
REPORT TO BOARD OF SEFTON NEW DIRECTIONS LTD ANY OTHER BUSINESS

9.1 Changing Contract Arrangements

9.1.1 Introduction

The Board of Sefton New Directions Limited (SND) instructed management to explore the requirements in relation to changing Auditors and in relation to sub-contracting.

Various consents and approvals have been identified as necessary for changes in these areas to take place. These consents relate to the Council as Parent Entity (for Changes to take place in the *Memorandum and Articles of Association* of the company and secondly the Council as the contracting authority under the *Service Agreement* also agreed in 2007.

This note deals with changes required.

9.1.2 Memorandum & Articles

Article 18 of the *Articles of Association* adopted on 29th March 2007 states that "The company shall not undertake any of the following matters [*listed under Article 18*] without the prior written approval of the Parent Entity" specifically this includes the above matters, which are governed as follows:

Article 18.9 "change its accounting reference date or its auditors;"

Article 18.14 "sub-contract any part of the services to be provided under the Service Agreement"

This means that the permission of the Council as Parent Entity is necessary if the Board wishes to change auditors or to sub-contract services. This will in turn require a formal resolution by the Board to seek those permissions and to make consequential changes to the Memorandum & Articles.

Change of Auditors

In 2009 the firm of Grant Thornton was appointed as the company's auditor for a three-year period, concluding with the 2011-12 Audit.

Following the submission of the Report and Accounts at its 14th June 2012 the Directors acknowledged the need to appoint auditors to meet future requirements. It was also acknowledged that in the interests of cost efficiency alternative providers should be considered.

In order to proceed to consider the appointment of alternative service providers it is considered necessary for SND to obtain the approval under Article 18.9.

REPORT TO BOARD OF SEFTON NEW DIRECTIONS LTD ANY OTHER BUSINESS

Contracting Arrangements

SND has sub-contracted community meals delivery to WRVS, a practice inherited in 2007 from the Council.

Recently, we have been seeking to transform service delivery in areas of care such as the Re-enablement service, which aims to support the rehabilitation of patients discharged from hospital or referred in other ways from the Council.

There are a number of issues affecting Re-enablement at this time. These include:

- The volume of service referrals, including those patients who may not always benefit fully from the service
- Employment issues surrounding the company including working practices and the recruitment of suitable carers

The impact of these factors on the company is that SND cannot meet all of the service requirements all of the time. This forces the Council as Commissioner to contract services with other providers at additional cost as well as creating additional work for officers of the company and the council in managing the process.

If SND were able to manage the process of service provision through some sub-contracting arrangements the company could deploy its re-enablement resources most effectively. Sub-contracting would be limited to those calls it could not itself fulfil. This would make better use of in-house resources, free up Council resources and reduce the impact on council expenditure.

In discussion with Council Commissioners, this is seen as a practical step by both parties towards the resolution of a particular problem.

However, in order to proceed towards a change in practice it is necessary for SND to obtain the approval of the Parent Entity under Article 18.14.

9.1.3 Service Agreement Consents

Clause 16 of the *Service Agreement* dated 30th March 2007 between Sefton Council and Sefton New Directions Limited deals with Assignment and Sub-contractors, including the matter of consent and associated conditions or requirements.

Clause 16.1 states that SND, as Service Provider, shall not be entitled, among other things, to sub-contract any of its obligations under the Service without **“the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed).”** Where consent is provided, Clause 16.2 sets out certain conditions relating to any sub-contract arrangements.

REPORT TO BOARD OF SEFTON NEW DIRECTIONS LTD

ANY OTHER BUSINESS

9.1.4 Conclusions

The conclusion reached is that permissions are required separately under both the Memorandum and Articles and the Service Agreement.

The company needs to appoint Auditors as the old contract has expired.

In consultation with the Service Commissioner it has been identified that there are at times circumstances where the interests of the Council as Commissioner and the Company in respect of efficiency and economy could be enhanced were the company able to sub-contract elements of service delivery to third parties.

We have no background information on the WRVS arrangement and the consents will regularise the pre-existing sub-contract arrangement on Community Meals.

9.1.5 The Proposal

It is proposed that The Board agree to a request be presented as follows:

(A.) To the Council as Parent Entity for appropriate consents under Article 18 of the Memorandum and Articles to:

1. Allow the change of auditors
2. Allow the Board to make decisions on sub-contracting of services subject to necessary consents under the Service Agreement with Sefton Council.

(B.) To authorise any consequential changes of the Articles of Association arising as a result of the consents being granted.

(C.) To the Council as Commissioning Authority for appropriate permission under Clause 16 of the Service Agreement to:

Allow subcontracting of services as required and subject to agreement in the area of Re-enablement and community meals.

Subject to the Board agreement, it is proposed that the Documents annexed at (Annex 9.1) are submitted to the Council and consents to them being published as part of the report to Council. A copy of the minutes of this Board meeting will also need to go to the Council as evidence the Board's decision.

Ends