

## **Catered Limited – Appointment of Shareholder Representative and Replacement Directors**

### **1.1 Client Representative**

Alison Botham, Director of Children’s Services, has overall responsibility as “retained client” on behalf the Council in managing the contractual relationship with Catered Limited (“Catered”). The Services Agreement sets out the payment to be made to Catered in consideration for the services; and also includes performance measurements and is the mechanism which governs the contractual relationship.

### **1.2 Shareholder**

Plymouth City Council is one of the two corporate shareholders in Catered Limited. The other corporate shareholder is Plymouth Schools Shareholders Company Limited which represents the schools’ interest in the company.

In terms of decision-making relating to the establishment of council controlled companies, all executive functions are vested in the Leader who can then delegate functions as seen fit. The Leader has decided that some decisions can only be made by Cabinet, and this includes a decision to appoint a member or an employee of the Council as a director of another company whose work relates to the council’s executive functions.

The executive decision taken on 18 March 2015 (L30 14/15) did not specifically deal with the issue of whether the former Shareholder Appointed Directors, can act as the shareholder representative in general meetings.

The rights and duties as a member of the Company will almost always be exercised as an executive responsibility. This means that decisions to be taken as a member of the Company (as shareholder) rest with the Leader. In the normal way, therefore, these functions may be delegated by the Leader to the Cabinet, Member or an officer.

## **2. Shareholder Representative**

The Shareholder being Plymouth City Council requires a representative to vote in general meetings. Ordinarily, this would be the Leader, but from a practical point this position may be better served by an officer.

Although there is no legal impediment preventing one of the Shareholder Appointed Directors to also act as the shareholder representative it is felt that any proposal for the Shareholder Appointed Director to also act as the shareholder representative may potentially create a conflict situation if for example, the Shareholder Appointed Director votes at general meetings as shareholder representative which contradicts a proposal that s/he had agreed at the Board. There may also arise a point where, in matters of reporting, contractual discussion, investment requests or resourcing agreements, there is potential for the same person to be a decision maker or advisor both for the Council and the Company. As such, due to the likelihood of conflicts arising, it may not be appropriate for

the Shareholder Appointed Director to also act as the shareholder representative in general meetings.

### **3. Appointment of Replacement Director**

Following the retirement of Judith Harwood (former Service Director for Education, Partnership & Skills) and Andrew Hardingham (former Service Director for Finance), there is a need to appoint replacement directors to fill the vacant positions. The council may appoint two directors the Board according to the Catered's Articles of Association. As such, it is recommended that the officers named in the following section are appointed as directors of Catered.

### **4. Recommendations**

It is recommended that approval is sought from the Leader under an individual executive decision to:

1. Appoint Alison Botham, Director for Children's Services to act as Shareholder Representative to exercise all voting rights on behalf of the Council subject to Key Decisions (as defined by the Council's Constitution) being reserved to the Leader/ Cabinet and take any necessary action to protect, safeguard and effectively manage the Council's interest in Catered Limited including making decisions relating to the appointment and resignation of directors.
2. Appoint Tina Brinkworth Head of Skills and Holly Golden Head of Procurement as Directors of Catered.