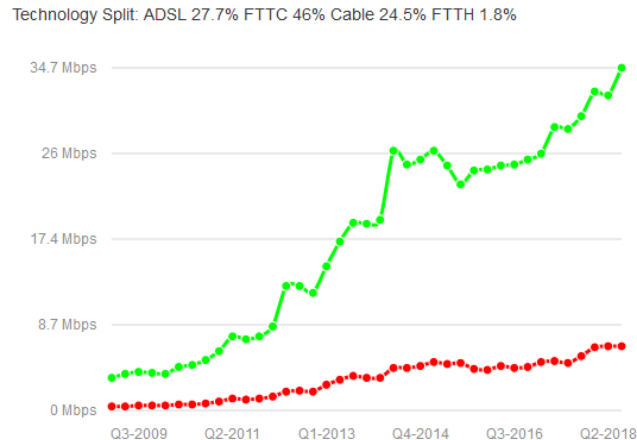
Premises in England taken to be 23m homes plus 2.3m businesses not run from homes = 25.3m. Each % point approximates to 250,000 premises.
 Premises in Hampshire taken to be 595,000 homes plus 59,500 businesses not run from homes = 654,500 (excludes Southampton & Portsmouth). Each % point approximates to 6,500 premises.
 Premises in New Forest taken to be 81,900 homes plus 8,200 businesses not run from homes = 90,100. Each % point approximates to 900 premises.
 'Premises passed' : premises that have the specified service available.
 *includes Kingston Telecom (Hull)

Download speeds – green trace Upload speeds – red trace

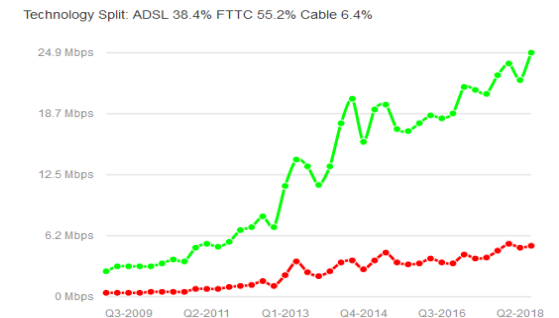
England – mean speeds



Hampshire – mean speeds



New Forest – mean speeds



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SUPERFAST BROADBAND PROVISION IN THE NEW FOREST – COMMENTS FROM PARISH COUNCILS AND DISTRICT COUNCILLORS

AREA	COMMENTS
Brockenhurst – New Forest Drive and surrounding roads	'Ducting' issue ongoing for 4 years. Wayleave Agreement between Forestry Commission and Openreach awaited re: Rhinefield Road. Fast broadband required for study and business, yet the telephone connections and speed of existing broadband in the area concerned are poor and difficult to use. Download speed 5mbps, slow and detrimental to business, skype impossible. Infrastructure needs updating.
Burley	Internet speed poor. Fibre cabinet full and no plans to expand, cabinet unable to cope with capacity. Suggested that no plan to replace as Government target has been met. No access to fibre.
Hordle, Tiptoe and New Milton	Complaints concerning provision in Hordle and Tiptoe area and query as to why New Milton has Virgin but not the Hordle area.
Bramshaw Parish (including Fritham)	Speeds in the region of 2MBps prior to Superfast Broadband arriving in Brook which promised a speed of 17MBps but which was never supplied by BT. Speed had increased from 2MBps to 5MBps but still some drops. Note: Application by BT in respect of Broadband cabinet recently refused by NPA. Other examples given where Verderers objected to the siting of a Superfast Broadband box adjacent to existing BT box at Brook. One site failed because of an SSSI on the land in question. Most at Bramshaw still have very poor broadband connection and applications for new boxes. Reference made to cabinet siting and pole siting code of practice agreed in 2013. Also reference to Natural England requirements relating to an application in Blackhill Road north of Bramshaw.
Ringwood Area (Ellingham Harbridge and & Ibsley)	<p>Limited broadband coverage and speeds.</p> <p>Comments from Ellingham Harbridge and & Ibsley Parish Councillor:</p> <p>At inception of BDUK, the approx 500 premises in Ellingham Harbridge and & Ibsley were served by seven PCP cabinets from three exchanges. All of these had been market 'lit' by Openreach, and although all 500 premises were judged to be getting Superfast in the first OMR, in practice only 10% were. More than 50% struggled to get a 2 Mbps service.</p> <p>After seven years: 60 premises are now getting 24+ Mbps from a new cabinet via the Hyde self-funding project, with 7 other premises (still) awaiting a FTTP service under this; 80 have just had FTTP installed as part of HCC's SEP, with another 47 promised to be done that had been 'missed out'; two other areas have had the first signs of FTTP spine being run in, but not completed. This leaves just over half the parish (250+ premises) wondering about any progress, when the funding runs out at the end of 2019.</p> <p>Attached is a coloured map of the footprint of one of the edge-of-town cabinets serving the parish, which illustrates requirements for new infrastructure (and, inevitably, how expensive it will be) to get the last 25% of premises on this cabinet up to speed. (Mapping based on distance/speed calculations rather than real world data - actual throughput speeds will vary)</p>

Minstead	<p>Poor broadband</p> <p>Approx 340 properties in Minstead, estimated speeds:</p> <p>85% don't have superfast speeds (in excess of 24 Mbs) 50% have speeds of 5 Mbs or less 25% have speeds of 2 Mbs or less</p> <p>For the last 18 months have been trying to get Openreach/BDUK/HCC to progress the Community Fibre Partnership Arrangement design and installation.</p> <p>In July 2017 Minstead PC met with representatives from Hampshire Superfast Broadband, and Openreach and expressed a firm interest in a match funding scheme being launched by HCC for provision of superfast broadband to rural areas not covered by existing plans. A final list of all the properties in Minstead Parish was sent to Openreach in September 2017 subject to terms. No progress until January 2018 when revised solution agreed involving a main scheme of 265 properties. The remaining 64 outlying properties in Minstead parish would be dealt with at a later date.</p> <p>In February 2018, Minstead PC supplied new property details to Openreach.</p> <p>Despite repeated representations, no useful progress or response has been received in the last 9 months to date.</p>
General	<p>Principal problem that constituents complain about is that once their BT box has been upgraded to fibre, they are too far from it and their copper degrades the performance.</p>

RINGWOOD PCP 12 (STRINGW 012)

PCP 12 - market 'lit'
approx. 800 premises

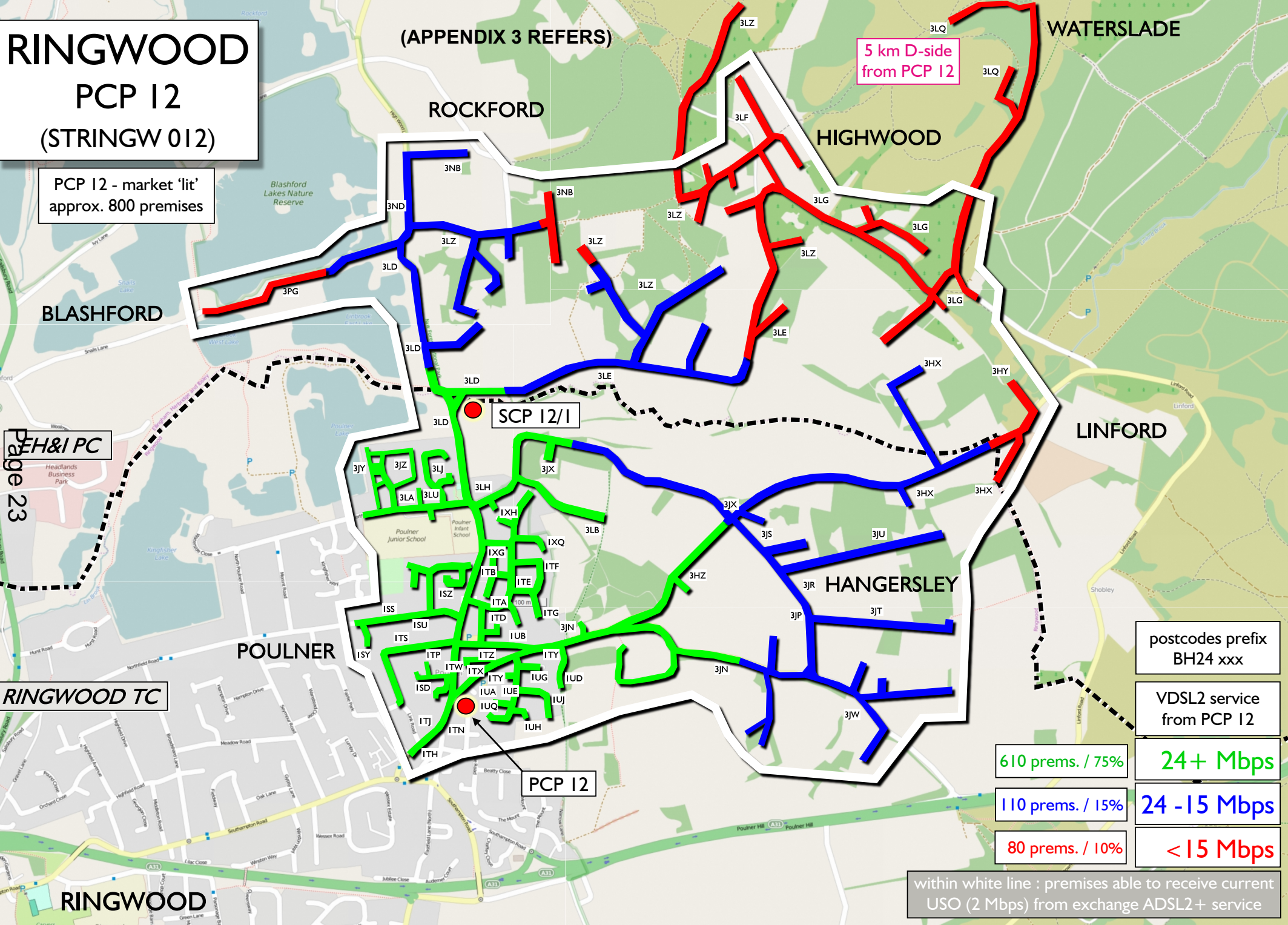
(APPENDIX 3 REFERS)

5 km D-side
from PCP 12

Page 23
EH&I PC

RINGWOOD TC

RINGWOOD



POULNER

ROCKFORD

HIGHWOOD

WATERSLADE

BLASHFORD

LINFORD

HANGERSLEY

PCP 12

postcodes prefix
BH24 xxx

VDSL2 service
from PCP 12

610 prems. / 75%

24+ Mbps

110 prems. / 15%

24 - 15 Mbps

80 prems. / 10%

< 15 Mbps

within white line : premises able to receive current
USO (2 Mbps) from exchange ADSL2+ service

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CORPORATE OVERVIEW & SCRUTINY PANEL – 22 NOVEMBER 2018 CABINET – 5 DECEMBER 2018

NEW FOREST DISTRICT COUNCIL'S PROPERTY HOLDING COMPANY– BUSINESS PLAN 2018

1. INTRODUCTION

- 1.1 The purpose of this report is to seek approval for the business plan for a new property holding company, wholly owned by the Council, through which to implement the Council's Residential Property Investment Strategy. Approval is also sought for the company's operating arrangements and articles of association.
- 1.2 On 6th December 2017, Cabinet approved the Residential Property Investment Strategy to invest in residential property, whether as existing private sector rental producing units or with vacant possession for letting to private sector tenants, and to develop sites that the Council owns or acquires to build dwellings to deliver a range of housing and tenures including private rental, sales and affordable housing under a range of different tenures.
- 1.3 A property investment task and finish group (comprising councillors A O'Sullivan, M Steele, B Andrews, S Bennison, A McAvoy, M Harris, J Heron) have overseen the development of strategies for commercial and residential property investment, and to complete their work, have considered the proposed business plan for the new local housing company together with the associated arrangements, and support the proposals.

2. BUSINESS PLAN CONTENTS

- 2.1 The business plan sets out the following;
 - Vision objectives and culture
 - Business environment, market and competition
 - Operational arrangements
 - Financial assumptions
 - Risks
- 2.2 The Business Plan envisages a company structure comprising a new property holding company with two subsidiary companies, a lettings company and a development company, to implement the strategy. The Council will be the sole shareholder in the company. The lettings company will own and manage properties suitable for letting in the residential sector and also mixed use residential and commercial properties. The development company will develop out sites for a variety of housing tenures either for sale or rent. Suitable sites will either be acquired from third parties or procured at arm's length from the Council.
- 2.3 The proposed articles of association (see page 39) confirm in full the governance arrangements. In summary, each company will have its own board which will initially consist of the same 4 directors. The board make up will consist of 2 officers, with one acting as company secretary, and 2 members with one acting as chairman. The chairman will have a casting vote.

- 2.4 It is anticipated that the company will commence trading during the 2019/20 financial year.

3. FINANCIAL IMPLICATIONS

- 3.1 Full details of the financial implications to the Council (as the shareholder) were set out in the original strategy document as presented to [Cabinet in December 2017](#). It confirms proposed initial capitalization of the company of £10m, funded through a mix of debt and equity. The return to the Council comes via the interest charges levied on the debt finance issued, plus dividend payments, when the availability of cash allows. The financial implications to the company group are set out in the business plan and are vitally important to establish the financial viability from the company's point of view.
- 3.2 The Business Plan at Appendix 1 demonstrates that over the initial period of investment, the company expects to be profitable by year 11 (loan interest payments will commence by year 2), building to annual profits before interest and tax in excess of £400k thereafter.
- 3.3 The Business Plan anticipates shareholder equity return over the 50 year business plan in the region of £41.806m, at an internal rate of return of 5.54% and a positive net present value of £2.45m. The initial losses in the company accrue to a peak of £205k in year 11 but then it has sufficient profit available for dividend distribution by year 18. Whilst a business owned by shareholders expectant of dividends may struggle to make this appear viable, the shareholder in this instance is receiving an income in the form of loan interest payments from year 2, and the Group has a healthy balance sheet with gearing of 67%, and long term assets of £10m by the end of year 4.
- 3.4 It is proposed that initial tranche funding of £2m be made available to the company, with further drawdown being made available subject to scrutiny of the initial tranche, and the company and Council objectives being met.

4. HUMAN RESOURCE IMPLICATIONS

- 4.1 The company will not employ any staff initially. The board of directors will be responsible for procuring the services it needs and will look to manage its property portfolio through a series of service level agreements with the Council, and will support the services provided to it by the Council with specialist services from third party suppliers when needed.
- 4.2 The board of directors will comprise 2 officers of appropriate seniority and 2 Council members initially. The Council's indemnity to members and officers will apply in respect of their activities as directors of these companies. Additionally, the company will take out its own directors and officers liability insurance policy, likewise to cover the activities of the directors of the company.

5. PORTFOLIO HOLDER'S COMMENTS

- 5.1

6. ENVIRONMENTAL AND CRIME AND DISORDER IMPLICATIONS

6.1 There are none

7. EQUALITY AND DIVERSITY

7.1 This strategy is for the benefit of all of the Council's residents as set out in business plan and will have a positive impact by increasing the availability of housing within the Council's district.

8 RECOMMENDATIONS

8.1 That it be a recommendation to the Cabinet and the Council:

8.1.1 that the business plan for the new company together with the proposed articles of association for the company and its subsidiaries be approved.

8.1.2 that the appointment of 2 members and 2 officers of appropriate seniority to the board of directors of the company and its subsidiaries be approved, such individuals to be agreed by the Chief Executive in consultation with the Leader of the Council .

8.1.3 that authority be delegated to Cabinet in respect of those matters set out in paragraph 4.4 of the company's proposed articles.

8.1.4 that the property investment task and finish group be discontinued, but that regular progress updates be brought to the Corporate Overview and Scrutiny Panel as required.

8.1.5 that the Council's indemnity to members and officers applies to the activities of the directors of the company and further that the Executive Head Governance and Regulation arrange for the company to have additional directors and officers liability insurance likewise to cover the activities of the directors of the company.

Further Information:

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Background Papers:

Business plan
Articles of association

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New Forest Property Holdings Limited
Business Plan 2018

1. EXECUTIVE SUMMARY

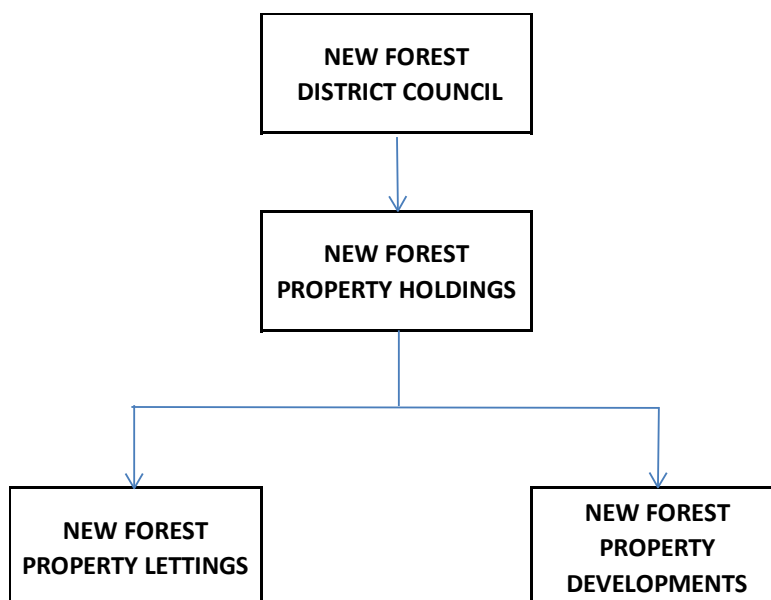
- 1.1 NFPH is the housing trading arm of New Forest District Council. The company and its subsidiaries have been set up by the Council, and the group wholly owned by New Forest District Council. The NFPH group of companies are separate legal entities, each managed by a Board of Directors.
- 1.2 This document sets out the NFPH group Business Plan for the immediately foreseeable future, with an emphasis on the next 5 years. It provides the overarching vision and broad strategic objectives, as well as the summary financial forecasts that sit behind the Business Plan.
- 1.3 The Business Plan has been produced on the basis of a £10m investment being made over a 4 year period to acquire and develop properties. It is anticipated that the group will retain ownership of around 40 properties by the end of this initial investment period. The financial forecasts should be taken as indicative if it is felt appropriate for the company to grow beyond this.
- 1.4 Broadly the Business Plan sets out;
- The group structure and background as to the purpose of each company
 - The vision, broad strategic objectives, and culture
 - The business environment that the companies will operate in, including a summary of the market and the competition
 - The operational arrangements of the companies, including management arrangements and procurement of services
 - The financial assumptions, requirements, capitalisation, projected income and expense account, viability assessment and sensitivity analysis
 - An understanding of the risks, including financial, operating, supply/demand, independence and political influence.
- 1.5 The Business Plan demonstrates that over the initial period of investment, the company expects to be profitable by year 11 (loan interest payments will commence by year 2), building to annual profits before interest and tax in excess of £400k thereafter.
- 1.6 The anticipated shareholder equity return over the 50 year business plan is £41.806m, at an internal rate of return of 5.54% and a positive net present value of £2.45m. The initial losses in NFPH accrue to a peak of £205k in year 11 but then has sufficient profit available for dividend distribution by year 18. Whilst a business owned by shareholders expectant of dividends may struggle to make this appear viable, the shareholder in this instance is receiving an income in the form of loan interest payments from year 2, and the Group has a healthy balance sheet with gearing of 67%, and long term assets of £10m by the end of year 4.

- 1.7 Investment in property is not without risks, however identifying, understanding and keeping an up to date risk register with will minimise the possibility of these occurring.

2. GROUP STRUCTURE

2.1 The NFPH group has been established by NFDC to purchase privately owned properties, either as existing private sector rental income producing units or with vacant possession for letting to private sector tenants, and to develop acquired sites to build dwellings to deliver a more diverse range of housing and tenures.

2.2 NFPH is wholly owned by New Forest District Council. There are 2 subsidiaries sitting below NFPH; NFPL and NFPD.



New Forest Property Holdings

The BoD for the parent company will have overall responsibility for ensuring the subsidiaries fulfil the group aims and objectives. The performance of the subsidiaries will be consolidated into group accounts, and in turn, these consolidated with NFDC. The 2 subsidiaries have been established under the parent company in line with best practise as seen in the private sector.

New Forest Property Lettings

This company will own and manage properties suitable for letting in the residential sector and also mixed use residential and commercial properties, for example commercial unit below and residential accommodation above (covers mixed use as the Council can own 100% commercial premises directly). It will be responsible for the sourcing and procurement of suitable properties, and also the procurement of necessary tenancy management services.

New Forest Property Development

This company will develop out sites acquired for a variety of housing tenures and types either for sale or rent. Properties will be procured at arm's length by NFPL, or by other third parties (which could, for example include the Council's own HRA). A fully detailed and costed business case would be produced and evaluated for each potential development project, ensuring that the development in question meets the vision, objectives and culture expected by the NFPH group.

2.3 The Articles of Association are included at annex 1, and confirm in full the governance arrangements. In summary, each company will have its own board which will initially consist of the same 4 Directors. The board makeup will consist of 2 senior Council Officers, with one acting as Company Secretary, and 2 members, with one acting as Chairman.

3. VISION, OBJECTIVES AND CULTURE

VISION	<ul style="list-style-type: none"> • The absolute requirement to build a commercially sustainable business which will offer its shareholder a worthwhile return on funds invested • NFPH will make a positive contribution to the District Councils corporate plan objectives and will generate a source of income to NFDC to protect the delivery of front line services • It will be known for acquiring and developing quality properties and services which meet the needs of its customers • NFPH will establish a strong reputation that stands for quality, integrity and good value for money • NFPH will be landlord and partner of choice within the New Forest
OBJECTIVES	<ul style="list-style-type: none"> • To provide a range of high quality housing and commercial properties to the people of New Forest District, and beyond • To ensure high quality landlord services are received by its tenants • As a housing developer, increase the number of new homes being delivered in the District • NFPH will maintain and manage its assets in such a way as to maximise their useful life expectancies and protect their capital values • To grow beyond the initial £10m funding commitment from NFDC with a view to building the company's asset base, and so income return to the Council as shareholder
CULTURE	<ul style="list-style-type: none"> • NFPH will be a group that people wish to do repeat business with • The board will adopt a can-do attitude, whilst still analysing risks and declining bad business • All customers will be treated with the utmost respect and integrity and provided with high quality services • NFPH is trusted by NFDC and is offered significant opportunities of partnership working and investment

	<ul style="list-style-type: none"> • NFPH will understand that mistakes can be made, but will learn and also acknowledge successes • NFPH will establish and build close relationships with a variety of departments within NFDC in order that the group can achieve its objectives
--	---

4. BUSINESS ENVIRONMENT, MARKET AND COMPETITION

- 4.1 New government targets on house building and Councils' local plans mean more opportunities for new housing exist across the Country. This does however mean there is likely to be strain on the trades required to build high quality new housing. NFPH will need to be careful who it decides to do business with.
- 4.2 NFPH will initially be operating within the New Forest District Boundary. The local housing market is strong and demand for good quality accommodation is high, and set to increase in the future. Mixed use property (i.e. commercial premises with residential property above) is also a suitable source of property acquisition for NFPL, and so will also be considered for ownership within the group.
- 4.3 The market for private rented residential property is likely to remain strong over the long term with increasing numbers of households living in the rental sector. NFPH will primarily seek 2 and 3 bedroom houses and flats in the district for rental or development to generate the necessary returns as anticipated by this business plan.
- 4.4 New taxation changes also mean for individuals, the private rented sector as a means of generating in income return is less attractive than it once was and which may also mean a movement by some private landlords out of the residential property market. However, this may generate opportunities to acquire residential property for let if private landlords exit the market and also offers the NFPH the opportunity to be an attractive landlord for tenants to deal with.
- 4.5 There are a number of Council policy developments to support the proposition that the market for private rented residential property in the District is likely to remain strong. The Council's recently adopted Economic Development Strategy 2018 - 2023 will seek to promote key strategies in the District to increase the skilled workforce, to increase growth and productivity and to facilitate vibrant towns and villages all of which are likely to promote the market for residential accommodation.
- 4.6 The Council's recently published draft Local Plan 2016 – 2036 seeks to provide around 10,500 additional homes within the plan area to help meet the needs of the District within the Southampton, Bournemouth and Salisbury housing market areas. The draft Local Plan also seeks to provide a range of good quality new homes by type, size, tenure and location to address local housing needs, in particular homes that are more affordable for younger households.

- 4.7 Over the long term, residential property prices have consistently risen in real terms. Whilst the level of historic house price rises cannot be guaranteed, there is likely to be an under supply of housing. It is estimated of a need for new housing in England in the region of 300,000 per annum, a level of building not reached since the late 1970's.
- 4.8 The demand for differing tenure types is changing, with shared ownership schemes becoming a more popular choice for people who want to own their own home, but cannot necessarily afford the high level of deposit required and ongoing mortgage repayments. NFPL will need to carefully consider the market it will operate within, and offer a range of tenure and ownership options, not limited purely to market rent. As the Company expands, it may also be in a position to offer landlord management services itself to small landlords.

5. OPERATIONAL ARRANGEMENTS

- 5.1 NFPH will not initially employ any staff directly. The BoD will be responsible for procuring the services it needs and will look to manage its property portfolio through a series of SLA's with the Council and will support the services provided to it by the Council with specialist services from third party suppliers, when needed. Charges levied between the Council and NFPH will be made at arm's length and on commercial terms, and will be reviewed by the BoD annually.
- 5.2 NFPH will ensure all necessary legal requirements and policies are in place prior to the commencement of trading, for example dealing with deposits, client account, data protection and GDPR.
- 5.3 NFPH will be wholly owned and under the control of the Council as sole shareholder. Although NFDC will be able to award contracts to the NFPH without being subject to the EU procurement regime, the NFPH will need to comply with Public Contract Regulations when awarding its own tenders, for example for housing development works.
- 5.4 The NFPH group board members have a legal duty to act in the best interests of the company. NFPH will report regularly to the Council. NFPH's constitution and agreements will detail the governance arrangements, manage potential conflicts of interest, set out dividend policy and other parameters for the board.

6. FINANCIAL ASSUMPTIONS

- 6.1 The Group will be financed through a series of loans and equity investments.
- 6.2 The Council has agreed to provide initial financing of up to £10m, on the basis of up to 33% equity. An initial drawdown of £2.0m is made available to the Company (£660k equity and £1.34m debt), with a further drawdown being made

available subject to shareholder scrutiny of the initial tranche, and the company and Council objectives being met.

- 6.3 The loans will be on a drawdown facility basis and the intention is to use this facility when individual properties are acquired and/or developed. Loans will be secured against the net assets of the Group.
- 6.4 Loans will be issued on variable repayment basis at an interest rate compliant with meeting state aid requirements. It is expected this will be in the region of base rate + 4.75%. The repayment of the loans will be agreed by the Board of Directors and the Councils Head of Finance (in consultation with the Councils Portfolio Holder for Finance).
- 6.5 NFPH will need to provide security to the Council for its loans in the form normally expected by a commercial lender. These are likely to include a debenture over the assets and undertaking of the holding company (including a charge over shares in the subsidiaries), and a guarantee and a debenture from each of the subsidiaries, which would include fixed charges over all the property held by the development company. It is also expected there will be intragroup loan agreements between NFPH and its subsidiaries which deals with the money being on lent by NFPH onto the subsidiaries.
- 6.6 In the event the company has insufficient funds to meet a loan repayment after the 50 year period, the company has the option to sell assets to enable outstanding loans to be repaid should shareholder support not be forthcoming.
- 6.7 The actual incurrence of costs and collection of revenues due will differ for each property acquired. To inform the indicative financial model for NFPL, the assumptions as set out below have been used:

Item	Assumption
Borrowing Rate	Base Rate + 4.75%
Repayment Method	Interest Only assumed
Equity Investment	33%
Inflation - CPI	2%
Rental Inflation	CPI
Expenditure Inflation	CPI
Ave. Monthly Rent	£670 (1 B Flat) - £1,050 (3 B Semi)
Ave. Purchase Price	£140k - £318k
Ave. Void PA	60 days at start + 2% PA thereafter
Ave. Bad Debt	2% PA
Management Fee / Unit	£800 PA
Insurance Cost / Unit	£400 PA
Ave. Annual Maintenance	5% of income
Ave. Annual Marketing	1% of income

- 6.8 The shareholder recognises that the company will not be in a position to pay dividends on its investment for quite some time, however, taking into consideration the income to be received through loan interest and management

fees, and of course the longer term capital growth expectations, the shareholder is comfortable with this position.

6.9 In order to inform the projected I&E account position, an indication of timings of acquisitions and the indicative equity / loan ratio based on 33/67 is as follows;

Fin. Year	Year 1	Year 2	Year 3	Year 4
Purchases	4	16	15	7
Loan	£604,000	£2,512,000	£2,299,000	£978,000
Equity	£298,000	£1,237,000	£1,132,000	£482,000
Total	£902,000	£3,749,000	£3,431,000	£1,460,000

6.10 The board will be responsible for making an assessment on each potential acquisition and/or development, to ensure the annual returns are sufficient to cover the annual direct costs, including; the loan interest and annual maintenance, insurance and management fees. Whilst NFPH propose to hold the properties for the long term it will review its holding on an annual basis to ensure they are performing adequately.

6.11 Based on the assumptions as included in section 6.7 and 6.9, the high level Income and Expense Account for NFPL would appear as follow:

	Yr1 £	Yr2 £	Yr3 £	Yr4 £	Yr5 £	Yr 6 - 15 £
Total PRS Income (Net of Voids/Bad Debt)	1,731	102,037	266,434	404,164	445,165	4,971,925
Management Cost	(142)	(8,187)	(21,387)	(32,833)	(36,370)	(406,203)
Insurance Cost	(71)	(4,093)	(10,694)	(16,416)	(18,185)	(203,102)
Reactive Maintenance Cost	(45)	(2,657)	(6,938)	(10,525)	(11,593)	(129,477)
Planned Maintenance Cost	(45)	(2,657)	(6,938)	(10,525)	(11,593)	(129,477)
Marketing Cost Cost	(18)	(1,063)	(2,775)	(4,210)	(4,637)	(51,791)
Total Operating Costs Irrecoverable VAT	(64)	(3,731)	(9,747)	(14,902)	(16,476)	(184,011)
Total Operating Costs	(386)	(22,389)	(58,479)	(89,412)	(98,853)	(1,104,066)
Net Operating Income	1,345	79,648	207,955	314,753	346,312	3,867,859
Interest on Cash	-	57	183	289	(369)	(15,183)
NFDC Loan Interest	-	(92,120)	(238,568)	(355,813)	(383,230)	(3,832,299)
Profit/(Loss) Before Tax	1,345	(12,415)	(30,430)	(40,771)	(37,287)	20,377
Corporation Tax Charge	(256)	-	-	-	-	-
Profit/(Loss) After Tax	1,089	(12,415)	(30,430)	(40,771)	(37,287)	20,377
Dividends	-	-	-	-	-	-
Net Profit/(Loss) In Period	1,089	(12,415)	(30,430)	(40,771)	(37,287)	20,377
Cumulative Profit/(Loss)	1,089	(11,326)	(41,756)	(82,527)	(119,813)	(99,436)

6.12 Year 5 best represents 'steady-state' with the rental income and operational expenses increasing annually from this point in line with CPI and the loan interest payment to the Council capping at £383,230 PA. Although at year 5 the

company still shows an operating loss, by year 11 the company begins to turn a profit, at which point the retained losses carried forward begin to reduce until they are cleared by year 17. Whilst a business operating under commercial terms with shareholders expectant of dividends may struggle to make this business model appear viable, the Council is all the while making a return on its investment through the loan interest charges, and the Group has a healthy balance sheet with gearing of 67%, and long term assets on its Balance Sheet of £10m.

6.13 The anticipated shareholder return over the 50 year business plan is £41.806m, at an internal rate of return of 5.54% and a positive net present value of £2.45m. The initial losses in NFPH accrue to a peak of £205k in year 11 but then has sufficient profit available for dividend distribution by year 18.

6.14 The long term nature of the business makes it susceptible to a number of market and operational risks. It is anticipated that the company would be most sensitive to changes in the following areas;

- **Rate of Inflation** – This is the greatest risk, should rent increases be lesser, or remain static over the period. Conversely, it is also the area that most increases the viability of the company if rents increases were higher than projected.
- **Increase in Loan Interest** – Due to the tight rental yields and gearing at 67%, increases in the cost of debt will have a significant impact on the company's ability to generate a profit.

The following table summarises the impact of a series of changes in the assumptions that have been made (for avoidance of doubt, the base position on rent is +2% PA, so a sensitivity of -1%, equates to +1% PA):

Shareholder Return:	Base Position	Rent Inflation			Borrowing Rate		
		+1%	-1%	-2%	+2%	+1%	-1%
Over 50 yrs (£'000)	£41,807	£65,783	£25,891	£21,522	£41,813	£42,242	£41,101
Over first 5 yrs (£'000)	£1,199	£1,199	£1,199	£1,199	£1,624	£1,409	£1,031
IRR over 50 yrs	5.54%	6.57%	4.59%	4.12%	6.21%	5.79%	5.44%
NFPH Peak Operating Loss (£'000)	£205	£94	£794	£8,578	£3,514	£1,297	N/A
NFPH Peak Loss Yr	11	7	29	50	32	22	N/A

6.15 The board will need to be prepared to consider renegotiating with the Council the group's gearing as a potential mitigation against the results of the sensitivity analysis. At present 67% is assumed in the financial modelling. Gearing of 60% is still reasonable, and is still likely to be considered feasible for the Council as shareholder.

7. RISKS

7.1 NFPH, whilst operating in an established market and using a similar model faces a series of risks. Property Markets are prone to unconnected financial shocks and are subject to political interference nationally.

7.2 The risks and their impacts on NFPH business plan are set out in summary below. All have actions which monitor and minimise the possibility of these risks occurring within the risk register.

- Development risk including a failure to secure planning permission for schemes, developing inappropriate dwellings, unforeseen costs such as ground conditions, construction cost overrun, defective design or construction, contractor insolvency etc.
- Capital values and rental values can fall as well as rise.
- Inability to find tenants and/or sell properties, leading to loss of income and delay in WOC repaying debt.
- Disputes with tenants and tenant default.
- Financial risks including that financing costs could rise.
- External factors. Property investment, whether direct or through pooled funds, is subject to factors the Council cannot control, e.g. failure of tenants, changes in perception of what is a good location, economic downturn etc.
- Changes in government policies which inhibit the delivery of the business plan
- Standards expected through SLA's or third party service providers not met
- Management, Insurance and Maintenance fees are higher than expected
- Rent margins are tighter than anticipated meaning the ability to cover expenses through income is restricted
- Skills and experience of the board fails to meet the necessary requirements
- The company through its directors and the Council will need to respect each other's boundaries and understand the differing responsibilities.
- Central government has the ability to affect the Company's ability to meet its objectives through changes in housing policies. Changes to SDLT rates are an example of how national policy will impact NFPH.

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Companies Act 2006

Private company limited by shares

DRAFT

Articles of association of

[New Forest Property Holdings Limited]¹

¹ Name to be confirmed

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Companies Act 2006

Private company limited by shares

Articles of association of [New Forest Property Holdings Limited]

Part 1: Interpretation and model articles

1 Interpretation

1.1 In these articles, unless the context requires otherwise:

- (a) **2006 Act** means the Companies Act 2006;
- (b) **these articles** means these articles of association as from time to time amended;
- (c) **company** means the above named company intended to be regulated by these articles;
- (d) **conflict authority** has the meaning given in article 10.1;
- (e) **Councillor** means an elected member of the Council for the time being;
- (f) **directors** means some or all of the company's eligible directors for the time being when they take decisions in accordance with these articles;
- (g) **eligible director** means, in relation to a particular matter, a director who is entitled to vote on that matter at a directors' meeting and whose vote is to be counted in respect of that matter;
- (h) **group undertaking** has the meaning given in section 1161(5) of the 2006 Act;
- (i) **model articles** means the model articles for private companies limited by shares prescribed by Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as in force on the date of incorporation of the company;
- (j) **Officer** means an officer of the Council for the time being;
- (k) **person** includes any natural person, body corporate, partnership or unincorporated association, in each case whether or not having a separate legal personality;
- (l) **the Council** means New Forest District Council and any of its successors;
- (m) **United Kingdom** means Great Britain and Northern Ireland; and
- (n) **writing** or **written** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

1.2 In these articles, references to any statute or statutory provision include any modification or re-enactment of it for the time being in force. This does not affect the interpretation of the final sentence of paragraph 1 of the model articles.

1.3 In these articles:

- (a) a reference to an **article** by number is a reference to the provision of these articles of that number; and
- (b) a reference to a **conflict of interest** includes a conflict of interest and duty and a conflict of duties, and (in that context) **interest** includes both direct and indirect interests.

1.4 The headings in these articles do not affect the interpretation of them.

2 Adoption of model articles

2.1 The model articles apply to (and form part of) these articles, in so far as these articles do not exclude or modify the model articles.

2.2 The following paragraphs of the model articles do not apply to the company: 7(2), 11(2), 21, 26(5) and 50.

3 Objects

3.1 The objects of the company are to carry on the trade or business of a property investment, development and letting company within the United Kingdom and the company has power to do all such things as are incidental or conducive to the carrying on of that trade or business including, without limitation, to:

- (a) purchase, take on, lease, hire or otherwise acquire real or personal property and rights or privileges and construct, maintain, alter or demolish buildings, structures, and/or infrastructures, whether residential, commercial or mixed-use;
- (b) sell, manage, let or mortgage, charge, dispose of all or any of the property or assets of the company, subject to such consents as may be required by law;
- (c) pay outgoings and expenses and execute documents and do all things required in connection with the use, maintenance, upkeep, expansion, alteration or improvement of any such property;
- (d) insure any such property of the company against any foreseeable risk and take out other insurance policies to protect the company and its officers, staff and third parties when required;
- (e) delegate the management and/or maintenance of the whole or part of the property portfolio;
- (f) enter into contracts for the supply of goods and/or services by or to the company or, otherwise, as necessary to further the business of the company;

- (g) enter into contracts for works by or to the company or, otherwise, as necessary to further the business of the company;
- (h) employ or engage paid or unpaid agents, staff or advisors and to make all reasonable and necessary provisions towards the payment of pensions and superannuation to or on behalf of staff;
- (i) lend, borrow or raise funds for the objects of the company on such terms and subject to such security as the directors think fit;
- (j) give guarantees;
- (k) give security for loans or other obligations;
- (l) receive and accept any gift of money, property or other assets whether subject to any special trust or not;
- (m) draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and operate bank accounts in the name of the company;
- (n) deposit or invest its funds in any manner (but to invest only after obtaining such advice from a financial expert as the directors consider necessary and having regard to the suitability of investments and the need for diversification);
- (o) enter into joint ventures or partnerships;
- (p) arrange for investments or other property of the company to be held in the name of a nominee company acting under the direction of the directors and pay any reasonable fee required;
- (q) deposit documents and physical assets with any company registered or having a place of business in England and Wales as custodian, and pay any reasonable fee required;
- (r) establish and/or acquire subsidiary or associated companies or entities or whatever kind and/or participate in such entities;
- (s) provide indemnity insurance to cover the liability of any shareholder or director, in accordance with these articles; and
- (t) prepare, edit, print, publish, issue, acquire and distribute information in any media format (or commission other bodies or individuals to do so);
- (u) provide, promote and sponsor conferences, lectures, discussions, exhibitions, training courses, case studies and other like events;
- (v) make any kind of donation, grant or loan, and provide sponsorship or otherwise support projects or initiatives;

- (w) do anything else within the law which promotes or helps to promote the objects.

Part 2: The Council

The Council's powers

4 Council's reserve power

- 4.1 The Council may direct in writing the directors to take, or refrain from taking, specified action.
- 4.2 No such direction invalidates anything which the directors have done before receipt of such direction.
- 4.3 The company may not, without the prior written consent of the Council:
 - (a) change the nature of the company's business or create a new business (unless it is ancillary or incidental to an existing business);
 - (b) form or participate in a joint venture or partnership;
 - (c) form a subsidiary or acquire shares in another corporate entity;
 - (d) permit a new member of the company to be registered (if having subscribed for or acquired shares in the company);
 - (e) direct any subsidiary to undertake any of the matters in (a) to (d) above *mutatis mutandis*;
 - (f) make any determination with respect to, pass a resolution of, or give any direction or consent to, any subsidiary (or, as applicable, its officers) in the company's capacity as the registered holder of 50% or more of the issued share capital of that subsidiary.
- 4.4 The company may not, without the prior written consent of the Council, which may be given to the company for the purpose of this article 4.4 by written notice from the Council executive:
 - (a) declare a dividend;
 - (b) appoint or remove a director;
 - (c) incur more than £5 million on the acquisition of a single property or on the acquisition of a collection of properties comprised on a single site;
 - (d) carry out the acquisition of any property located outside of the local government district of New Forest;

- (e) direct any subsidiary to undertake any of the matters in (a) to (d) above *mutatis mutandis*.

Part 3: Directors

Directors' powers and responsibilities

5 Directors may delegate

In paragraph 5(1) of the model articles, the words "delegate any of the powers which are conferred on them under the articles" are deleted and replaced with the words "delegate any of their powers".

Decision-making by directors

6 Unanimous decisions

6.1 In paragraph 8(2) of the model articles, the words "copies of which have been signed by each eligible director" are deleted and replaced with the words "where each eligible director has signed one or more copies of it".

6.2 In paragraph 8(3) of the model articles, the words "and whose vote would have been counted" are inserted after the words "had it been proposed as a resolution at a directors' meeting".

7 Calling a directors' meeting

Notice of a directors' meeting need not be given to a director who is absent from the United Kingdom and has not given the company an address to which such notices may be given by electronic means during his absence.

8 Quorum for directors' meetings

8.1 Subject to article 8.2, the quorum for directors' meetings is two eligible directors, of whom one is a Councillor and one is an Officer.

8.2 If, due to a conflict, the eligible directors at a director's meeting (or part of a meeting) do not include at least one Councillor and at least one Officer, then in respect of that meeting (or part of a meeting) the quorum is two eligible directors (whether or not they are Councillors or Officers or neither).

8.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision to appoint further directors or to request the Council to appoint further directors (pursuant to the power conferred in article 16.1).

Directors' interests and conflicts

9 Transactions or arrangements with the company

- 9.1 Subject to the 2006 Act and to article 9.2, and provided he has complied with any provision of the 2006 Act requiring a declaration of his interest to the other directors, a director may, despite his office, be a party to, or otherwise (directly or indirectly) be interested in, any transaction or arrangement with the company.
- 9.2 Subject to article 9.3, a director shall not be counted as participating for quorum or voting purposes in the decision-making process concerning an actual or proposed transaction or arrangement with the company in which he is interested.
- 9.3 Notwithstanding article 9.2, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes:
- (a) with the consent of the Council;
 - (b) if the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (c) the conflict arises from one of the permitted causes set out in article 14(4) of the model articles.

10 Directors' situational conflicts of interest

- 10.1 For the purposes of section 175 of the 2006 Act, the directors may authorise any matter proposed to them which would, or might, if not authorised, result in a director infringing his duty under that section to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. Such an authorisation is referred to in these articles as a **conflict authority**.
- 10.2 A conflict authority may (subject to article 12) be given on such terms (including limits or conditions) as the directors decide. The director concerned must comply with any obligations imposed on him by such terms.
- 10.3 The directors may revoke or vary a conflict authority at any time, but this will not invalidate anything previously done by the director in accordance with the authority.

11 Ability to hold offices and enter into other transactions and arrangements

- 11.1 Provided he has declared the nature and extent of any direct or indirect interest of his to the other directors (other than a non-disclosable interest as set out in article 11.4), a director may, despite his office:
- (a) be an elected member or officer of the Council;
 - (b) be employed or engaged by the Council or any other local authority providing his services to the Council;
 - (c) be a director or other officer of, or employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly,

any group undertaking of the company or any other undertaking in which the company is otherwise (directly or indirectly) interested;

- (d) be a party to, or otherwise interested in, whether directly or indirectly, any transaction or arrangement in which the company is (directly or indirectly) interested (other than a transaction or arrangement with the company); and
- (e) be a party to any transaction or arrangement with any group undertaking of the company or any other undertaking in which the company is otherwise (directly or indirectly) interested.

11.2 Subject to compliance by them with their duties as a director under Part 10 of the 2006 Act (other than the duty in section 175(1) of the 2006 Act which is the subject of this article 11.2), and notwithstanding their office or the existence of an actual or potential conflict between the interests of the company and those of the Council which would fall within the ambit of that section 175(1), a director:

- (a) shall be entitled to consult freely about the company with, and disclose confidential information used in or relating to the business of the company to, the Council; and
- (b) will not be obliged to disclose to the company, or use for the benefit of the company, any confidential information received by them by virtue of their employment with or membership of the Council and otherwise than by virtue of their position as a director, if to do so would breach any duty of confidentiality to the Council or a third party to whom the Council owes a legally binding obligation of confidentiality.

11.3 No conflict authority is required in respect of any matter referred to in article 11.1, and a director does not infringe his duty under section 175 of the 2006 Act because of this.

11.4 The following are non-disclosable interests for the purposes of article 11.1:

- (a) any interest of a director which consists of him being a director, officer or employee of (or otherwise being engaged by) any group undertaking of the company; and
- (b) any interest of a director which cannot reasonably be regarded as likely to give rise to a conflict of interest or one that the other directors are already aware of or ought reasonably to be aware of.

11.5 If a declaration of interest under article 11.1 proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

12 Confidential information and attendance at directors' meetings

If a matter is authorised pursuant to a conflict authority or is one to which article 11.1 applies:

- 12.1 the director will not be required to disclose to the company, or use in relation to the company's affairs, any information relating to the matter that is confidential to another person where to do so would amount to a breach of that confidence;
- 12.2 the director may absent himself from the discussion of, and/or the making of decisions relating to, the matter (whether at directors' meetings or otherwise), and may excuse himself from reviewing documents and information which will or may relate to the matter, for so long as he reasonably believes that an actual or potential conflict of interest arises out of the matter; and
- 12.3 the director may be excluded from the receipt of documents and information, the participation in discussion and/or the making of decisions (whether at directors' meetings or otherwise) which will or may relate to the matter.

13 Accounting for benefits when interested

If a director or any other person receives any benefit as a result of anything allowed under articles 9.1 or 11 or (subject to its terms) pursuant to a conflict authority:

- 13.1 the director is not required to account to the company for the benefit;
- 13.2 no transaction or arrangement will be liable to be avoided on the ground of the benefit; and
- 13.3 the receipt of the benefit will not constitute a breach of the director's duty under section 176 of the 2006 Act.

14 Right to inspect the company's accounting records

The Council (acting through its officers) and its auditors for the time being shall be entitled to inspect, at all reasonable times and on reasonable notice to the company, the company's books and accounting records.

Appointment of directors

15 Number of directors

Unless otherwise determined by resolution of the Council, the number of directors shall not be subject to a maximum, but shall not be less than four, of which at least two of whom are Councillors and at least two of whom are Officers.

16 Methods of appointing directors

- 16.1 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:
 - (a) by the Council; or
 - (b) by majority decision of the directors.

16.2 The Council may appoint an additional director or directors by giving notice of appointment in writing to the company signed by them or authenticated in any other manner approved by the directors. The appointment takes effect when the notice is sent or supplied to the company or any director, or on any later date specified in the notice.

17 Termination of director's appointment

17.1 A person ceases to be a director as soon as the Council gives notice in writing to the company signed by them, or authenticated in any other manner approved by the directors, removing that person from office as a director. The removal takes effect when the notice is sent or supplied to the company or any director, or on any later date specified in the notice.

17.2 Notwithstanding any other provision of these articles a person ceases to be a director immediately in the following circumstances:

- (a) as soon as he has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated; or
- (b) being a Councillor at the time of his appointment as a director, he ceases to be a Councillor; or
- (c) being an Officer at the time of his appointment as a director, his employment by the Council, or by any other local authority providing his services to the Council, is terminated for any reason.

17.3 Articles 17.1 and 17.2 take effect in addition to the circumstances in which a person ceases to be a director pursuant to paragraph 18 of the model articles.

18 Directors' Remuneration

Directors may undertake any services for the company with the approval of the board and **provided that** no fee shall be paid to a director who is a Councillor or an Officer for such services.

19 Directors' expenses

In paragraph 20 of the model articles, the words "and the company secretary (if any)" are inserted after the words "the directors".

Part 4: Shares and distributions

Share capital

20 Share capital

The share capital of the company at the date of adoption of these articles is divided into ordinary shares of £1.00 each.

Share certificates

21 Issue and content of share certificates

21.1 In paragraph 24(2)(c) of the model articles, the words "that the shares are fully paid" are deleted and replaced with the words "the amount paid up on them".

21.2 Paragraph 24(5) of the model articles is deleted and replaced with a new paragraph 24(5) as follows:

"Certificates must be executed in accordance with the 2006 Act."

Dividends and other distributions

22 Procedure for declaring dividends

22.1 Subject to these articles, the company may distribute to the members any profits available for distribution (within the meaning of the 2006 Act).

22.2 The company may by ordinary resolution declare final dividends, and the directors may decide to pay interim dividends.

22.3 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

22.4 No dividend may be declared or paid unless it is in accordance with members' respective rights.

23 Calculation of dividends

23.1 All dividends must be:

(a) declared and paid according to the amounts paid up on the shares on which the dividend is paid, and

(b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.

23.2 If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.

23.3 For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

Capitalisation of profits

24 Authority to capitalise and appropriation of capitalised sums

In paragraph 36(4) of the model articles, the words "in or towards paying up any amounts unpaid on existing shares held by the persons entitled, or" are inserted after the words "may be applied".

Part 5: Decision-making by shareholders

Organisation of general meetings

25 Notice of general meeting

A shareholder present, either in person or by proxy, at any general meeting of the company will be deemed to have received notice of the meeting and, where requisite, of the purposes for which the meeting was convened.

26 Quorum for general meetings

26.1 If the company has only one member, one qualifying person present at the meeting is a quorum. Subject as provided in section 318(2) of the 2006 Act, if the company has more than one member, two qualifying persons present at the meeting and entitled to vote are a quorum.

26.2 If, at any adjourned meeting, such a quorum is not present within half an hour of the time appointed for the adjourned meeting, the meeting must be dissolved.

26.3 In this article 26, **qualifying person**, in relation to any general meeting, means an individual who is a member of the company, a person authorised under section 323 of the 2006 Act to act as the representative of a corporation in relation to the meeting, or a person appointed as proxy of a member in relation to the meeting.

Voting at general meetings

27 Voting: general

27.1 On a vote on a resolution on a show of hands at a general meeting:

- (a) every shareholder present in person has one vote; and
- (b) every proxy present who has been duly appointed by one or more shareholders entitled to vote on the resolution has one vote (subject to section 285(2) of the 2006 Act).

27.2 On a vote on a resolution on a poll taken at a meeting, every shareholder present in person or by one or more duly appointed proxies has one vote in respect of each share held by him.

28 Poll votes

Paragraph 44(2) of the model articles is deleted and replaced with a new paragraph 44(2) as follows:

"A poll may be demanded by:

- (a) the chairman of the meeting;
- (b) the directors; or
- (c) any shareholder."

Part 6: Administrative arrangements

29 Means of communication to be used

29.1 In addition to any other means of communication, the company may send or supply any document or information which is authorised or required to be sent or supplied by the company to its members by any provision of the Companies Acts or under these articles by making it available on a website.

29.2 The provisions of the 2006 Act which apply when documents or information to be sent or supplied under the Companies Acts are made available on a website also apply, with any necessary changes, when any document or information is to be sent or supplied by the company under these articles.

30 When a communication from the company is deemed received

Section 1147 of the 2006 Act applies to any document or information which is authorised or required to be sent or supplied by the company to its members by any provision of the Companies Acts or under these articles as if:

30.1 section 1147(2) were deleted and replaced with a new section 1147(2) as follows:

"Where the document or information is sent by post (whether in hard copy or electronic form) and the company is able to show that it was properly addressed, prepaid and posted, it is deemed to have been received by the intended recipient (a) 24 hours after it was posted, if posted by first class post to an address in the United Kingdom, and (b) on the fifth working day after it was posted, if posted by international signed for post to an address outside the United Kingdom.";

30.2 in section 1147(3), the words "48 hours after it was sent" were deleted and replaced with the words "24 hours after it was sent"; and

30.3 section 1147(5) were deleted and replaced with a new section 1147(5) as follows:

"Where the document or information is handed to the intended recipient (whether in hard copy or electronic form), or is sent or supplied by hand and the company is able to show that it was properly addressed and sent at the cost of the company, it is deemed to have been received by the intended recipient when delivered."

31 When a communication to the company is deemed received

A document or information sent or supplied to the company under these articles is deemed to have been received by the company when it is received at the address specified by the company for the purpose or at the company's registered office, or (in the case of a document or information sent or supplied to the company by a director) when it is produced to any directors' meeting.

Note: A copy of the model articles for private companies limited by shares is set out below together with relevant extracts from the model articles for public companies, in each case without incorporating any amendments made by these articles.

**Model articles for private companies limited by shares
(Prescribed by SI 2008/3229, Schedule 1)**

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**PART 1
INTERPRETATION AND LIMITATION OF LIABILITY**

Defined terms

1. In the articles, unless the context requires otherwise-
- “articles” means the company’s articles of association;
 - “bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
 - “chairman” has the meaning given in article 12;
 - “chairman of the meeting” has the meaning given in article 39;
 - “Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;
 - “director” means a director of the company, and includes any person occupying the position of director, by whatever name called;
 - “distribution recipient” has the meaning given in article 31;
 - “document” includes, unless otherwise specified, any document sent or supplied in electronic form;
 - “electronic form” has the meaning given in section 1168 of the Companies Act 2006;
 - “fully paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;
 - “hard copy form” has the meaning given in section 1168 of the Companies Act 2006;
 - “holder” in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
 - “instrument” means a document in hard copy form;
 - “ordinary resolution” has the meaning given in section 282 of the Companies Act 2006;
 - “paid” means paid or credited as paid;
 - “participate”, in relation to a directors’ meeting, has the meaning given in article 10;
 - “proxy notice” has the meaning given in article 45;
 - “shareholder” means a person who is the holder of a share;
 - “shares” means shares in the company;
 - “special resolution” has the meaning given in section 283 of the Companies Act 2006;
 - “subsidiary” has the meaning given in section 1159 of the Companies Act 2006;
 - “transmittee” means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and
 - “writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

Liability of members

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

**PART 2
DIRECTORS
DIRECTORS' POWERS AND RESPONSIBILITIES**

Directors’ general authority

3. Subject to the articles, the directors are responsible for the management of the company’s business, for which purpose they may exercise all the powers of the company.

Shareholders’ reserve power

- 4.-(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

- 5.-(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles-
- (a) to such person or committee;
 - (b) by such means (including by power of attorney);
 - (c) to such an extent;
 - (d) in relation to such matters or territories; and
 - (e) on such terms and conditions;
- as they think fit.

(2) If the directors so specify, any such delegation may authorise further delegation of the directors’ powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6.-(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7.-(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.

(2) If-

- (a) the company only has one director, and
- (b) no provision of the articles requires it to have more than one director,

the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

Unanimous decisions

8.-(1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

(2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

(3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

(4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

Calling a directors' meeting

9.-(1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(2) Notice of any directors' meeting must indicate-

- (a) its proposed date and time;
- (b) where it is to take place; and
- (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(3) Notice of a directors' meeting must be given to each director, but need not be in writing.

(4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors' meetings

10.-(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when-

- (a) the meeting has been called and takes place in accordance with the articles, and
- (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors' meetings

11.-(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

(3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision-

- (a) to appoint further directors, or
- (b) to call a general meeting so as to enable the shareholders to appoint further directors.

Chairing of directors' meetings

12.-(1) The directors may appoint a director to chair their meetings.

(2) The person so appointed for the time being is known as the chairman.

(3) The directors may terminate the chairman's appointment at any time.

(4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Casting vote

13.-(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.

(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Conflicts of interest

- 14.-(1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- (2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.
- (3) This paragraph applies when-
- (a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;
 - (b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (c) the director's conflict of interest arises from a permitted cause.
- (4) For the purposes of this article, the following are permitted causes-
- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
 - (b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
 - (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.
- (5) For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- (6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- (7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Records of decisions to be kept

15. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

Directors' discretion to make further rules

16. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

- 17.-(1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director-
- (a) by ordinary resolution, or
 - (b) by a decision of the directors.
- (2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.
- (3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

Termination of director's appointment

18. A person ceases to be a director as soon as-
- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
 - (b) a bankruptcy order is made against that person;
 - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
 - (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
 - (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
 - (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

Directors' remuneration

- 19.-(1) Directors may undertake any services for the company that the directors decide.
- (2) Directors are entitled to such remuneration as the directors determine-
- (a) for their services to the company as directors, and
 - (b) for any other service which they undertake for the company.
- (3) Subject to the articles, a director's remuneration may-
- (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

Directors' expenses

20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at-
- (a) meetings of directors or committees of directors,
 - (b) general meetings, or
 - (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3 SHARES AND DISTRIBUTIONS SHARES

All shares to be fully paid up

- 21.-(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

Powers to issue different classes of share

- 22.-(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

Company not bound by less than absolute interests

23. Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

Share certificates

- 24.-(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- (2) Every certificate must specify-
- (a) in respect of how many shares, of what class, it is issued;
 - (b) the nominal value of those shares;
 - (c) that the shares are fully paid; and
 - (d) any distinguishing numbers assigned to them.
- (3) No certificate may be issued in respect of shares of more than one class.
- (4) If more than one person holds a share, only one certificate may be issued in respect of it.
- (5) Certificates must-
- (a) have affixed to them the company's common seal, or
 - (b) be otherwise executed in accordance with the Companies Acts.

Replacement share certificates

- 25.-(1) If a certificate issued in respect of a shareholder's shares is-
- (a) damaged or defaced, or
 - (b) said to be lost, stolen or destroyed,
- that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A shareholder exercising the right to be issued with such a replacement certificate-
- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
 - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
 - (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

Share transfers

- 26.-(1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.
- (2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (3) The company may retain any instrument of transfer which is registered.
- (4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- (5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

Transmission of shares

- 27.-(1) If title to a share passes to a transferee, the company may only recognise the transferee as having any title to that share.
- (2) A transferee who produces such evidence of entitlement to shares as the directors may properly require-
- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
 - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (3) But transferees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Exercise of transferees' rights

- 28.-(1) Transferees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.

- (2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

Transmittees bound by prior notices

29. If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

Procedure for declaring dividends

- 30.-(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

Payment of dividends and other distributions

- 31.-(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means-
- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
 - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable-
- (a) the holder of the share; or
 - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
 - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

No interest on distributions

32. The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by-
- (a) the terms on which the share was issued, or
 - (b) the provisions of another agreement between the holder of that share and the company.

Unclaimed distributions

- 33.-(1) All dividends or other sums which are-
- (a) payable in respect of shares, and
 - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.
- (2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.
- (3) If-
- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
 - (b) the distribution recipient has not claimed it,
- the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

Non-cash distributions

- 34.-(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).
- (2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution-
- (a) fixing the value of any assets;
 - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
 - (c) vesting any assets in trustees.

Waiver of distributions

35. Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if-
- (a) the share has more than one holder, or

(b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise, the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

Authority to capitalise and appropriation of capitalised sums

- 36.-(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution-
- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
 - (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.
- (2) Capitalised sums must be applied-
- (a) on behalf of the persons entitled, and
 - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles the directors may-
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
 - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
 - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

PART 4 DECISION-MAKING BY SHAREHOLDERS ORGANISATION OF GENERAL MEETINGS

Attendance and speaking at general meetings

- 37.-(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when-
- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

Quorum for general meetings

38. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

Chairing general meetings

- 39.-(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start-
- (a) the directors present, or
 - (b) (if no directors are present), the meeting,
- must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as "the chairman of the meeting".

Attendance and speaking by directors and non-shareholders

- 40.-(1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chairman of the meeting may permit other persons who are not-
- (a) shareholders of the company, or
 - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,
- to attend and speak at a general meeting.

Adjournment

- 41.-(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- (2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if-
- (a) the meeting consents to an adjournment, or
 - (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

- (4) When adjourning a general meeting, the chairman of the meeting must-
 - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)-
 - (a) to the same persons to whom notice of the company's general meetings is required to be given, and
 - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

Voting: general

42. A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

Errors and disputes

- 43.-(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

Poll votes

- 44.-(1) A poll on a resolution may be demanded-
 - (a) in advance of the general meeting where it is to be put to the vote, or
 - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by-
 - (a) the chairman of the meeting;
 - (b) the directors;
 - (c) two or more persons having the right to vote on the resolution; or
 - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if-
 - (a) the poll has not yet been taken, and
 - (b) the chairman of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

Content of proxy notices

- 45.-(1) Proxies may only validly be appointed by a notice in writing (a "proxy notice") which-
 - (a) states the name and address of the shareholder appointing the proxy;
 - (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as-
 - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

Delivery of proxy notices

- 46.-(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

Amendments to resolutions

- 47.-(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if-
 - (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if-
 - (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

(3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5 ADMINISTRATIVE ARRANGEMENTS

Means of communication to be used

48.-(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

Company seals

49.-(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is-

- (a) any director of the company;
- (b) the company secretary (if any); or
- (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

No right to inspect accounts and other records

50. Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

Provision for employees on cessation of business

51. The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

Indemnity

52.-(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against-

- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
- (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
- (c) any other liability incurred by that director as an officer of the company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article-

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- (b) a "relevant director" means any director or former director of the company or an associated company.

Insurance

53.-(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article-

- (a) a "relevant director" means any director or former director of the company or an associated company,
- (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

Model articles for public companies (extracts)
(Prescribed by SI 2008/3229, Schedule 3)

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PART 1
INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles , unless the context requires otherwise-

"call" has the meaning given in article 54;

"call notice" has the meaning given in article 54;

"company's lien" has the meaning given in article 52;

"distribution recipient" has the meaning given in article 72;

"lien enforcement notice" has the meaning given in article 53;

"paid" means paid or credited as paid;

"partly paid" in relation to a share means that part of that share's nominal value or any premium at which it was issued has not been paid to the company;

PART 4
SHARES AND DISTRIBUTIONS
PARTLY PAID SHARES

Company's lien over partly paid shares

- 52.-(1) The company has a lien ("the company's lien") over every share which is partly paid for any part of-

(a) that share's nominal value, and

(b) any premium at which it was issued,

which has not been paid to the company, and which is payable immediately or at some time in the future, whether or not a call notice has been sent in respect of it.

- (2) The company's lien over a share-

(a) takes priority over any third party's interest in that share, and

(b) extends to any dividend or other money payable by the company in respect of that share and (if the lien is enforced and the share is sold by the company) the proceeds of sale of that share.

- (3) The directors may at any time decide that a share which is or would otherwise be subject to the company's lien shall not be subject to it, either wholly or in part.

Enforcement of the company's lien

- 53.-(1) Subject to the provisions of this article, if-

(a) a lien enforcement notice has been given in respect of a share, and

(b) the person to whom the notice was given has failed to comply with it,

the company may sell that share in such manner as the directors decide.

- (2) A lien enforcement notice-

(a) may only be given in respect of a share which is subject to the company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;

(b) must specify the share concerned;

(c) must require payment of the sum payable within 14 days of the notice;

(d) must be addressed either to the holder of the share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;

and

(e) must state the company's intention to sell the share if the notice is not complied with.

- (3) Where shares are sold under this article-

(a) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the

- purchaser, and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.
- (4) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied-
 - (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice,
 - (b) second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation or a suitable indemnity has been given for any lost certificates, and subject to a lien equivalent to the company's lien over the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice.
- (5) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy the company's lien on a specified date-
 - (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
 - (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.

Call notices

- 54.**-(1) Subject to the articles and the terms on which shares are allotted, the directors may send a notice (a "call notice") to a member requiring the member to pay the company a specified sum of money (a "call") which is payable in respect of shares which that member holds at the date when the directors decide to send the call notice.
- (2) A call notice-
- (a) may not require a member to pay a call which exceeds the total sum unpaid on that member's shares (whether as to the share's nominal value or any amount payable to the company by way of premium);
 - (b) must state when and how any call to which it relates it is to be paid; and
 - (c) may permit or require the call to be paid by instalments.
- (3) A member must comply with the requirements of a call notice, but no member is obliged to pay any call before 14 days have passed since the notice was sent.
- (4) Before the company has received any call due under a call notice the directors may-
- (a) evoke it wholly or in part, or
 - (b) specify a later time for payment than is specified in the notice,
- by a further notice in writing to the member in respect of whose shares the call is made.

Liability to pay calls

- 55.**-(1) Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.
- (2) Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
- (3) Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them-
- (a) to pay calls which are not the same, or
 - (b) to pay calls at different times.

When call notice need not be issued

- 56.**-(1) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the company in respect of that share (whether in respect of nominal value or premium)-
- (a) on allotment;
 - (b) on the occurrence of a particular event; or
 - (c) on a date fixed by or in accordance with the terms of issue.
- (2) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

Failure to comply with call notice: automatic consequences

- 57.**-(1) If a person is liable to pay a call and fails to do so by the call payment date-
- (a) the directors may issue a notice of intended forfeiture to that person, and
 - (b) until the call is paid, that person must pay the company interest on the call from the call payment date at the relevant rate.
- (2) For the purposes of this article-
- (a) the "call payment date" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date;
 - (b) the "relevant rate" is-
 - (i) the rate fixed by the terms on which the share in respect of which the call is due was allotted;
 - (ii) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or
 - (iii) if no rate is fixed in either of these ways, 5 per cent per annum.
- (3) The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998.
- (4) The directors may waive any obligation to pay interest on a call wholly or in part.

Notice of intended forfeiture

- 58.** A notice of intended forfeiture-
- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
 - (b) must be sent to the holder of that share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;
 - (c) must require payment of the call and any accrued interest by a date which is not less than 14 days after the date of the notice;
 - (d) must state how the payment is to be made; and
 - (e) must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

Directors' power to forfeit shares

59. If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

Effect of forfeiture

- 60.-(1) Subject to the articles, the forfeiture of a share extinguishes-
- (a) all interests in that share, and all claims and demands against the company in respect of it, and
 - (b) all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the company.
- (2) Any share which is forfeited in accordance with the articles-
- (a) is deemed to have been forfeited when the directors decide that it is forfeited;
 - (b) is deemed to be the property of the company; and
 - (c) may be sold, re-allotted or otherwise disposed of as the directors think fit.
- (3) If a person's shares have been forfeited-
- (a) the company must send that person notice that forfeiture has occurred and record it in the register of members;
 - (b) that person ceases to be a member in respect of those shares;
 - (c) that person must surrender the certificate for the shares forfeited to the company for cancellation;
 - (d) that person remains liable to the company for all sums payable by that person under the articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and
 - (e) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- (4) At any time before the company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest due in respect of it and on such other terms as they think fit.

Procedure following forfeiture

- 61.-(1) If a forfeited share is to be disposed of by being transferred, the company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.
- (2) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date-
- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
 - (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.
- (3) A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.
- (4) If the company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the company the proceeds of such sale, net of any commission, and excluding any amount which-
- (a) was, or would have become, payable, and
 - (b) had not, when that share was forfeited, been paid by that person in respect of that share,
- but no interest is payable to such a person in respect of such proceeds and the company is not required to account for any money earned on them.

Surrender of shares

- 62.-(1) A member may surrender any share-
- (a) in respect of which the directors may issue a notice of intended forfeiture;
 - (b) which the directors may forfeit; or
 - (c) which has been forfeited.
- (2) The directors may accept the surrender of any such share.
- (3) The effect of surrender on a share is the same as the effect of forfeiture on that share.
- (4) A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

DISTRIBUTIONS

Calculation of dividends

- 71.-(1) Except as otherwise provided by the articles or the rights attached to shares, all dividends must be-
- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid, and
 - (b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.
- (2) If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.
- (3) For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

Deductions from distributions in respect of sums owed to the company

- 73.-(1) If-
- (a) a share is subject to the company's lien, and
 - (b) the directors are entitled to issue a lien enforcement notice in respect of it,
- they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the company in respect of that share to the extent that they are entitled to require payment under a lien enforcement notice.
- (2) Money so deducted must be used to pay any of the sums payable in respect of that share.
- (3) The company must notify the distribution recipient in writing of-
- (a) the fact and amount of any such deduction;
 - (b) any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and
 - (c) how the money deducted has been applied.

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Companies Act 2006

Private company limited by shares

DRAFT

Articles of association of

[New Forest Property Lettings Limited]¹

¹ Name to be confirmed

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Companies Act 2006

Private company limited by shares

Articles of association of [New Forest Property Lettings Limited]

Part 1: Interpretation and model articles

1 Interpretation

1.1 In these articles, unless the context requires otherwise:

- (a) **2006 Act** means the Companies Act 2006;
- (b) **these articles** means these articles of association as from time to time amended;
- (c) **company** means the above named company intended to be regulated by these articles;
- (d) **conflict authority** has the meaning given in article 10.1;
- (e) **Councillor** means an elected member of the Council for the time being;
- (f) **directors** means some or all of the company's eligible directors for the time being when they take decisions in accordance with these articles;
- (g) **eligible director** means, in relation to a particular matter, a director who is entitled to vote on that matter at a directors' meeting and whose vote is to be counted in respect of that matter;
- (h) **group undertaking** has the meaning given in section 1161(5) of the 2006 Act;
- (i) **Holding Company** means any corporate member which is the registered holder of 50% or more of the issued ordinary share capital of the company;
- (j) **model articles** means the model articles for private companies limited by shares prescribed by Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as in force on the date of incorporation of the company;
- (k) **Officer** means an officer of the Council for the time being;
- (l) **person** includes any natural person, body corporate, partnership or unincorporated association, in each case whether or not having a separate legal personality;
- (m) **the Council** means New Forest District Council and any of its successors;
- (n) **United Kingdom** means Great Britain and Northern Ireland; and

- (o) **writing** or **written** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

1.2 In these articles, references to any statute or statutory provision include any modification or re-enactment of it for the time being in force. This does not affect the interpretation of the final sentence of paragraph 1 of the model articles.

1.3 In these articles:

- (a) a reference to an **article** by number is a reference to the provision of these articles of that number; and
- (b) a reference to a **conflict of interest** includes a conflict of interest and duty and a conflict of duties, and (in that context) **interest** includes both direct and indirect interests.

1.4 The headings in these articles do not affect the interpretation of them.

2 Adoption of model articles

2.1 The model articles apply to (and form part of) these articles, in so far as these articles do not exclude or modify the model articles.

2.2 The following paragraphs of the model articles do not apply to the company: 7(2), 11(2), 21, 26(5) and 50.

3 Objects

3.1 The objects of the company are to carry on the trade or business of a property management and letting company within the United Kingdom and the company has power to do all such things as are incidental or conducive to the carrying on of that trade or business including, without limitation, to:

- (a) purchase, take on, lease, hire or otherwise acquire real or personal property and rights or privileges and maintain or alter buildings, structures, and/or infrastructures, whether residential, commercial or mixed-use;
- (b) sell, manage, let or mortgage, charge, dispose of all or any of the property or assets of the company, subject to such consents as may be required by law;
- (c) pay outgoings and expenses and execute documents and do all things required in connection with the use, maintenance, upkeep, expansion, alteration or improvement of any such property;
- (d) insure any such property of the company against any foreseeable risk and take out other insurance policies to protect the company and its officers, staff and third parties when required;
- (e) delegate the management and/or maintenance of the whole or part of the property portfolio;

- (f) enter into contracts for the supply of goods and/or services by or to the company or, otherwise, as necessary to further the business of the company;
- (g) enter into contracts for works by or to the company or, otherwise, as necessary to further the business of the company;
- (h) employ or engage paid or unpaid agents, staff or advisors and to make all reasonable and necessary provisions towards the payment of pensions and superannuation to or on behalf of staff;
- (i) lend, borrow or raise funds for the objects of the company on such terms and subject to such security as the directors think fit;
- (j) give guarantees;
- (k) give security for loans or other obligations;
- (l) receive and accept any gift of money, property or other assets whether subject to any special trust or not;
- (m) draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and operate bank accounts in the name of the company;
- (n) deposit or invest its funds in any manner (but to invest only after obtaining such advice from a financial expert as the directors consider necessary and having regard to the suitability of investments and the need for diversification);
- (o) enter into joint ventures or partnerships;
- (p) arrange for investments or other property of the company to be held in the name of a nominee company acting under the direction of the directors and pay any reasonable fee required;
- (q) deposit documents and physical assets with any company registered or having a place of business in England and Wales as custodian, and pay any reasonable fee required;
- (r) establish and/or acquire subsidiary or associated companies or entities or whatever kind and/or participate in such entities;
- (s) provide indemnity insurance to cover the liability of any shareholder or director, in accordance with these articles; and
- (t) prepare, edit, print, publish, issue, acquire and distribute information in any media format (or commission other bodies or individuals to do so);
- (u) provide, promote and sponsor conferences, lectures, discussions, exhibitions, training courses, case studies and other like events;

- (v) make any kind of donation, grant or loan, and provide sponsorship or otherwise support projects or initiatives;
- (w) do anything else within the law which promotes or helps to promote the objects.

Part 2: Holding Company

Holding Company's powers

4 Holding Company's reserve power

- 4.1 The Holding Company may direct in writing the directors to take, or refrain from taking, specified action.
- 4.2 No such direction invalidates anything which the directors have done before receipt of such direction.
- 4.3 The company may not without the prior written consent of the Holding Company:
 - (a) change the nature of the company's business or create a new business (unless it is ancillary or incidental to an existing business);
 - (b) form or participate in a joint venture or partnership;
 - (c) form a subsidiary or acquire shares in another corporate entity;
 - (d) permit a new member of the company to be registered (if having subscribed for or acquired shares in the company);
 - (e) declare a dividend;
 - (f) appoint or remove a director;
 - (g) incur more than £5 million on the acquisition of a single property or on the acquisition of a collection of properties comprised on a single site;
 - (h) carry out the acquisition of any property located outside of the local government district of New Forest.

Part 3: Directors

Directors' powers and responsibilities

5 Directors may delegate

In paragraph 5(1) of the model articles, the words "delegate any of the powers which are conferred on them under the articles" are deleted and replaced with the words "delegate any of their powers".

Decision-making by directors

6 Unanimous decisions

- 6.1 In paragraph 8(2) of the model articles, the words "copies of which have been signed by each eligible director" are deleted and replaced with the words "where each eligible director has signed one or more copies of it".
- 6.2 In paragraph 8(3) of the model articles, the words "and whose vote would have been counted" are inserted after the words "had it been proposed as a resolution at a directors' meeting".

7 Calling a directors' meeting

Notice of a directors' meeting need not be given to a director who is absent from the United Kingdom and has not given the company an address to which such notices may be given by electronic means during his absence.

8 Quorum for directors' meetings

- 8.1 Subject to article 8.2, the quorum for directors' meetings is two eligible directors, of whom one is a Councillor and one is an Officer.
- 8.2 If, due to a conflict, the eligible directors at a director's meeting (or part of a meeting) do not include at least one Councillor and at least one Officer, then in respect of that meeting (or part of a meeting) the quorum is two eligible directors (whether or not they are Councillors or Officers or neither).
- 8.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision to appoint further directors or to request the Holding Company to appoint further directors (pursuant to the power conferred in article 16.1).

Directors' interests and conflicts

9 Transactions or arrangements with the company

- 9.1 Subject to the 2006 Act and to article 9.2, and provided he has complied with any provision of the 2006 Act requiring a declaration of his interest to the other directors, a director may, despite his office, be a party to, or otherwise (directly or indirectly) be interested in, any transaction or arrangement with the company.
- 9.2 Subject to article 9.3, a director shall not be counted as participating for quorum or voting purposes in the decision-making process concerning an actual or proposed transaction or arrangement with the company in which he is interested.
- 9.3 Notwithstanding article 9.2, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes:
- (a) with the consent of the Holding Company;

- (b) if the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
- (c) the conflict arises from one of the permitted causes set out in article 14(4) of the model articles.

10 Directors' situational conflicts of interest

- 10.1 For the purposes of section 175 of the 2006 Act, the directors may authorise any matter proposed to them which would, or might, if not authorised, result in a director infringing his duty under that section to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. Such an authorisation is referred to in these articles as a **conflict authority**.
- 10.2 A conflict authority may (subject to article 12) be given on such terms (including limits or conditions) as the directors decide. The director concerned must comply with any obligations imposed on him by such terms.
- 10.3 The directors may revoke or vary a conflict authority at any time, but this will not invalidate anything previously done by the director in accordance with the authority.

11 Ability to hold offices and enter into other transactions and arrangements

- 11.1 Provided he has declared the nature and extent of any direct or indirect interest of his to the other directors (other than a non-disclosable interest as set out in article 11.4), a director may, despite his office:
- (a) be an elected member or officer of the Council;
 - (b) be employed or engaged by the Council or any other local authority providing his services to the Council;
 - (c) be a director or other officer of, or employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly, any group undertaking of the company or any other undertaking in which the company is otherwise (directly or indirectly) interested;
 - (d) be a party to, or otherwise be interested in, whether directly or indirectly, any transaction or arrangement in which the company is (directly or indirectly) interested (other than a transaction or arrangement with the company); and
 - (e) be a party to any transaction or arrangement with any group undertaking of the company or any other undertaking in which the company is otherwise (directly or indirectly) interested.
- 11.2 Subject to compliance by them with their duties as a director under Part 10 of the 2006 Act (other than the duty in section 175(1) of the 2006 Act which is the subject of this article 11.2), and notwithstanding their office or the existence of an actual or

potential conflict between the interests of the company and those of the Council which would fall within the ambit of that section 175(1), a director:

- (a) shall be entitled to consult freely about the company with, and disclose confidential information used in or relating to the business of the company to, the Council; and
 - (b) will not be obliged to disclose to the company, or use for the benefit of the company, any confidential information received by them by virtue of their employment with or membership of the Council and otherwise than by virtue of their position as a director, if to do so would breach any duty of confidentiality to the Council or a third party to whom the Council owes a legally binding obligation of confidentiality.
- 11.3 No conflict authority is required in respect of any matter referred to in article 11.1, and a director does not infringe his duty under section 175 of the 2006 Act because of this.
- 11.4 The following are non-disclosable interests for the purposes of article 11.1:
- (a) any interest of a director which consists of him being a director, officer or employee of (or otherwise being engaged by) any group undertaking of the company; and
 - (b) any interest of a director which cannot reasonably be regarded as likely to give rise to a conflict of interest or one that the other directors are already aware of or ought reasonably to be aware of.
- 11.5 If a declaration of interest under article 11.1 proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

12 Confidential information and attendance at directors' meetings

If a matter is authorised pursuant to a conflict authority or is one to which article 11.1 applies:

- 12.1 the director will not be required to disclose to the company, or use in relation to the company's affairs, any information relating to the matter that is confidential to another person where to do so would amount to a breach of that confidence;
- 12.2 the director may absent himself from the discussion of, and/or the making of decisions relating to, the matter (whether at directors' meetings or otherwise), and may excuse himself from reviewing documents and information which will or may relate to the matter, for so long as he reasonably believes that an actual or potential conflict of interest arises out of the matter; and
- 12.3 the director may be excluded from the receipt of documents and information, the participation in discussion and/or the making of decisions (whether at directors' meetings or otherwise) which will or may relate to the matter.

13 Accounting for benefits when interested

If a director or any other person receives any benefit as a result of anything allowed under articles 9.1 or 11 or (subject to its terms) pursuant to a conflict authority:

- 13.1 the director is not required to account to the company for the benefit;
- 13.2 no transaction or arrangement will be liable to be avoided on the ground of the benefit; and
- 13.3 the receipt of the benefit will not constitute a breach of the director's duty under section 176 of the 2006 Act.

14 Right to inspect the company's accounting records

The Holding Company (acting through its officers) and its auditors for the time being shall be entitled to inspect, at all reasonable times and on reasonable notice to the company, the company's books and accounting records.

Appointment of directors

15 Number of directors

Unless otherwise determined by resolution of the Holding Company, the number of directors shall not be subject to a maximum, but shall not be less than four, at least two of whom are Councillors and at least two of whom are Officers.

16 Methods of appointing directors

- 16.1 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:
 - (a) by the Holding Company; or
 - (b) by majority decision of the directors.
- 16.2 The Holding Company may appoint an additional director or directors by giving notice of appointment in writing to the company signed by them or authenticated in any other manner approved by the directors. The appointment takes effect when the notice is sent or supplied to the company or any director, or on any later date specified in the notice.

17 Termination of director's appointment

- 17.1 A person ceases to be a director as soon as the Holding Company gives notice in writing to the company signed by them, or authenticated in any other manner approved by the directors, removing that person from office as a director. The removal takes effect when the notice is sent or supplied to the company or any director, or on any later date specified in the notice.
- 17.2 Notwithstanding any other provision of these articles a person ceases to be a director immediately in the following circumstances:

- (a) as soon as he has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated; or
- (b) being a Councillor at the time of his appointment as a director, he ceases to be a Councillor; or
- (c) being an Officer at the time of his appointment as a director, his employment by the Council, or by any other local authority providing his services to the Council, is terminated for any reason.

17.3 Articles 17.1 and 17.2 take effect in addition to the circumstances in which a person ceases to be a director pursuant to paragraph 18 of the model articles.

18 Directors' Remuneration

Directors may undertake any services for the company with the approval of the board and **provided that** no fee shall be paid to a director who is a Councillor or an Officer for such services.

19 Directors' expenses

In paragraph 20 of the model articles, the words "and the company secretary (if any)" are inserted after the words "the directors".

Part 4: Shares and distributions

Share capital

20 Share capital

The share capital of the company at the date of adoption of these articles is divided into ordinary shares of £1.00 each.

Share certificates

21 Issue and content of share certificates

21.1 In paragraph 24(2)(c) of the model articles, the words "that the shares are fully paid" are deleted and replaced with the words "the amount paid up on them".

21.2 Paragraph 24(5) of the model articles is deleted and replaced with a new paragraph 24(5) as follows:

"Certificates must be executed in accordance with the 2006 Act."

Dividends and other distributions

22 Procedure for declaring dividends

- 22.1 Subject to these articles, the company may distribute to the members any profits available for distribution (within the meaning of the 2006 Act).
- 22.2 The company may by ordinary resolution declare final dividends, and the directors may decide to pay interim dividends.
- 22.3 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- 22.4 No dividend may be declared or paid unless it is in accordance with members' respective rights.

23 Calculation of dividends

- 23.1 All dividends must be:
- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid, and
 - (b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.
- 23.2 If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.
- 23.3 For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

Capitalisation of profits

24 Authority to capitalise and appropriation of capitalised sums

In paragraph 36(4) of the model articles, the words "in or towards paying up any amounts unpaid on existing shares held by the persons entitled, or" are inserted after the words "may be applied".

Part 5: Decision-making by shareholders

Organisation of general meetings

25 Notice of general meeting

A shareholder present, either in person or by proxy, at any general meeting of the company will be deemed to have received notice of the meeting and, where requisite, of the purposes for which the meeting was convened.

26 Quorum for general meetings

- 26.1 If the company has only one member, one qualifying person present at the meeting is a quorum. Subject as provided in section 318(2) of the 2006 Act, if the company has more than one member, two qualifying persons present at the meeting and entitled to vote are a quorum.
- 26.2 If, at any adjourned meeting, such a quorum is not present within half an hour of the time appointed for the adjourned meeting, the meeting must be dissolved.
- 26.3 In this article 26, **qualifying person**, in relation to any general meeting, means an individual who is a member of the company, a person authorised under section 323 of the 2006 Act to act as the representative of a corporation in relation to the meeting, or a person appointed as proxy of a member in relation to the meeting.

Voting at general meetings

27 Voting: general

- 27.1 On a vote on a resolution on a show of hands at a general meeting:
- (a) every shareholder present in person has one vote; and
 - (b) every proxy present who has been duly appointed by one or more shareholders entitled to vote on the resolution has one vote (subject to section 285(2) of the 2006 Act).
- 27.2 On a vote on a resolution on a poll taken at a meeting, every shareholder present in person or by one or more duly appointed proxies has one vote in respect of each share held by him.

28 Poll votes

Paragraph 44(2) of the model articles is deleted and replaced with a new paragraph 44(2) as follows:

"A poll may be demanded by:

- (a) the chairman of the meeting;
- (b) the directors; or
- (c) any shareholder."

Part 6: Administrative arrangements

29 Means of communication to be used

- 29.1 In addition to any other means of communication, the company may send or supply any document or information which is authorised or required to be sent or supplied by

the company to its members by any provision of the Companies Acts or under these articles by making it available on a website.

- 29.2 The provisions of the 2006 Act which apply when documents or information to be sent or supplied under the Companies Acts are made available on a website also apply, with any necessary changes, when any document or information is to be sent or supplied by the company under these articles.

30 When a communication from the company is deemed received

Section 1147 of the 2006 Act applies to any document or information which is authorised or required to be sent or supplied by the company to its members by any provision of the Companies Acts or under these articles as if:

- 30.1 section 1147(2) were deleted and replaced with a new section 1147(2) as follows:

"Where the document or information is sent by post (whether in hard copy or electronic form) and the company is able to show that it was properly addressed, prepaid and posted, it is deemed to have been received by the intended recipient (a) 24 hours after it was posted, if posted by first class post to an address in the United Kingdom, and (b) on the fifth working day after it was posted, if posted by international signed for post to an address outside the United Kingdom.";

- 30.2 in section 1147(3), the words "48 hours after it was sent" were deleted and replaced with the words "24 hours after it was sent"; and

- 30.3 section 1147(5) were deleted and replaced with a new section 1147(5) as follows:

"Where the document or information is handed to the intended recipient (whether in hard copy or electronic form), or is sent or supplied by hand and the company is able to show that it was properly addressed and sent at the cost of the company, it is deemed to have been received by the intended recipient when delivered.".

31 When a communication to the company is deemed received

A document or information sent or supplied to the company under these articles is deemed to have been received by the company when it is received at the address specified by the company for the purpose or at the company's registered office, or (in the case of a document or information sent or supplied to the company by a director) when it is produced to any directors' meeting.

Note: A copy of the model articles for private companies limited by shares is set out below together with relevant extracts from the model articles for public companies, in each case without incorporating any amendments made by these articles.

**Model articles for private companies limited by shares
(Prescribed by SI 2008/3229, Schedule 1)**

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**PART 1
INTERPRETATION AND LIMITATION OF LIABILITY**

Defined terms

1. In the articles, unless the context requires otherwise-
- "articles" means the company's articles of association;
 - "bankruptcy" includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
 - "chairman" has the meaning given in article 12;
 - "chairman of the meeting" has the meaning given in article 39;
 - "Companies Acts" means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;
 - "director" means a director of the company, and includes any person occupying the position of director, by whatever name called;
 - "distribution recipient" has the meaning given in article 31;
 - "document" includes, unless otherwise specified, any document sent or supplied in electronic form;
 - "electronic form" has the meaning given in section 1168 of the Companies Act 2006;
 - "fully paid" in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;
 - "hard copy form" has the meaning given in section 1168 of the Companies Act 2006;
 - "holder" in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
 - "instrument" means a document in hard copy form;
 - "ordinary resolution" has the meaning given in section 282 of the Companies Act 2006;
 - "paid" means paid or credited as paid;
 - "participate", in relation to a directors' meeting, has the meaning given in article 10;
 - "proxy notice" has the meaning given in article 45;
 - "shareholder" means a person who is the holder of a share;
 - "shares" means shares in the company;
 - "special resolution" has the meaning given in section 283 of the Companies Act 2006;
 - "subsidiary" has the meaning given in section 1159 of the Companies Act 2006;
 - "transmittee" means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and
 - "writing" means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

Liability of members

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

**PART 2
DIRECTORS
DIRECTORS' POWERS AND RESPONSIBILITIES**

Directors' general authority

3. Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

Shareholders' reserve power

- 4.-(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

- 5.-(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles-
- (a) to such person or committee;
 - (b) by such means (including by power of attorney);
 - (c) to such an extent;
 - (d) in relation to such matters or territories; and
 - (e) on such terms and conditions;
- as they think fit.

(2) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6.-(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7.-(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.

(2) If-

- (a) the company only has one director, and
- (b) no provision of the articles requires it to have more than one director,

the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

Unanimous decisions

8.-(1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

(2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

(3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

(4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

Calling a directors' meeting

9.-(1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(2) Notice of any directors' meeting must indicate-

- (a) its proposed date and time;
- (b) where it is to take place; and
- (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(3) Notice of a directors' meeting must be given to each director, but need not be in writing.

(4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors' meetings

10.-(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when-

- (a) the meeting has been called and takes place in accordance with the articles, and
- (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors' meetings

11.-(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

(3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision-

- (a) to appoint further directors, or
- (b) to call a general meeting so as to enable the shareholders to appoint further directors.

Chairing of directors' meetings

12.-(1) The directors may appoint a director to chair their meetings.

(2) The person so appointed for the time being is known as the chairman.

(3) The directors may terminate the chairman's appointment at any time.

(4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Casting vote

13.-(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.

(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Conflicts of interest

- 14.-(1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- (2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.
- (3) This paragraph applies when-
- (a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;
 - (b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (c) the director's conflict of interest arises from a permitted cause.
- (4) For the purposes of this article, the following are permitted causes-
- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
 - (b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
 - (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.
- (5) For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- (6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- (7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Records of decisions to be kept

15. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

Directors' discretion to make further rules

16. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

- 17.-(1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director-
- (a) by ordinary resolution, or
 - (b) by a decision of the directors.
- (2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.
- (3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

Termination of director's appointment

18. A person ceases to be a director as soon as-
- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
 - (b) a bankruptcy order is made against that person;
 - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
 - (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
 - (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
 - (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

Directors' remuneration

- 19.-(1) Directors may undertake any services for the company that the directors decide.
- (2) Directors are entitled to such remuneration as the directors determine-
- (a) for their services to the company as directors, and
 - (b) for any other service which they undertake for the company.
- (3) Subject to the articles, a director's remuneration may-
- (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

Directors' expenses

20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at-
- (a) meetings of directors or committees of directors,
 - (b) general meetings, or
 - (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3 SHARES AND DISTRIBUTIONS SHARES

All shares to be fully paid up

- 21.-(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

Powers to issue different classes of share

- 22.-(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

Company not bound by less than absolute interests

23. Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

Share certificates

- 24.-(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- (2) Every certificate must specify-
- (a) in respect of how many shares, of what class, it is issued;
 - (b) the nominal value of those shares;
 - (c) that the shares are fully paid; and
 - (d) any distinguishing numbers assigned to them.
- (3) No certificate may be issued in respect of shares of more than one class.
- (4) If more than one person holds a share, only one certificate may be issued in respect of it.
- (5) Certificates must-
- (a) have affixed to them the company's common seal, or
 - (b) be otherwise executed in accordance with the Companies Acts.

Replacement share certificates

- 25.-(1) If a certificate issued in respect of a shareholder's shares is-
- (a) damaged or defaced, or
 - (b) said to be lost, stolen or destroyed,
- that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A shareholder exercising the right to be issued with such a replacement certificate-
- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
 - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
 - (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

Share transfers

- 26.-(1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.
- (2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (3) The company may retain any instrument of transfer which is registered.
- (4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- (5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

Transmission of shares

- 27.-(1) If title to a share passes to a transferee, the company may only recognise the transferee as having any title to that share.
- (2) A transferee who produces such evidence of entitlement to shares as the directors may properly require-
- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
 - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (3) But transferees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Exercise of transferees' rights

- 28.-(1) Transferees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.

- (2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

Transmittees bound by prior notices

29. If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

Procedure for declaring dividends

- 30.-(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

Payment of dividends and other distributions

- 31.-(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means-
- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
 - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable-
- (a) the holder of the share; or
 - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
 - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

No interest on distributions

32. The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by-
- (a) the terms on which the share was issued, or
 - (b) the provisions of another agreement between the holder of that share and the company.

Unclaimed distributions

- 33.-(1) All dividends or other sums which are-
- (a) payable in respect of shares, and
 - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.
- (2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.
- (3) If-
- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
 - (b) the distribution recipient has not claimed it,
- the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

Non-cash distributions

- 34.-(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).
- (2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution-
- (a) fixing the value of any assets;
 - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
 - (c) vesting any assets in trustees.

Waiver of distributions

35. Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if-
- (a) the share has more than one holder, or

(b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise, the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

Authority to capitalise and appropriation of capitalised sums

- 36.-(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution-
- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
 - (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.
- (2) Capitalised sums must be applied-
- (a) on behalf of the persons entitled, and
 - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles the directors may-
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
 - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
 - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

PART 4 DECISION-MAKING BY SHAREHOLDERS ORGANISATION OF GENERAL MEETINGS

Attendance and speaking at general meetings

- 37.-(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when-
- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

Quorum for general meetings

38. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

Chairing general meetings

- 39.-(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start-
- (a) the directors present, or
 - (b) (if no directors are present), the meeting,
- must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as "the chairman of the meeting".

Attendance and speaking by directors and non-shareholders

- 40.-(1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chairman of the meeting may permit other persons who are not-
- (a) shareholders of the company, or
 - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,
- to attend and speak at a general meeting.

Adjournment

- 41.-(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- (2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if-
- (a) the meeting consents to an adjournment, or
 - (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

- (4) When adjourning a general meeting, the chairman of the meeting must-
 - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)-
 - (a) to the same persons to whom notice of the company's general meetings is required to be given, and
 - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

Voting: general

42. A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

Errors and disputes

- 43.-(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

Poll votes

- 44.-(1) A poll on a resolution may be demanded-
 - (a) in advance of the general meeting where it is to be put to the vote, or
 - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by-
 - (a) the chairman of the meeting;
 - (b) the directors;
 - (c) two or more persons having the right to vote on the resolution; or
 - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if-
 - (a) the poll has not yet been taken, and
 - (b) the chairman of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

Content of proxy notices

- 45.-(1) Proxies may only validly be appointed by a notice in writing (a "proxy notice") which-
 - (a) states the name and address of the shareholder appointing the proxy;
 - (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as-
 - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

Delivery of proxy notices

- 46.-(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

Amendments to resolutions

- 47.-(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if-
 - (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if-
 - (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

(3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5 ADMINISTRATIVE ARRANGEMENTS

Means of communication to be used

48.-(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

Company seals

49.-(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is-

- (a) any director of the company;
- (b) the company secretary (if any); or
- (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

No right to inspect accounts and other records

50. Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

Provision for employees on cessation of business

51. The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

Indemnity

52.-(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against-

- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
- (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
- (c) any other liability incurred by that director as an officer of the company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article-

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- (b) a "relevant director" means any director or former director of the company or an associated company.

Insurance

53.-(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article-

- (a) a "relevant director" means any director or former director of the company or an associated company,
- (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

Model articles for public companies (extracts)
(Prescribed by SI 2008/3229, Schedule 3)

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PART 1
INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles , unless the context requires otherwise-
- "call" has the meaning given in article 54;
 - "call notice" has the meaning given in article 54;
 - "company's lien" has the meaning given in article 52;
 - "distribution recipient" has the meaning given in article 72;
 - "lien enforcement notice" has the meaning given in article 53;
 - "paid" means paid or credited as paid;
 - "partly paid" in relation to a share means that part of that share's nominal value or any premium at which it was issued has not been paid to the company;

PART 4
SHARES AND DISTRIBUTIONS
PARTLY PAID SHARES

Company's lien over partly paid shares

- 52.**-(1) The company has a lien ("the company's lien") over every share which is partly paid for any part of-
- (a) that share's nominal value, and
 - (b) any premium at which it was issued,
- which has not been paid to the company, and which is payable immediately or at some time in the future, whether or not a call notice has been sent in respect of it.
- (2) The company's lien over a share-
- (a) takes priority over any third party's interest in that share, and
 - (b) extends to any dividend or other money payable by the company in respect of that share and (if the lien is enforced and the share is sold by the company) the proceeds of sale of that share.
- (3) The directors may at any time decide that a share which is or would otherwise be subject to the company's lien shall not be subject to it, either wholly or in part.

Enforcement of the company's lien

- 53.**-(1) Subject to the provisions of this article, if-
- (a) a lien enforcement notice has been given in respect of a share, and
 - (b) the person to whom the notice was given has failed to comply with it,
- the company may sell that share in such manner as the directors decide.
- (2) A lien enforcement notice-
- (a) may only be given in respect of a share which is subject to the company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
 - (b) must specify the share concerned;
 - (c) must require payment of the sum payable within 14 days of the notice;
 - (d) must be addressed either to the holder of the share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;
 - and
 - (e) must state the company's intention to sell the share if the notice is not complied with.
- (3) Where shares are sold under this article-
- (a) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the

- purchaser, and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.
- (4) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied-
 - (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice,
 - (b) second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation or a suitable indemnity has been given for any lost certificates, and subject to a lien equivalent to the company's lien over the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice.
- (5) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy the company's lien on a specified date-
 - (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
 - (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.

Call notices

- 54.**-(1) Subject to the articles and the terms on which shares are allotted, the directors may send a notice (a "call notice") to a member requiring the member to pay the company a specified sum of money (a "call") which is payable in respect of shares which that member holds at the date when the directors decide to send the call notice.
- (2) A call notice-
- (a) may not require a member to pay a call which exceeds the total sum unpaid on that member's shares (whether as to the share's nominal value or any amount payable to the company by way of premium);
 - (b) must state when and how any call to which it relates it is to be paid; and
 - (c) may permit or require the call to be paid by instalments.
- (3) A member must comply with the requirements of a call notice, but no member is obliged to pay any call before 14 days have passed since the notice was sent.
- (4) Before the company has received any call due under a call notice the directors may-
- (a) evoke it wholly or in part, or
 - (b) specify a later time for payment than is specified in the notice,
- by a further notice in writing to the member in respect of whose shares the call is made.

Liability to pay calls

- 55.**-(1) Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.
- (2) Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
- (3) Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them-
- (a) to pay calls which are not the same, or
 - (b) to pay calls at different times.

When call notice need not be issued

- 56.**-(1) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the company in respect of that share (whether in respect of nominal value or premium)-
- (a) on allotment;
 - (b) on the occurrence of a particular event; or
 - (c) on a date fixed by or in accordance with the terms of issue.
- (2) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

Failure to comply with call notice: automatic consequences

- 57.**-(1) If a person is liable to pay a call and fails to do so by the call payment date-
- (a) the directors may issue a notice of intended forfeiture to that person, and
 - (b) until the call is paid, that person must pay the company interest on the call from the call payment date at the relevant rate.
- (2) For the purposes of this article-
- (a) the "call payment date" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date;
 - (b) the "relevant rate" is-
 - (i) the rate fixed by the terms on which the share in respect of which the call is due was allotted;
 - (ii) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or
 - (iii) if no rate is fixed in either of these ways, 5 per cent per annum.
- (3) The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998.
- (4) The directors may waive any obligation to pay interest on a call wholly or in part.

Notice of intended forfeiture

- 58.** A notice of intended forfeiture-
- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
 - (b) must be sent to the holder of that share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;
 - (c) must require payment of the call and any accrued interest by a date which is not less than 14 days after the date of the notice;
 - (d) must state how the payment is to be made; and
 - (e) must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

Directors' power to forfeit shares

59. If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

Effect of forfeiture

- 60.-(1) Subject to the articles, the forfeiture of a share extinguishes-
- (a) all interests in that share, and all claims and demands against the company in respect of it, and
 - (b) all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the company.
- (2) Any share which is forfeited in accordance with the articles-
- (a) is deemed to have been forfeited when the directors decide that it is forfeited;
 - (b) is deemed to be the property of the company; and
 - (c) may be sold, re-allotted or otherwise disposed of as the directors think fit.
- (3) If a person's shares have been forfeited-
- (a) the company must send that person notice that forfeiture has occurred and record it in the register of members;
 - (b) that person ceases to be a member in respect of those shares;
 - (c) that person must surrender the certificate for the shares forfeited to the company for cancellation;
 - (d) that person remains liable to the company for all sums payable by that person under the articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and
 - (e) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- (4) At any time before the company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest due in respect of it and on such other terms as they think fit.

Procedure following forfeiture

- 61.-(1) If a forfeited share is to be disposed of by being transferred, the company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.
- (2) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date-
- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
 - (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.
- (3) A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.
- (4) If the company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the company the proceeds of such sale, net of any commission, and excluding any amount which-
- (a) was, or would have become, payable, and
 - (b) had not, when that share was forfeited, been paid by that person in respect of that share,
- but no interest is payable to such a person in respect of such proceeds and the company is not required to account for any money earned on them.

Surrender of shares

- 62.-(1) A member may surrender any share-
- (a) in respect of which the directors may issue a notice of intended forfeiture;
 - (b) which the directors may forfeit; or
 - (c) which has been forfeited.
- (2) The directors may accept the surrender of any such share.
- (3) The effect of surrender on a share is the same as the effect of forfeiture on that share.
- (4) A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

DISTRIBUTIONS

Calculation of dividends

- 71.-(1) Except as otherwise provided by the articles or the rights attached to shares, all dividends must be-
- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid, and
 - (b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.
- (2) If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.
- (3) For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

Deductions from distributions in respect of sums owed to the company

- 73.-(1) If-
- (a) a share is subject to the company's lien, and
 - (b) the directors are entitled to issue a lien enforcement notice in respect of it,
- they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the company in respect of that share to the extent that they are entitled to require payment under a lien enforcement notice.
- (2) Money so deducted must be used to pay any of the sums payable in respect of that share.
- (3) The company must notify the distribution recipient in writing of-
- (a) the fact and amount of any such deduction;
 - (b) any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and
 - (c) how the money deducted has been applied.

Companies Act 2006

Private company limited by shares

DRAFT

Articles of association of

[New Forest Property Development Limited]¹

¹ Name to be confirmed

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Companies Act 2006

Private company limited by shares

Articles of association of [New Forest Property Development Limited]

Part 1: Interpretation and model articles

1 Interpretation

1.1 In these articles, unless the context requires otherwise:

- (a) **2006 Act** means the Companies Act 2006;
- (b) **these articles** means these articles of association as from time to time amended;
- (c) **company** means the above named company intended to be regulated by these articles;
- (d) **conflict authority** has the meaning given in article 10.1;
- (e) **Councillor** means an elected member of the Council for the time being;
- (f) **directors** means some or all of the company's eligible directors for the time being when they take decisions in accordance with these articles;
- (g) **eligible director** means, in relation to a particular matter, a director who is entitled to vote on that matter at a directors' meeting and whose vote is to be counted in respect of that matter;
- (h) **group undertaking** has the meaning given in section 1161(5) of the 2006 Act;
- (i) **Holding Company** means any corporate member which is the registered holder of 50% or more of the issued ordinary share capital of the company;
- (j) **model articles** means the model articles for private companies limited by shares prescribed by Schedule 1 to the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as in force on the date of incorporation of the company;
- (k) **Officer** means an officer of the Council for the time being;
- (l) **person** includes any natural person, body corporate, partnership or unincorporated association, in each case whether or not having a separate legal personality;
- (m) **the Council** means New Forest District Council and any of its successors;
- (n) **United Kingdom** means Great Britain and Northern Ireland; and

(o) **writing** or **written** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

1.2 In these articles, references to any statute or statutory provision include any modification or re-enactment of it for the time being in force. This does not affect the interpretation of the final sentence of paragraph 1 of the model articles.

1.3 In these articles:

(a) a reference to an **article** by number is a reference to the provision of these articles of that number; and

(b) a reference to a **conflict of interest** includes a conflict of interest and duty and a conflict of duties, and (in that context) **interest** includes both direct and indirect interests.

1.4 The headings in these articles do not affect the interpretation of them.

2 Adoption of model articles

2.1 The model articles apply to (and form part of) these articles, in so far as these articles do not exclude or modify the model articles.

2.2 The following paragraphs of the model articles do not apply to the company: 7(2), 11(2), 21, 26(5) and 50.

3 Objects

3.1 The objects of the company are to carry on the trade or business of a property investment and development company within the United Kingdom and the company has power to do all such things as are incidental or conducive to the carrying on of that trade or business including, without limitation, to:

(a) purchase, take on, lease, hire or otherwise acquire real or personal property and rights or privileges and construct, maintain, alter or demolish buildings, structures, and/or infrastructures, whether residential, commercial or mixed-use;

(b) sell, manage, let or mortgage, charge, dispose of all or any of the property or assets of the company, subject to such consents as may be required by law;

(c) pay outgoings and expenses and execute documents and do all things required in connection with the use, maintenance, upkeep, expansion, alteration or improvement of any such property;

(d) insure any such property of the company against any foreseeable risk and take out other insurance policies to protect the company and its officers, staff and third parties when required;

- (e) delegate the construction, management and/or maintenance of the whole or part of the property portfolio;
- (f) enter into contracts for the supply of goods and/or services by or to the company or, otherwise, as necessary to further the business of the company;
- (g) enter into contracts for works by or to the company or, otherwise, as necessary to further the business of the company;
- (h) employ or engage paid or unpaid agents, staff or advisors and to make all reasonable and necessary provisions towards the payment of pensions and superannuation to or on behalf of staff;
- (i) lend, borrow or raise funds for the objects of the company on such terms and subject to such security as the directors think fit;
- (j) give guarantees;
- (k) give security for loans or other obligations;
- (l) receive and accept any gift of money, property or other assets whether subject to any special trust or not;
- (m) draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and operate bank accounts in the name of the company;
- (n) deposit or invest its funds in any manner (but to invest only after obtaining such advice from a financial expert as the directors consider necessary and having regard to the suitability of investments and the need for diversification);
- (o) enter into joint ventures or partnerships;
- (p) arrange for investments or other property of the company to be held in the name of a nominee company acting under the direction of the directors and pay any reasonable fee required;
- (q) deposit documents and physical assets with any company registered or having a place of business in England and Wales as custodian, and pay any reasonable fee required;
- (r) establish and/or acquire subsidiary or associated companies or entities or whatever kind and/or participate in such entities;
- (s) provide indemnity insurance to cover the liability of any shareholder or director, in accordance with these articles; and
- (t) prepare, edit, print, publish, issue, acquire and distribute information in any media format (or commission other bodies or individuals to do so);

- (u) provide, promote and sponsor conferences, lectures, discussions, exhibitions, training courses, case studies and other like events;
- (v) make any kind of donation, grant or loan, and provide sponsorship or otherwise support projects or initiatives;
- (w) do anything else within the law which promotes or helps to promote the objects.

Part 2: Holding Company

Holding Company's powers

4 Holding Company's reserve power

- 4.1 The Holding Company may direct in writing the directors to take, or refrain from taking, specified action.
- 4.2 No such direction invalidates anything which the directors have done before receipt of such direction.
- 4.3 The company may not without the prior written consent of the Holding Company:
 - (a) change the nature of the company's business or create a new business (unless it is ancillary or incidental to an existing business);
 - (b) form or participate in a joint venture or partnership;
 - (c) form a subsidiary or acquire shares in another corporate entity;
 - (d) permit a new member of the company to be registered (if having subscribed for or acquired shares in the company);
 - (e) declare a dividend;
 - (f) appoint or remove a director;
 - (g) incur more than £5 million on the acquisition of a single property or on the acquisition of a collection of properties comprised on a single site;
 - (h) carry out the acquisition of any property located outside of the local government district of New Forest.

Part 3: Directors

Directors' powers and responsibilities

5 Directors may delegate

In paragraph 5(1) of the model articles, the words "delegate any of the powers which are conferred on them under the articles" are deleted and replaced with the words "delegate any of their powers".

Decision-making by directors

6 Unanimous decisions

6.1 In paragraph 8(2) of the model articles, the words "copies of which have been signed by each eligible director" are deleted and replaced with the words "where each eligible director has signed one or more copies of it".

6.2 In paragraph 8(3) of the model articles, the words "and whose vote would have been counted" are inserted after the words "had it been proposed as a resolution at a directors' meeting".

7 Calling a directors' meeting

Notice of a directors' meeting need not be given to a director who is absent from the United Kingdom and has not given the company an address to which such notices may be given by electronic means during his absence.

8 Quorum for directors' meetings

8.1 Subject to article 8.2, the quorum for directors' meetings is two eligible directors, of whom one is a Councillor and one is an Officer.

8.2 If, due to a conflict, the eligible directors at a director's meeting (or part of a meeting) do not include at least one Councillor and at least one Officer, then in respect of that meeting (or part of a meeting) the quorum is two eligible directors (whether or not they are Councillors or Officers or neither).

8.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision to appoint further directors or to request the Holding Company to appoint further directors (pursuant to the power conferred in article 16.1).

Directors' interests and conflicts

9 Transactions or arrangements with the company

9.1 Subject to the 2006 Act and to article 9.2, and provided he has complied with any provision of the 2006 Act requiring a declaration of his interest to the other directors, a director may, despite his office, be a party to, or otherwise (directly or indirectly) be interested in, any transaction or arrangement with the company.

9.2 Subject to article 9.3, a director shall not be counted as participating for quorum or voting purposes in the decision-making process concerning an actual or proposed transaction or arrangement with the company in which he is interested.

- 9.3 Notwithstanding article 9.2, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes:
- (a) with the consent of the Holding Company;
 - (b) if the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (c) the conflict arises from one of the permitted causes set out in article 14(4) of the model articles.

10 Directors' situational conflicts of interest

- 10.1 For the purposes of section 175 of the 2006 Act, the directors may authorise any matter proposed to them which would, or might, if not authorised, result in a director infringing his duty under that section to avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company. Such an authorisation is referred to in these articles as a **conflict authority**.
- 10.2 A conflict authority may (subject to article 12) be given on such terms (including limits or conditions) as the directors decide. The director concerned must comply with any obligations imposed on him by such terms.
- 10.3 The directors may revoke or vary a conflict authority at any time, but this will not invalidate anything previously done by the director in accordance with the authority.

11 Ability to hold offices and enter into other transactions and arrangements

- 11.1 Provided he has declared the nature and extent of any direct or indirect interest of his to the other directors (other than a non-disclosable interest as set out in article 11.4), a director may, despite his office:
- (a) be an elected member or officer of the Council;
 - (b) be employed or engaged by the Council or any other local authority providing his services to the Council;
 - (c) be a director or other officer of, or employed or engaged by, hold shares or other securities in, or otherwise be interested in, whether directly or indirectly, any group undertaking of the company or any other undertaking in which the company is otherwise (directly or indirectly) interested;
 - (d) be a party to, or otherwise be interested in, whether directly or indirectly, any transaction or arrangement in which the company is (directly or indirectly) interested (other than a transaction or arrangement with the company); and

- (e) be a party to any transaction or arrangement with any group undertaking of the company or any other undertaking in which the company is otherwise (directly or indirectly) interested.
- 11.2 Subject to compliance by them with their duties as a director under Part 10 of the 2006 Act (other than the duty in section 175(1) of the 2006 Act which is the subject of this article 11.2), and notwithstanding their office or the existence of an actual or potential conflict between the interests of the company and those of the Council which would fall within the ambit of that section 175(1), a director:
- (a) shall be entitled to consult freely about the company with, and disclose confidential information used in or relating to the business of the company to, the Council; and
 - (b) will not be obliged to disclose to the company, or use for the benefit of the company, any confidential information received by them by virtue of their employment with or membership of the Council and otherwise than by virtue of their position as a director, if to do so would breach any duty of confidentiality to the Council or a third party to whom the Council owes a legally binding obligation of confidentiality.
- 11.3 No conflict authority is required in respect of any matter referred to in article 11.1, and a director does not infringe his duty under section 175 of the 2006 Act because of this.
- 11.4 The following are non-disclosable interests for the purposes of article 11.1:
- (a) any interest of a director which consists of him being a director, officer or employee of (or otherwise being engaged by) any group undertaking of the company; and
 - (b) any interest of a director which cannot reasonably be regarded as likely to give rise to a conflict of interest or one that the other directors are already aware of or ought reasonably to be aware of.
- 11.5 If a declaration of interest under article 11.1 proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

12 Confidential information and attendance at directors' meetings

If a matter is authorised pursuant to a conflict authority or is one to which article 11.1 applies:

- 12.1 the director will not be required to disclose to the company, or use in relation to the company's affairs, any information relating to the matter that is confidential to another person where to do so would amount to a breach of that confidence;
- 12.2 the director may absent himself from the discussion of, and/or the making of decisions relating to, the matter (whether at directors' meetings or otherwise), and may excuse himself from reviewing documents and information which will or may

relate to the matter, for so long as he reasonably believes that an actual or potential conflict of interest arises out of the matter; and

12.3 the director may be excluded from the receipt of documents and information, the participation in discussion and/or the making of decisions (whether at directors' meetings or otherwise) which will or may relate to the matter.

13 Accounting for benefits when interested

If a director or any other person receives any benefit as a result of anything allowed under articles 9.1 or 11 or (subject to its terms) pursuant to a conflict authority:

13.1 the director is not required to account to the company for the benefit;

13.2 no transaction or arrangement will be liable to be avoided on the ground of the benefit; and

13.3 the receipt of the benefit will not constitute a breach of the director's duty under section 176 of the 2006 Act.

14 Right to inspect the company's accounting records

The Holding Company (acting through its officers) and its auditors for the time being shall be entitled to inspect, at all reasonable times and on reasonable notice to the company, the company's books and accounting records.

Appointment of directors

15 Number of directors

Unless otherwise determined by resolution of the Holding Company, the number of directors shall not be subject to a maximum, but shall not be less than four, at least two of whom are Councillors and at least two of whom are Officers.

16 Methods of appointing directors

16.1 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director:

(a) by the Holding Company; or

(b) by majority decision of the directors.

16.2 The Holding Company may appoint an additional director or directors by giving notice of appointment in writing to the company signed by them or authenticated in any other manner approved by the directors. The appointment takes effect when the notice is sent or supplied to the company or any director, or on any later date specified in the notice.

17 Termination of director's appointment

17.1 A person ceases to be a director as soon as the Holding Company gives notice in writing to the company signed by them, or authenticated in any other manner approved by the directors, removing that person from office as a director. The removal takes effect when the notice is sent or supplied to the company or any director, or on any later date specified in the notice.

17.2 Notwithstanding any other provision of these articles a person ceases to be a director immediately in the following circumstances:

- (a) as soon as he has for more than six consecutive months been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his office be vacated; or
- (b) being a Councillor at the time of his appointment as a director, he ceases to be a Councillor; or
- (c) being an Officer at the time of his appointment as a director, his employment by the Council, or by any other local authority providing his services to the Council, is terminated for any reason.

17.3 Articles 17.1 and 17.2 take effect in addition to the circumstances in which a person ceases to be a director pursuant to paragraph 18 of the model articles.

18 Directors' Remuneration

Directors may undertake any services for the company with the approval of the board and **provided that** no fee shall be paid to a director who is a Councillor or an Officer for such services.

19 Directors' expenses

In paragraph 20 of the model articles, the words "and the company secretary (if any)" are inserted after the words "the directors".

Part 4: Shares and distributions

Share capital

20 Share capital

The share capital of the company at the date of adoption of these articles is divided into ordinary shares of £1.00 each.

Share certificates

21 Issue and content of share certificates

21.1 In paragraph 24(2)(c) of the model articles, the words "that the shares are fully paid" are deleted and replaced with the words "the amount paid up on them".

21.2 Paragraph 24(5) of the model articles is deleted and replaced with a new paragraph 24(5) as follows:

"Certificates must be executed in accordance with the 2006 Act."

Dividends and other distributions

22 Procedure for declaring dividends

22.1 Subject to these articles, the company may distribute to the members any profits available for distribution (within the meaning of the 2006 Act).

22.2 The company may by ordinary resolution declare final dividends, and the directors may decide to pay interim dividends.

22.3 A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

22.4 No dividend may be declared or paid unless it is in accordance with members' respective rights.

23 Calculation of dividends

23.1 All dividends must be:

(a) declared and paid according to the amounts paid up on the shares on which the dividend is paid, and

(b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.

23.2 If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.

23.3 For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

Capitalisation of profits

24 Authority to capitalise and appropriation of capitalised sums

In paragraph 36(4) of the model articles, the words "in or towards paying up any amounts unpaid on existing shares held by the persons entitled, or" are inserted after the words "may be applied".

Part 5: Decision-making by shareholders

Organisation of general meetings

25 Notice of general meeting

A shareholder present, either in person or by proxy, at any general meeting of the company will be deemed to have received notice of the meeting and, where requisite, of the purposes for which the meeting was convened.

26 Quorum for general meetings

26.1 If the company has only one member, one qualifying person present at the meeting is a quorum. Subject as provided in section 318(2) of the 2006 Act, if the company has more than one member, two qualifying persons present at the meeting and entitled to vote are a quorum.

26.2 If, at any adjourned meeting, such a quorum is not present within half an hour of the time appointed for the adjourned meeting, the meeting must be dissolved.

26.3 In this article 26, **qualifying person**, in relation to any general meeting, means an individual who is a member of the company, a person authorised under section 323 of the 2006 Act to act as the representative of a corporation in relation to the meeting, or a person appointed as proxy of a member in relation to the meeting.

Voting at general meetings

27 Voting: general

27.1 On a vote on a resolution on a show of hands at a general meeting:

- (a) every shareholder present in person has one vote; and
- (b) every proxy present who has been duly appointed by one or more shareholders entitled to vote on the resolution has one vote (subject to section 285(2) of the 2006 Act).

27.2 On a vote on a resolution on a poll taken at a meeting, every shareholder present in person or by one or more duly appointed proxies has one vote in respect of each share held by him.

28 Poll votes

Paragraph 44(2) of the model articles is deleted and replaced with a new paragraph 44(2) as follows:

"A poll may be demanded by:

- (a) the chairman of the meeting;
- (b) the directors; or

- (c) any shareholder.".

Part 6: Administrative arrangements

29 Means of communication to be used

- 29.1 In addition to any other means of communication, the company may send or supply any document or information which is authorised or required to be sent or supplied by the company to its members by any provision of the Companies Acts or under these articles by making it available on a website.
- 29.2 The provisions of the 2006 Act which apply when documents or information to be sent or supplied under the Companies Acts are made available on a website also apply, with any necessary changes, when any document or information is to be sent or supplied by the company under these articles.

30 When a communication from the company is deemed received

Section 1147 of the 2006 Act applies to any document or information which is authorised or required to be sent or supplied by the company to its members by any provision of the Companies Acts or under these articles as if:

- 30.1 section 1147(2) were deleted and replaced with a new section 1147(2) as follows:

"Where the document or information is sent by post (whether in hard copy or electronic form) and the company is able to show that it was properly addressed, prepaid and posted, it is deemed to have been received by the intended recipient (a) 24 hours after it was posted, if posted by first class post to an address in the United Kingdom, and (b) on the fifth working day after it was posted, if posted by international signed for post to an address outside the United Kingdom.";

- 30.2 in section 1147(3), the words "48 hours after it was sent" were deleted and replaced with the words "24 hours after it was sent"; and

- 30.3 section 1147(5) were deleted and replaced with a new section 1147(5) as follows:

"Where the document or information is handed to the intended recipient (whether in hard copy or electronic form), or is sent or supplied by hand and the company is able to show that it was properly addressed and sent at the cost of the company, it is deemed to have been received by the intended recipient when delivered.".

31 When a communication to the company is deemed received

A document or information sent or supplied to the company under these articles is deemed to have been received by the company when it is received at the address specified by the company for the purpose or at the company's registered office, or (in the case of a document or information sent or supplied to the company by a director) when it is produced to any directors' meeting.

Note: A copy of the model articles for private companies limited by shares is set out below together with relevant extracts from the model articles for public companies, in each case without incorporating any amendments made by these articles.

**Model articles for private companies limited by shares
(Prescribed by SI 2008/3229, Schedule 1)**

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**PART 1
INTERPRETATION AND LIMITATION OF LIABILITY**

Defined terms

1. In the articles, unless the context requires otherwise-
- “articles” means the company’s articles of association;
 - “bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
 - “chairman” has the meaning given in article 12;
 - “chairman of the meeting” has the meaning given in article 39;
 - “Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;
 - “director” means a director of the company, and includes any person occupying the position of director, by whatever name called;
 - “distribution recipient” has the meaning given in article 31;
 - “document” includes, unless otherwise specified, any document sent or supplied in electronic form;
 - “electronic form” has the meaning given in section 1168 of the Companies Act 2006;
 - “fully paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;
 - “hard copy form” has the meaning given in section 1168 of the Companies Act 2006;
 - “holder” in relation to shares means the person whose name is entered in the register of members as the holder of the shares;
 - “instrument” means a document in hard copy form;
 - “ordinary resolution” has the meaning given in section 282 of the Companies Act 2006;
 - “paid” means paid or credited as paid;
 - “participate”, in relation to a directors’ meeting, has the meaning given in article 10;
 - “proxy notice” has the meaning given in article 45;
 - “shareholder” means a person who is the holder of a share;
 - “shares” means shares in the company;
 - “special resolution” has the meaning given in section 283 of the Companies Act 2006;
 - “subsidiary” has the meaning given in section 1159 of the Companies Act 2006;
 - “transmittee” means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and
 - “writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

Liability of members

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

**PART 2
DIRECTORS
DIRECTORS' POWERS AND RESPONSIBILITIES**

Directors’ general authority

3. Subject to the articles, the directors are responsible for the management of the company’s business, for which purpose they may exercise all the powers of the company.

Shareholders’ reserve power

- 4.-(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

- 5.-(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles-
- (a) to such person or committee;
 - (b) by such means (including by power of attorney);
 - (c) to such an extent;
 - (d) in relation to such matters or territories; and
 - (e) on such terms and conditions;
- as they think fit.

(2) If the directors so specify, any such delegation may authorise further delegation of the directors’ powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6.-(1) Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7.-(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.

(2) If-

- (a) the company only has one director, and
- (b) no provision of the articles requires it to have more than one director,

the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

Unanimous decisions

8.-(1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

(2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

(3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

(4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

Calling a directors' meeting

9.-(1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(2) Notice of any directors' meeting must indicate-

- (a) its proposed date and time;
- (b) where it is to take place; and
- (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(3) Notice of a directors' meeting must be given to each director, but need not be in writing.

(4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors' meetings

10.-(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when-

- (a) the meeting has been called and takes place in accordance with the articles, and
- (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors' meetings

11.-(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

(3) If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision-

- (a) to appoint further directors, or
- (b) to call a general meeting so as to enable the shareholders to appoint further directors.

Chairing of directors' meetings

12.-(1) The directors may appoint a director to chair their meetings.

(2) The person so appointed for the time being is known as the chairman.

(3) The directors may terminate the chairman's appointment at any time.

(4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Casting vote

13.-(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.

(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Conflicts of interest

- 14.-(1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- (2) But if paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.
- (3) This paragraph applies when-
- (a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in the decision-making process;
 - (b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (c) the director's conflict of interest arises from a permitted cause.
- (4) For the purposes of this article, the following are permitted causes-
- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
 - (b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
 - (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the company or any of its subsidiaries which do not provide special benefits for directors or former directors.
- (5) For the purposes of this article, references to proposed decisions and decision-making processes include any directors' meeting or part of a directors' meeting.
- (6) Subject to paragraph (7), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.
- (7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Records of decisions to be kept

15. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

Directors' discretion to make further rules

16. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

- 17.-(1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director-
- (a) by ordinary resolution, or
 - (b) by a decision of the directors.
- (2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.
- (3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

Termination of director's appointment

18. A person ceases to be a director as soon as-
- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
 - (b) a bankruptcy order is made against that person;
 - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
 - (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
 - (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
 - (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms.

Directors' remuneration

- 19.-(1) Directors may undertake any services for the company that the directors decide.
- (2) Directors are entitled to such remuneration as the directors determine-
- (a) for their services to the company as directors, and
 - (b) for any other service which they undertake for the company.
- (3) Subject to the articles, a director's remuneration may-
- (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

Directors' expenses

20. The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at-
- (a) meetings of directors or committees of directors,
 - (b) general meetings, or
 - (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3 SHARES AND DISTRIBUTIONS SHARES

All shares to be fully paid up

- 21.-(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

Powers to issue different classes of share

- 22.-(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

Company not bound by less than absolute interests

23. Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

Share certificates

- 24.-(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- (2) Every certificate must specify-
- (a) in respect of how many shares, of what class, it is issued;
 - (b) the nominal value of those shares;
 - (c) that the shares are fully paid; and
 - (d) any distinguishing numbers assigned to them.
- (3) No certificate may be issued in respect of shares of more than one class.
- (4) If more than one person holds a share, only one certificate may be issued in respect of it.
- (5) Certificates must-
- (a) have affixed to them the company's common seal, or
 - (b) be otherwise executed in accordance with the Companies Acts.

Replacement share certificates

- 25.-(1) If a certificate issued in respect of a shareholder's shares is-
- (a) damaged or defaced, or
 - (b) said to be lost, stolen or destroyed,
- that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A shareholder exercising the right to be issued with such a replacement certificate-
- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
 - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
 - (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

Share transfers

- 26.-(1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.
- (2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (3) The company may retain any instrument of transfer which is registered.
- (4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- (5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

Transmission of shares

- 27.-(1) If title to a share passes to a transferee, the company may only recognise the transferee as having any title to that share.
- (2) A transferee who produces such evidence of entitlement to shares as the directors may properly require-
- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
 - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (3) But transferees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Exercise of transferees' rights

- 28.-(1) Transferees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.

- (2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

Transmittees bound by prior notices

29. If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

Procedure for declaring dividends

- 30.-(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

Payment of dividends and other distributions

- 31.-(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means-
- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
 - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable-
- (a) the holder of the share; or
 - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
 - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

No interest on distributions

32. The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by-
- (a) the terms on which the share was issued, or
 - (b) the provisions of another agreement between the holder of that share and the company.

Unclaimed distributions

- 33.-(1) All dividends or other sums which are-
- (a) payable in respect of shares, and
 - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.
- (2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.
- (3) If-
- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
 - (b) the distribution recipient has not claimed it,
- the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

Non-cash distributions

- 34.-(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).
- (2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution-
- (a) fixing the value of any assets;
 - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
 - (c) vesting any assets in trustees.

Waiver of distributions

35. Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if-
- (a) the share has more than one holder, or

(b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise, the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

Authority to capitalise and appropriation of capitalised sums

- 36.**-(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution-
- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
 - (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.
- (2) Capitalised sums must be applied-
- (a) on behalf of the persons entitled, and
 - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles the directors may-
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
 - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
 - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

PART 4 DECISION-MAKING BY SHAREHOLDERS ORGANISATION OF GENERAL MEETINGS

Attendance and speaking at general meetings

- 37.**-(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when-
- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
 - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

Quorum for general meetings

38. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

Chairing general meetings

- 39.**-(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start-
- (a) the directors present, or
 - (b) (if no directors are present), the meeting,
- must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as "the chairman of the meeting".

Attendance and speaking by directors and non-shareholders

- 40.**-(1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chairman of the meeting may permit other persons who are not-
- (a) shareholders of the company, or
 - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,
- to attend and speak at a general meeting.

Adjournment

- 41.**-(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- (2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if-
- (a) the meeting consents to an adjournment, or
 - (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.

- (4) When adjourning a general meeting, the chairman of the meeting must-
 - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)-
 - (a) to the same persons to whom notice of the company's general meetings is required to be given, and
 - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

Voting: general

42. A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

Errors and disputes

- 43.-(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

Poll votes

- 44.-(1) A poll on a resolution may be demanded-
 - (a) in advance of the general meeting where it is to be put to the vote, or
 - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by-
 - (a) the chairman of the meeting;
 - (b) the directors;
 - (c) two or more persons having the right to vote on the resolution; or
 - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if-
 - (a) the poll has not yet been taken, and
 - (b) the chairman of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

Content of proxy notices

- 45.-(1) Proxies may only validly be appointed by a notice in writing (a "proxy notice") which-
 - (a) states the name and address of the shareholder appointing the proxy;
 - (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as-
 - (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

Delivery of proxy notices

- 46.-(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

Amendments to resolutions

- 47.-(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if-
 - (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if-
 - (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

(3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5 ADMINISTRATIVE ARRANGEMENTS

Means of communication to be used

48.-(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

Company seals

49.-(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is-

- (a) any director of the company;
- (b) the company secretary (if any); or
- (c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

No right to inspect accounts and other records

50. Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

Provision for employees on cessation of business

51. The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

Indemnity

52.-(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against-

- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
- (b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
- (c) any other liability incurred by that director as an officer of the company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article-

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
- (b) a "relevant director" means any director or former director of the company or an associated company.

Insurance

53.-(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article-

- (a) a "relevant director" means any director or former director of the company or an associated company,
- (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

Model articles for public companies (extracts)
(Prescribed by SI 2008/3229, Schedule 3)

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PART 1
INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. In the articles , unless the context requires otherwise-

"call" has the meaning given in article 54;

"call notice" has the meaning given in article 54;

"company's lien" has the meaning given in article 52;

"distribution recipient" has the meaning given in article 72;

"lien enforcement notice" has the meaning given in article 53;

"paid" means paid or credited as paid;

"partly paid" in relation to a share means that part of that share's nominal value or any premium at which it was issued has not been paid to the company;

PART 4
SHARES AND DISTRIBUTIONS
PARTLY PAID SHARES

Company's lien over partly paid shares

- 52.-(1) The company has a lien ("the company's lien") over every share which is partly paid for any part of-

(a) that share's nominal value, and

(b) any premium at which it was issued,

which has not been paid to the company, and which is payable immediately or at some time in the future, whether or not a call notice has been sent in respect of it.

- (2) The company's lien over a share-

(a) takes priority over any third party's interest in that share, and

(b) extends to any dividend or other money payable by the company in respect of that share and (if the lien is enforced and the share is sold by the company) the proceeds of sale of that share.

- (3) The directors may at any time decide that a share which is or would otherwise be subject to the company's lien shall not be subject to it, either wholly or in part.

Enforcement of the company's lien

- 53.-(1) Subject to the provisions of this article, if-

(a) a lien enforcement notice has been given in respect of a share, and

(b) the person to whom the notice was given has failed to comply with it,

the company may sell that share in such manner as the directors decide.

- (2) A lien enforcement notice-

(a) may only be given in respect of a share which is subject to the company's lien, in respect of which a sum is payable and the due date for payment of that sum has passed;

(b) must specify the share concerned;

(c) must require payment of the sum payable within 14 days of the notice;

(d) must be addressed either to the holder of the share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;

and

(e) must state the company's intention to sell the share if the notice is not complied with.

- (3) Where shares are sold under this article-

(a) the directors may authorise any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the

- purchaser, and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.
- (4) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) must be applied-
 - (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice,
 - (b) second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the company for cancellation or a suitable indemnity has been given for any lost certificates, and subject to a lien equivalent to the company's lien over the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice.
- (5) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy the company's lien on a specified date-
 - (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
 - (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.

Call notices

- 54.**-(1) Subject to the articles and the terms on which shares are allotted, the directors may send a notice (a "call notice") to a member requiring the member to pay the company a specified sum of money (a "call") which is payable in respect of shares which that member holds at the date when the directors decide to send the call notice.
- (2) A call notice-
- (a) may not require a member to pay a call which exceeds the total sum unpaid on that member's shares (whether as to the share's nominal value or any amount payable to the company by way of premium);
 - (b) must state when and how any call to which it relates it is to be paid; and
 - (c) may permit or require the call to be paid by instalments.
- (3) A member must comply with the requirements of a call notice, but no member is obliged to pay any call before 14 days have passed since the notice was sent.
- (4) Before the company has received any call due under a call notice the directors may-
- (a) evoke it wholly or in part, or
 - (b) specify a later time for payment than is specified in the notice,
- by a further notice in writing to the member in respect of whose shares the call is made.

Liability to pay calls

- 55.**-(1) Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.
- (2) Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
- (3) Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them-
- (a) to pay calls which are not the same, or
 - (b) to pay calls at different times.

When call notice need not be issued

- 56.**-(1) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the company in respect of that share (whether in respect of nominal value or premium)-
- (a) on allotment;
 - (b) on the occurrence of a particular event; or
 - (c) on a date fixed by or in accordance with the terms of issue.
- (2) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is treated in all respects as having failed to comply with a call notice in respect of that sum, and is liable to the same consequences as regards the payment of interest and forfeiture.

Failure to comply with call notice: automatic consequences

- 57.**-(1) If a person is liable to pay a call and fails to do so by the call payment date-
- (a) the directors may issue a notice of intended forfeiture to that person, and
 - (b) until the call is paid, that person must pay the company interest on the call from the call payment date at the relevant rate.
- (2) For the purposes of this article-
- (a) the "call payment date" is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the "call payment date" is that later date;
 - (b) the "relevant rate" is-
 - (i) the rate fixed by the terms on which the share in respect of which the call is due was allotted;
 - (ii) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or
 - (iii) if no rate is fixed in either of these ways, 5 per cent per annum.
- (3) The relevant rate must not exceed by more than 5 percentage points the base lending rate most recently set by the Monetary Policy Committee of the Bank of England in connection with its responsibilities under Part 2 of the Bank of England Act 1998.
- (4) The directors may waive any obligation to pay interest on a call wholly or in part.

Notice of intended forfeiture

- 58.** A notice of intended forfeiture-
- (a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;
 - (b) must be sent to the holder of that share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise;
 - (c) must require payment of the call and any accrued interest by a date which is not less than 14 days after the date of the notice;
 - (d) must state how the payment is to be made; and
 - (e) must state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

Directors' power to forfeit shares

59. If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given is forfeited, and the forfeiture is to include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

Effect of forfeiture

- 60.-(1) Subject to the articles, the forfeiture of a share extinguishes-
- (a) all interests in that share, and all claims and demands against the company in respect of it, and
 - (b) all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the company.
- (2) Any share which is forfeited in accordance with the articles-
- (a) is deemed to have been forfeited when the directors decide that it is forfeited;
 - (b) is deemed to be the property of the company; and
 - (c) may be sold, re-allotted or otherwise disposed of as the directors think fit.
- (3) If a person's shares have been forfeited-
- (a) the company must send that person notice that forfeiture has occurred and record it in the register of members;
 - (b) that person ceases to be a member in respect of those shares;
 - (c) that person must surrender the certificate for the shares forfeited to the company for cancellation;
 - (d) that person remains liable to the company for all sums payable by that person under the articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and
 - (e) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.
- (4) At any time before the company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest due in respect of it and on such other terms as they think fit.

Procedure following forfeiture

- 61.-(1) If a forfeited share is to be disposed of by being transferred, the company may receive the consideration for the transfer and the directors may authorise any person to execute the instrument of transfer.
- (2) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date-
- (a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share, and
 - (b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.
- (3) A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any) nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.
- (4) If the company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the company the proceeds of such sale, net of any commission, and excluding any amount which-
- (a) was, or would have become, payable, and
 - (b) had not, when that share was forfeited, been paid by that person in respect of that share,
- but no interest is payable to such a person in respect of such proceeds and the company is not required to account for any money earned on them.

Surrender of shares

- 62.-(1) A member may surrender any share-
- (a) in respect of which the directors may issue a notice of intended forfeiture;
 - (b) which the directors may forfeit; or
 - (c) which has been forfeited.
- (2) The directors may accept the surrender of any such share.
- (3) The effect of surrender on a share is the same as the effect of forfeiture on that share.
- (4) A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

DISTRIBUTIONS

Calculation of dividends

- 71.-(1) Except as otherwise provided by the articles or the rights attached to shares, all dividends must be-
- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid, and
 - (b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.
- (2) If any share is issued on terms providing that it ranks for dividend as from a particular date, that share ranks for dividend accordingly.
- (3) For the purposes of calculating dividends, no account is to be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

Deductions from distributions in respect of sums owed to the company

- 73.-(1) If-
- (a) a share is subject to the company's lien, and
 - (b) the directors are entitled to issue a lien enforcement notice in respect of it,
- they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the company in respect of that share to the extent that they are entitled to require payment under a lien enforcement notice.
- (2) Money so deducted must be used to pay any of the sums payable in respect of that share.
- (3) The company must notify the distribution recipient in writing of-
- (a) the fact and amount of any such deduction;
 - (b) any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and
 - (c) how the money deducted has been applied.

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CORPORATE OVERVIEW AND SCRUTINY PANEL – 22 NOVEMBER 2018

BUDGET TASK AND FINISH GROUP – FINAL REPORT

1. PURPOSE

- 1.1 The Budget Task & Finish Group has, on behalf of all members, examined the Council's financial plans and existing budgets in considerable detail in the context of the latest forecast Medium Term Financial Plan. This report presents the findings of the Group to the Corporate Overview and Scrutiny Panel for consideration.

2. INTRODUCTION AND CONTEXT

Terms of Reference

The terms of reference for the Budget Task and Finish Group are:

- (1) To review the Budget Strategy and its implications for the broader community of the New Forest; and
- (2) To report the outcome of this review to the Corporate Overview and Scrutiny Panel to assist in responding to the budget proposals for 2018 and beyond.

Membership of Group

Cllr G R Blunden
Cllr Kate Crisell
Cllr Mrs A E McEvoy
Cllr A D O'Sullivan
Cllr A Penson
Cllr Miss A Sevier
Cllr M Steele (Chairman)
Cllr M White

The Work of the Group

- 2.1 At their first meeting it was agreed that the task should again involve a review of performance, as well as meetings with Portfolio Holders. The overriding theme was one of scrutiny and assurance on behalf of all members of the Council and the public they serve.
- 2.2 To assist members of the task and finish group, resource plans for each Portfolio were developed with Portfolio Holders and service managers. The Group found these very useful, and reviewed these in detail before meeting with each Cabinet Member. This provided a thorough review of the challenges on key issues for the Portfolio. As part of their research, group members asked service managers a wide range of detailed questions.

2.3 Previous year's Recommendations

The Group was pleased that considerable progress had been made on several of the recommendations from last year, and noted that updates had been reported through the relevant overview and scrutiny panels.

3. FINDINGS OF THE TASK & FINISH GROUP

Generic and tailored questions were asked to each Portfolio Holder. The generic questions were as follows:

1. The Council has a funding shortfall over the Medium Term that it needs to address. What opportunities within your Portfolio exist that are not currently allowed for in the medium term financial planning, which could make a valuable contribution to closing this budget deficit?
2. Continuation of partnering and collaboration with others to reduce costs and transform service delivery is a key action in the medium term financial plan. What opportunities have been pursued within your portfolio, how successful have they been in terms of cost reduction and what are your future plans for further partnering and collaboration, and service delivery transformation?
3. Can you confirm your portfolio is adhering to the Council Policy of maximising income through fees and charges, and what new and additional income generation opportunities are you exploring?
4. The MTFP has allowed for a significant element of the 2017/18 underspend to be adjusted in the make-up of the 2019/20 budget. To what extent is your Portfolio contributing to this budget adjustment?
5. How are you ensuring value for money is delivered within the spending decisions made within your Portfolio?
6. How do you ensure you maintain quality of services to residents within current financial constraints?

A selection of issues discussed from each portfolio is highlighted below.

3.1 Planning and Infrastructure Portfolio

- 3.1.1 The Group noted that the modest increases in parking clock and meter prices had raised £450,000 without any detrimental impact and the Task and Finish Group suggested future increases be considered through modest regular increases, rather than occasional step increases.
- 3.1.2 Also on parking, it was suggested that the Council investigate the use of automatic number plate recognition for car parking/enforcement, as experience at other authorities had shown this had increased parking income.
- 3.1.3 On the Community Infrastructure Levy funding for projects, the Group would welcome reports, perhaps to Cabinet, on the use of the funds.

- 3.1.4 Members were mindful of the significant costs of planning appeals if appeal decisions went against the Council, and emphasised the need for ongoing training for Planning Committee members.
- 3.1.5 The Group were pleased to see that the IDOX software was being replaced and the opportunity would be taken to improve the related parts of the website.
- 3.1.6 The Group were pleased to see that consideration was being given to streamlining the planning applications process once the new Chief Planning Officer was in post.

3.2 Environment and Regulatory Services Portfolio

- 3.2.1 The Group noted that 18% of households used the garden collection service and felt that additional income could be generated if the number of households utilising the service could be increased.
- 3.2.2 The Group await the introduction of the new National Waste Management Strategy with interest and note this could have significant financial implications to the Council.
- 3.2.3 The Group was pleased to see good examples of collaborative working through Project Integra and the trees service contract.
- 3.2.4 On coastal/flood protection funding, it was noted the costs of these works may fall on the Council if grants could not be obtained from organisations such as the Environment Agency. It was suggested that regular reports be made to the Environment Overview & Scrutiny Panel.
- 3.2.5 The Group noted that the portfolio was working very hard on achieving budget reductions but felt that greater focus was needed on income generation as the scope for cost reductions narrowed.
- 3.2.6 The Group was interested to hear of the fully costed action plan for air quality and the financial implications attaching to this.

3.3 Community Affairs Portfolio

- 3.3.1 The Group noted that the budget for the portfolio was £1.54m, 25% of which was offset by income generation, although it was emphasised that a large part of the portfolio involved statutory functions. The Group would encourage the Portfolio Holder to look for further efficiencies in connection with the introduction of new technology and the website upgrade.
- 3.3.2 The Task and Finish Group recognised the importance of the CCTV function and the role of community safety in the local area and was pleased to note the related CCTV savings through joint working.
- 3.3.3 The Group were pleased to note that the fees for community alarm provision were monitored and were consistent with market rates though income could be improved by increased usage, perhaps for different markets e.g. for lone workers and suggest that this be investigated.

- 3.3.4 The Group were appreciative of the centralised grants approach and the benefits that this was starting to bring.

3.4 Local Economic Development, Property and Innovation Portfolio

- 3.4.1 The Group were mindful that approximately £1m of income was expected to be generated from property investment, but shared the Portfolio Holder's concerns that additional expertise (perhaps using external agencies) may be required in order to achieve the expected income. The Group would also be in favour of a modest expansion of the border area for investment so long as there was still local economic benefit applicable to the New Forest.
- 3.4.2 The Group were supportive of the partnership with Creative England to encourage film making in the New Forest, which had been successful in bringing in approximately £2m into the local area. The Group were also supportive of closer work with the New Forest Business Partnership.
- 3.4.3 The Group felt there would be merit in creating a centralised accommodation strategy within this Portfolio, which, whilst allowing each service to manage operational land or buildings, the future use and income potential could be brought together to allow a strategic view of the Council's property holdings.
- 3.4.4 The Group were pleased to note the financial advantages that will accrue as a result of the new tenants imminently moving into the Lymington Town Hall, but were also minded that work should commence in the near future on the medium to long term strategic vision for this site.
- 3.4.4 The Group felt that the Council could be more active on seeking LEP grant funding and were keen that the Council be aware of opportunities as they arise.
- 3.4.5 The Group strongly supports the Portfolio Holder's approach to pursuing broadband provision within the District.

3.5 Finance, Corporate Services and Improvement Portfolio

- 3.5.1 The Group were mindful of the imminent move of the Revenue and Benefits Team from Lymington Town Hall to Appletree Court and the related benefits under smarter working, which was supported.
- 3.5.2 The Group were interested to note the replacement of Payroll and HR software with a new generic package which could better facilitate future joint working across authorities.
- 3.5.3 It was noted that the Council had participated in the Hampshire-wide Business Rates pilot bid, though it would not be known whether they were successful until mid-December.
- 3.5.4 The Group requested an update on the Protect and Maintain Fund (£1.5m) for ICT, and would be interested to understand the implications of the new ICT Strategy. They suggest that a report be produced and ultimately presented through to Cabinet in the near future.

3.6 Leader and Corporate Affairs Portfolio

- 3.6.1 The Group agrees with the Leader's view on the need for a new impetus in identifying potential collaborative/partnership working. It notes that a report was due to be presented to the Corporate Overview & Scrutiny Panel on past, present and future partnership initiatives.
- 3.6.2 The Group wished to commend the Leader for overseeing significant Council cost reductions without detriment to services (and in many cases resulting in service improvements). They agreed with the Leader that services should be provided at a reasonable cost to the public, and were pleased to note that customer surveys had shown good customer satisfaction levels.
- 3.6.3 The Group very much support the need for improved engagement and collaboration with town and parish councils. This could work in conjunction with the forthcoming refresh that NFALC is undertaking.
- 3.6.4 Sickness absence continued to be a concern for the Group and further information on this was requested. It was noted that sickness for the previous 12 months as at end of September 2018 had reduced by 1.36 days per FTE to 10.33 days, but this still remained a high figure.

3.7 Housing Services Portfolio

- 3.7.1 The Group understood that the portfolio was going through a considerable amount of change and congratulated the Portfolio Holder on the work done and still being done. They were pleased to receive an update on the partnering and collaboration arrangements with Winchester City Council and with the Homelessness Multi-agency Forum.
- 3.7.2 They support the intention to broaden the range of housing tenures to incorporate differing forms of affordable housing to include affordable rents and shared ownership in addition to traditional social rents.
- 3.7.3 The Group noted the potential for financial implications with regards to the collection of rents due to the roll out of Universal Credit and the need for the Council to be vigilant about the impacts of this.
- 3.7.4 The Group was pleased to learn of the emerging Housing Strategy and Allocation Policy and understood the related resources required to achieve their aims. It was felt both were a positive step toward achieving a reduced housing waiting list.
- 3.7.5 The Group noted the uncertainty surrounding the homelessness grant funding and supported any actions to reduce the Council's reliance on B&B accommodation.

3.8 Leisure and Wellbeing Portfolio

- 3.8.1 The Group were pleased to receive an update on the operational review and noted the forecast significant cost savings which would be delivered at minimal detrimental effect to the service provided to the public. The leisure service had benefited from good investment in recent years and once the savings from the operational review were realised, the required subsidy towards this service would be the lowest it had ever been.

The Group also support the work being undertaken by the Leisure Task & Finish Group in respect of future leisure service management.

- 3.8.2 The Group noted the transfer of calls from the Contact Centre to the Leisure Services Team and the related savings this will generate.
- 3.8.3 In respect of Dibden Golf Course, the Group were aware of the recent change in arrangements to bring about an improved partnering relationship with the third party operator.
- 3.8.4 The Group were aware of the revenue contribution made by the Council towards the Eling Experience coupled with a possible shortfall in projected incomes, and would like a review and re-evaluation of the current arrangements.
- 3.8.5 In respect of the Sports and Community Development Service, the Group suggested that additional partnership opportunities be identified for running various events, reducing the cost to the Council.

4. CONCLUSIONS / GROUP COMMENTS

- 4.1 Overall the Group was impressed with the depth and breadth of knowledge of the Portfolio Holders and were grateful to them for their support and engagement in this process. It was also pleasing to note a common theme expressed by the Portfolio Holders of positive relationships with Officers across the Council. The group is pleased with the savings, efficiencies and progress achieved by all portfolios over the year, all at little or no detrimental effect to the front line service delivery to the residents of the New Forest.
- 4.2 In general, the Group would wish to emphasise the importance of the website upgrade and the many efficiencies across several services which depend upon the success of this project. The Group is pleased to note that the Customer Services Task and Finish Group is pursuing the matter.
- 4.3 The Group also wished to request a report to Corporate Overview & Scrutiny Panel on central costs/overheads breakdown and how this is achieved. The Group was sympathetic with the need for additional expertise necessary for property investment and hoped that this is addressed shortly, given the potential benefits involved.
- 4.4 The Group feels that there is a need for a new impetus to drive forward partnership/collaborative working with neighbouring councils and partner organisations.
- 4.5 The Group is also aware of inflationary increases in costs, for example in energy and wages which will counteract some of the efficiencies planned for the future.
- 4.6 The Group suggests a centralised assets control mechanism to give a strategic view of all the Council's land and property holdings to enable long term planning and income generation in this regard.

5. RECOMMENDATIONS

5.1 That the Corporate Overview and Scrutiny Panel be given updates at their 27 June 2019 meeting on progress with the following recommendations:

- I. That the Council consider automatic number plate recognition technology and consider modest regular increases in parking fees, rather than occasional step increases.
- II. That an annual report be sent to Cabinet on the use of Community Infrastructure Levy.
- III. That efforts be made to increase the number of households using the garden collection service in view of the significant potential income generation that could result.
- IV. That the Community Affairs Portfolio Holder investigate ways and means to improve income and reduce costs within Community Alarms, CCTV and Customer Services.
- V. That consideration be given to additional support for property investment, including the option to use external expertise.
- VI. That the Council consider a modest expansion of the geographical area taken into account when looking at property investment, so long as there was still a local economic benefit applicable to the New Forest.
- VII. That consideration be given to creating a centralised accommodation strategy within the Local Economy, Property & Innovation Portfolio, which, whilst allowing each service to manage operational land or buildings, the future use and income potential could be brought together to allow a strategic view of the Council's property holdings.
- VIII. That the Portfolio Holder for Local Economic Development, Property & Innovation keep a watching brief on LEPS grant funding and explore opportunities wherever possible.
- IX. That a report be submitted confirming progress the ICT Protect and Maintain fund as well as the implications of the new ICT Strategy going forward.
- X. That a more pro-active approach be given to partnering/collaboration with other organisations.
- XI. That a re-evaluation of the current arrangements in terms of the District Council's contribution towards the Eling Experience be undertaken.

Further Information:

Budget Task and Finish Group

Enquiries:

Alan Bethune
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Background Papers:

Budget Task and Finish Group working papers and resource plans. Published documents

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CORPORATE OVERVIEW AND SCRUTINY PANEL – 22 NOVEMBER 2018 CABINET – 5 DECEMBER 2018

ICT INVESTMENT UPDATE

1. PURPOSE

- 1.1. The purpose of this report is to detail ICT investment since April 2017 and provide the medium term financial plan implications for delivering the ICT Strategy 2018-22.

2. BACKGROUND

- 2.1 Council agreed in February 2017 to a £1.5 million ICT Protect and Maintain budget over the following 3 years, with the majority of costs falling within 2018/19.
- 2.2 This fund was to supplement our ongoing replacement of our frontline and desktop equipment, which equated to £715k over 4 years, which has since been accelerated to enable Smarter Working to be implemented in 2019.
- 2.3 Cabinet agreed a further investment of £750k as part of the Smarter working programme to cover the replacement of Exchange 2010 with Office 365 (phase 1), the replacement of the Avaya telephone system with Skype for Business (phase 2), and the replacement of Meridio EDRMS with SharePoint (phase 3) between 2018 and 2020.

3. PROTECT AND MAINTAIN ICT BUDGET

- 3.1 The key strands of investment have been as follows:
 - 3.1.1 Replacement of the aged and 'out of support' ICT infrastructure (covering circa 650 individual items including servers, storage, networks, remote working software, security management software, new data centre provision in a 'private cloud', virtualisation software, and all necessary licensing).
 - 3.1.2 Replacement of the 'out of support' Agresso Finance Application with an up to date and industry standard Business World Application.
 - 3.1.3 Replacement of the 'out of support' Agresso HR/Payroll Application with an up to date and industry standard MHR Application.
 - 3.1.4 Implementation of site-wide Wifi at ATC and MLD, enabling staff and members to work from any part of the building without the need for network cables.
 - 3.1.5 Upgrade of ATC conference rooms with modern large monitors connected via Wifi to any personal device.
- 3.2 All of these projects will be completed by September 2019.
- 3.3 Completion of the above strands will combine to a total estimated cost of £1.6m. The additional £100k required will fall into the 2019/20 financial year, and so is being sought for approval as part of this report.

- 3.4 Additional running costs - Suppliers are moving away from perpetual licenses more towards subscription based. There is no intention to increase revenue budgets, but instead mitigate these through cost efficiencies.

4. REPLACEMENT OF OUR EQUIPMENT

- 4.1 In 2017, we determined that moving all staff to mobile devices would offer the council the most flexibility for the future. This approach was supported by the decision of EMT and Cabinet to implement Smarter Working at NFDC. As a result the migration of all staff from desktop equipment to hybrids (light-weight laptops with touch screens) was accelerated and aligned with the rollout of Smarter Working. This programme will complete by end May 2019.
- 4.2 The accelerated roll out requires the bringing forward of future years' replacement budgets into 2018/19 and 2019/20. This will total £300k, and was reported and agreed within the recent Smarter Working 'Case for Change' report.

5. SMARTER WORKING

- 5.1 The aim of Smarter Working is to enable our staff to work from the most convenient, effective and efficient location to deliver the right service to our residents and customers. In practical terms, the appropriate technologies for the future are 'hybrids' combining the best features of laptops with the touch-screen ease of use of tablets, rather than desktop computers. These are then combined with new ICT infrastructure, together with a new communications network, new ways of remotely connecting into it, and new in-office Wi-Fi.
- 5.2 At the heart of Smarter Working is Microsoft's Office 365 and its various components. NFDC will, over time, implement the full capabilities of Office 365 to revolutionise the way officers collaborate and communicate from anywhere at any time. The project will be divided into three phases to be implemented between April 2019 and September 2020:
- (i) Phase 1 - the replacement of Exchange 2010, our current on-premise email/calendar system, with Office 365 core functionality;
 - (ii) Phase 2 - the replacement of the Avaya telephone system, supplied by HCC but being decommissioned by them in August 2019, with Skype for Business; and,
 - (iii) Phase 3 - the replacement of Meridio EDRMS, our 'out of support' document management system, with SharePoint to provide an integrated document sharing, management and storage solution.
- 5.3 With the right technology choices, staff can work more effectively in the office and away from it, using internet, broadband and wireless communications to work at the most effective times and locations. The focus is on empowering employees wherever they work with productivity tools, collaboration tools and access to systems and data.
- 5.4 Cabinet approved use of £750k from the Smarter Working fund, to be spent on delivering the outcomes as expressed in 5.1 and 5.2. The anticipated phasing of this funding will be; £225k in 2018/19, £375k in 2019/20 and £150k in 2020/21.

6. FUTURE REQUIREMENTS

6.1 Cabinet agreed the ICT Strategy 2018-2022 in July 2018, which details the requirements for the next 4 years. It is proposed that we put in place a further 4 year transformation funding plan for ICT. The plan will cover the following aspects.

6.1.1 **Resilience and Security.** This will deal with ongoing infrastructure protect and maintain needs as follows. The Council must sustain its focus on ensuring that software and hardware is refreshed and maintained in line with current versions to avoid security vulnerabilities and the need in the large future replacement programmes. The guiding principle for future ICT sustenance should be 'little and often' rather than 'rarely but major'. For example, Microsoft are withdrawing their Server 2008 operating system at the end of 2019 and the Council need to move to Server 2016 once our new Infrastructure is in place. This involves upgrading all servers and then upgrading all applications that reside on those servers. It is estimated this will cost in the region of £100k during 2019/20. It is anticipated that similar small upgrades and some hardware replacements, will be required each year in the future and annual budget provision of circa £100k should be made for such work. This will be used to upgrade either hardware, software or applications as necessary.

6.1.2 **Members' ICT.** To support members in the better use of available ICT, an expert will be resourced. This is anticipated to cost around £40k per annum. This resource will be part of Democratic Services and will provide ongoing support and training for Members in liaison with ICT.

6.1.3 **Digital residents and Customer engagement.** We have seen many changes in how customers want to interact with the Council, and the increased use of online tools, whether that is using a website, app or webchat. Our current website is no longer being developed by its product vendor, Goss, and requires replacement. There will also be opportunities for internal efficiency gains, cost savings, and income generation opportunities if we create the right digital platform. It is proposed that we commence with the replacement of the website during 2019, with key essential transactions being undertaken as part of Phase 1. Then Phase 2 in 2020 will focus on creating the more complex customer interactions where the business case to do so stacks up. One-off funding requirements are estimated at £50k in 2018/19, £250k in 2019/20 and £100k in 2020/21.

6.1.4 **Replacement of other applications moving out of support.** As we have seen with Meridio and Agresso, there is a continual cycle of applications being upgraded, replaced, withdrawn or simply changed by vendors. In addition there is the need to market test and potentially replace applications which the council has run for many years, to ensure we are still getting best value and functionality. We have a number of applications which must either be replaced entirely (e.g. Acolaid, CRM) or that need to be fully market tested (e.g. Northgate, Gladstone) in the next 2 years. This will be a constant feature in the future, especially as Government procurement portals like G-Cloud are encouraging central and local government authorities to enter into increasingly short contract lock-ins with vendors (e.g. 2+1+1 year contract durations rather than 5 to 10 years). For these reasons, this is not a discretionary item. Based on an assessment of individual business cases it is proposed to make an annual transformation fund of £250k available for each of 2019/20, 2020/21 and 2021/22.

6.1.5 **Next generation ICT solutions.** This will bring the Council up to date with the growth of automation, internet of things (IOT), artificial intelligence (AI), and robotics. Business cases will need to be made by Services for implementation of new technologies that can radically change the way services are delivered. These could range from, for example, 'chat-bots' which automate real time customer interactions using artificial intelligence, through to smart IOT devices out in the community linked to the internet to monitor car park utilisation or public conveniences. As and when opportunities arise, individual business cases will be drawn up and the relevant funding requests made through the appropriate route. This may include working in partnership with other organisations.

7. CRIME AND DISORDER, EQUALITY & DIVERSITY AND ENVIRONMENTAL IMPLICATIONS

7.1 None directly, although Smart Working has the potential to reduce the carbon footprint for staff travelling less miles by car.

8. FINANCIAL IMPLICATIONS

8.1 The Protect and Maintain fund, requiring a supplementary budget approval of £100k (on the original £1.5m) in 2019/20 has enabled the Council to invest in the right ICT foundations. We now need to build on these foundations. This will ensure the Council has up to date ICT solutions to deliver services into the future in the most efficient and effective way.

8.2 Previous reports have provided the required approvals for the release of funds to progress with the accelerated Hybrid device replacement and use of the Smarter Working fund. This report now confirms the expected profiling of this spend, and will necessitate some rephasing of budgets. These will be quantified in the next Financial Monitoring Report.

8.3 This report is seeking approval for the following future requirements, noting that these future requirements will then form part of the updated Medium Term Financial Plan and Budget 2019/20, when reported to Cabinet and Council during February 2019.

Para	Description	2018/19 £'000	2019/20 £'000	2020/21 £'000	2021/22 £'000	TOTAL £'000
6.1.1	Resilience & Security		100	100	100	300
6.1.2	Members ICT Support		40	40	40	120
6.1.3	Digital residents and Customer engagement *	50	250	100		400
6.1.4	Other Applications *		250	250	250	750
		50	640	490	390	1,570

* Business cases for these items will be agreed by EMT, along with any other business case driven ICT initiatives that may emerge.

9. CONCLUSION

- 9.1 The Council is taking some very big strides to transform its ICT, moving from an ICT environment more reminiscent of the late 1990s to an up to date one that is delivering improvements today. In doing so, the Council has also positioned itself for tomorrow and beyond.
- 9.2 The investments made in Protect and Maintain, Smart Working and Replacement Devices are yielding real benefits across the council. For example, Hybrid devices and Wifi have transformed mobility around ATC and the new screens, installed in all meeting rooms and the council chamber, are making presentations much easier and meetings more efficient and effective.
- 9.3 The Council has grown its technical and project management capabilities, in order to deliver a complex programme of projects. High quality partnerships have been forged with new ICT suppliers to make sure projects deliver what they promise.
- 9.4 When the current projects complete during 2019, the Council will be very well positioned to move ahead and benefit from the exciting technology opportunities and the next generation of ICT solutions described in section 6. For this reason investment in ICT continues to be essential for the Council as described in the ICT Strategy 2018-2022 and in this report.

10. RECOMMENDATION

- 10.1 Panel to support;
- a) the additional budget requirement of £100k in order to complete the delivery of the Protect and Maintain Frontline Services programme.
 - b) the ICT strategy future requirements detailed in section 8, subject to individual Business cases.

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EMT – 6 NOVEMBER 2018

CORPORATE OVERVIEW SCRUTINY PANEL – 22 NOVEMBER 2018

ASSET MAINTENANCE & REPLACEMENT PROGRAMME AND GENERAL FUND CAPITAL PROGRAMME 2019/20

1. Purpose of the report

- 1.1 This report provides the panel with the proposed revenue and reserve funded Asset Maintenance & Replacement programme (AMR) and Capital programme for 2019/20 and outline budgets to 2021/22.

2. Background

- 2.1 The Council's General Fund revenue budget includes a large budgeted sum for the maintenance and cyclical replacement of Council owned assets. The AMR revenue budget for 2018/19 totalled £2.351m, with a further £704k of projects funded by reserves.
- 2.2 The November 2018 Medium Term Financial Plan included a revenue budget allowance of £1.7m for 2019/20. This includes a reduction in light of the MTFP funding position, and includes a movement from this revenue programme into the capital programme, regarding the major refurbishment programme of the Council's Public Conveniences. There are currently no further planned reductions to the programme over the period covered by the current Medium Term Financial Plan.
- 2.3 Service Managers were asked to come up with their proposed projects for 2019/20 with a strong brief that the programme had to be within the financial parameters set and realistic in terms of timeframes and deliverability. EMT reviewed the programme and the programme now being proposed fits in with the resources available.

3. Proposed Asset Maintenance and Replacement Programme 2019/20

- 3.1 The bid categories for the submitted programme for 2019/20 were;
 - 1 – Protect & Maintain Front Line Service Delivery
 - 2 – Efficiency / Savings / Income Generation
 - 3 – Improve / Enhance Value of Asset
- 3.2 The summary programme covering 2018/19 – 2021/22 is included as **Appendix 1**. The budget is monitored at this overall summary level to allow for sufficient flexibility should more urgent projects come to light during the financial year.
- 3.3 The 2019/20 proposed programme at project level is included as **Appendix 2**.

3.4 **Reserve Funded Programme**

The ICT Investment Report on this same agenda covers progress as against the 3 year Protect and Maintain Frontline Services fund, and also proposals for delivering the ICT strategy covering 2018-2022. The Service Manager for Business and Community is involved in the Customer Engagement strand which is focussing mainly on the electronic means of communication the Council's customers expect, but where our current offer falls short.

The Community Grants Panel have been given a maximum budget of £100,000 for one-off construction grant applications for 2019/20. The Panel are well aware this is a financial ceiling, and not a target.

All of the above will require financial investment, funded by reserves, over the period covered by this programme and will be included on the appropriate Medium Term Financial Planning Reports through Cabinet.

4. **Capital Programme 2019/20**

- 4.1 The capital programme consists of projects funded by NFDC resources (capital reserve and receipts received), various grants / funds and Developer Contributions / CIL.
- 4.2 The proposed programme for 2019/20 totalling £9.614m for the General fund including the outline financing is included as **Appendix 3**. The project proposals for a 3 year period have been included for overall context, although only the projects in 2019/20 are gaining approval to proceed at this stage.
- 4.3 The sums allowed for under the projects headed 'Smarter Working' and 'New Depot Site' have both been previously approved by Council, subject to spending beyond design and feasibility being further ratified by the Cabinet. To date, Cabinet have approved utilisation of £1.25m from the Smarter Working budget. Work is still on-going with the design of the New Depot Facility.
- 4.4 Members will note that the replacement of Vehicles & Plant (V&P) occurs on both the revenue AMR programme and the Capital Programme. The Council's policy is to capitalise individual items with a value greater than £10k and then depreciate these over their estimated useful life. The capital programme therefore includes the cash amount required to purchase the V&P, and the revenue programme includes the depreciation charge. The depreciation charge to revenue then makes a direct contribution towards the capital cost through a charge known as the Minimum Revenue Provision (MRP).
- 4.5 The Public Convenience task & finish group determine which Public Convenience is deemed as suitable for renovation in 2019/20. At the appropriate time, the project cost will be estimated and the budget included within the Capital programme.

5. **Crime & Disorder / Equality & Diversity / Environmental Implications**

- 5.1 There are no implications as a direct result of this report.

6. Conclusion

- 6.1 The AMR programme represents a significant element of the Councils annual net expenditure. The programme for 2019/20 totals £1.697m, in line with the sum as allowed for in the latest Medium Term Financial Plan.
- 6.2 The Council needs to continue with its investment in ICT and the financial implications to deliver the strategy 2018-22 will be included on the appropriate Medium Term Financial Planning Reports through Cabinet.
- 6.3 The General fund Capital programme is funded in several ways, and the net NFDC funding requirement for 2019/20 after Vehicle & Plant MRP is £3.850m.

7. Recommendations

- 7.1 That the members of COSP;
 - a) note the contents of this report and appendices and recommend the schedule of projects as included at Appendix 2 and 3 be agreed so that initial preparatory works can commence.

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Background Papers

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ASSET MAINTENANCE & REPLACEMENT PROGRAMME

	£'000's	£'000's	£'000's	£'000's
	2018/19	2019/20	2020/21	2021/22
Asset Maintenance				
Health & Leisure Centres	491	360		
Dibden Golf Centre		30		
Eling Experience		25		
Offices, Depots & Outlying Buildings	240	105		
Public Convenience Refurbishment Programme	300			
Other Property Including Open Space				
	1,031	520	-	-
Asset Replacement				
ICT Replacement Programme	250	200		
Health & Leisure Equipment Replacement	49			
	299	200	-	-
V&P; Deferred Expenditure (Depreciation / MRP)	1,156	1,192		
Non-Core Project Fund	201	-		
Rephased Budget from previous year	- 200			
Less: Proportion allocated to HRA	- 136	- 215		
Third Party Contribution				
Total Revenue Programme	2,351	1,697	-	-
Budget Available	2,351	1,700	1,700	1,700
Business Development and Third Party Grants				
ICT Maintain & Protect	750	350		
ICT Strategy (including 'Customer') 2018-2022		600	450	350
Community Grants - 'One-off Construction'	81	100	100	100
Less: Proportion allocated to HRA	- 127	- 161	- 76	- 59
Total Reserve Funded Programme	704	889	474	391

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Asset Maintenance & Replacement Programme - Summary Project bid list (>£10k)

Category Key (can be more than just one);
 1 = Protect & Maintain front-line Service Delivery
 2 = Improve / Enhance Condition / Value of Asset
 3 = Efficiency / Savings / Income Generation

APPENDIX 2

Service Area	Category Key (1 - 3)	Location	Project Name	AMR Prog. Value 19/20 £	AMR Prog. Value 20/21 £	Revenue 2019/20 £	Revenue 2020/21 £	Revenue 2021/22 £	Revenue 2022/23 £
Leisure (H&L centres)	1, 2	Totton, Ringwood & Applemore	Replacement of sports hall floors	100,000					
Leisure (H&L centres)	1, 2	All H&L Centres	Replacement of grouting in changing room areas	15,000					
Leisure (H&L centres)	1, 2	New Milton H&L Centre & Totton H&L Centre	Refurbishment of sand filters	40,000					
Leisure (H&L centres)	1, 2	Totton H&L Centre	Replacement of electrical/mechanical control panel	40,000					
Leisure (H&L centres)	1, 2	All H&L Centres	Equipment Replacement	30,000					
Leisure (H&L centres)	1, 3	All H&L Centres	LED lighting replacement	20,000					
Leisure (H&L centres)	2	Ringwood H&L Centre	Refurbishment of exterior steel columns	100,000					
Leisure (H&L centres)	2	All H&L Centres	Maintenance of the centres Building Management Systems	15,000					
			TOTAL HEALTH & LEISURE	360,000	0	0	0	0	0
Open Spaces	1,2	Dibden Golf Centre	Landlord Maintenance Responsibilities	30,000					
			TOTAL OPEN SPACES (DIBDEN GOLF CENTRE)	30,000	0				
Eling Experience	2	Eling Toll Bridge	Maintenance Responsibilities	25,000					
			TOTAL ELING EXPERIENCE	25,000	0				
Building Services & Costal	2	ATC	Refurbishment of Internal and External Fabric	70,000					
Building Services & Costal	2	ATC	DDA Assessment and works	35,000					
			TOTAL OFFICES AND DEPOTS	105,000	0				
ICT	1,2,3	Various	Hybrid Devices *	150,000	150,000				
ICT	1,2,3	Various	Replacement Devices	50,000					
			TOTAL ICT	200,000	150,000				
V&P Capital	1	Various	Vehicle & Plant Replacements	1,173,000					
V&P Capital	1	Various	Vehicle and Plant Additions	19,000					
			TOTAL VEHICLES AND PLANT	1,192,000	0				
Grand Total				1,912,000	150,000	0	0	0	0

* will be rephasing required from 2019/20 and 2020/21 to accommodate accelerated replacement programme

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CAPITAL PROJECTS REQUIREMENTS WITH FINANCING

Portfolio	PROJECT REQUIREMENTS £			2017/18 PROJECT FINANCING £			
	2019/20	2020/21	2021/22	Capital Resources/Loan	Better Care Fund	Grant	DC / CIL
Private Sector Renewal / Home Repairs	ENV	100,000	100,000	100,000			
Disabled Facilities Grants	ENV	910,000	1,030,000		910,000		
Strategic Regional Coastal Monitoring	ENV	1,589,000	1,495,000			1,589,000	
Barton Drainage Test	ENV	125,000	50,000			125,000	
Public Convenience Modernisation Programme	ENV	350,000	300,000	350,000			
New Depot Site	F,CS&I	2,000,000		2,000,000			
V&P; Replacement Programme	F,CS&I	1,586,350	2,415,300	1,586,350			
Smarter Working	F,CS&I	1,500,000	1,250,000	1,500,000			
Open Space Schemes	P&I	506,000	500,000				506,000
Transport Schemes	P&I	264,000	175,000				264,000
Mitigation Schemes	P&I	684,000	500,000				684,000
TOTAL GENERAL FUND CAPITAL PROGRAMME		9,614,350	7,815,300	5,536,350	910,000	1,714,000	1,454,000
							9,614,350
LOAN FINANCED (INTERNAL BORROWING)				-1,586,350			
CAPITAL RECEIPTS				-100,000			
RESIDUAL NFDC RESOURCES				3,850,000			

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**CORPORATE OVERVIEW AND SCRUTINY PANEL – 22 NOVEMBER 2018
WORK PROGRAMME 2018/19**

ITEM	TIMING	LEAD OFFICER
Accommodation Strategy	24 January 2018	TBC

TASK AND FINISH GROUPS

ITEM	OBJECTIVE	METHOD	TIMING	LEAD OFFICER
Income Generation Task and Finish Group	To identify various business opportunities to generate income	Task and Finish Group		

NOT YET TIMETABLED

ITEM	OBJECTIVE	METHOD	TIMING	LEAD OFFICER
Employee Owned Services (John Lewis Model)	Terms of Reference to be agreed	Task and Finish Group	Initiate at June 2019 panel	
“Regions” Continue engagement/ collaboration with HCC/LEPS or any other external public agency, including reference to the Hampshire-wide devolution proposal	To effectively facilitate good relationships with these agencies in order to produce beneficial outcomes in the District	Report documenting progress with LEPs and business portal HCC element via Leader updates	TBC	TBC

NOT YET TIMETABLED (Continued)

ITEM	OBJECTIVE	METHOD	TIMING	LEAD OFFICER
Universal Credit update	To be aware of issues arising	Regular update from Finance & Efficiency Portfolio Holder	At appropriate times	TBC
Longer Term Partnership Working with Neighbouring Authorities		Report exploring possibilities for longer term partnership working with neighbouring authorities (To include options already explored)		
Portfolio Holders' Updates (Standing Item) Updates from Task and Finish Groups				