

Corporate Overview and Scrutiny Committee

Date of Meeting: 30th March 2021

Report Title: Update from ASDV Shareholder Committee

Portfolio Holder: Councillor Craig Browne - Deputy Leader

Senior Officer: Frank Jordan - Executive Director - Place

1. Report Summary

- 1.1. The ASDV Shareholder Committee (the Committee) provides Shareholder oversight of Orbitas Bereavement Services Ltd, Transport Services Solutions Ltd and Ansa Environmental Services Ltd. It last reported to the Corporate Overview and Scrutiny Committee on 9th January 2020.
- 1.2. Since last reporting, the Committee has held 7 meetings. It has carried out its usual business cycle of meetings to scrutinise the ASDVs performance as a company, with a focus on their ability to deliver a financial return to the Council; and to review the ASDV's draft 2021/22 business plans. It held an additional meeting to provide timely comment on the Cabinet decision paper to proceed with the Alliance Phase 3 (a commercial alliance between Ansa and 2 other local authorities), which was a matter for shareholder.
- 1.3. Like most other areas of the Council, all three ASDVs suffered severe delivery disruption owing to Covid-19 and the Committee had high praise for how they responded during this time of severe pressure.
- 1.4. The purpose of this report is to outline the process of review and oversight that has been undertaken by the Committee.

2. Recommendations

2.1. That the Corporate Overview and Scrutiny Committee notes:

- 2.1.1. the processes in place to provide oversight of the ASDVs under the remit of the Shareholder Committee.
- 2.1.2. that observations and recommendations have been made to the Deputy Leader by the Shareholder Committee.

3. Reasons for Recommendations

- 3.1. The Shareholder Committee has made a robust appraisal of each of the three ASDV draft business plans under its remit, in addition to reviewing quarterly Directors Reports on the performance of the companies.
- 3.2. The Committee has been able to provide assurance to the Deputy Leader, as the shareholder's representative, that the business plans should be approved, subject to final management fee adjustments as necessary between a company and their commissioner.

4. Other Options Considered

- 4.1. This section is not applicable, as the functions carried out by the Committee, and the need to report on progress and recommendations, are set out in the Shareholder Committee Terms of Reference, and linked to the Constitution.

5. Background

- 5.1. The ASDV Shareholder Committee membership comprises Councillor Steve Carter as Chairman, Councillor Mark Goldsmith as Vice-Chairman, and Councillors Sally Handley, Lesley Smetham, and David Browne (who joined the Committee in September replacing Councillor Sarah Pochin).
- 5.2. Also joining the Committee in September, were two co-opted members of the Cheshire East public, Mr Kulnins and Mr Newton. These additional members were selected on the merit of their strong commercial acumen and experience in working with companies similar to our ASDVs, via a formal process conducted by a sub-group of the Committee.
- 5.3. The Committee is tasked with meeting quarterly each year. As per last year the Committee held detailed sessions with each company in November, so that it could robustly consider one company business plan at a time over a period of about 2 hours.

- 5.4. These six meetings were used to also review the quarterly Directors Reports, as had been recommended by the Committee last year, and through the dialogue created during this process, the Committee made further requests for information on the KPIs, risk logs, and growth plans.
- 5.5. In line with recommendations from the business plan review process last year, the company business plans had been better standardised in format this year, and they included comments/feedback from their Commissioner. Along with the enhanced familiarisation of the companies, the strengthened membership, and the additional information shared via the Directors Reports, the review process closely scrutinised the companies performances, as evidenced by this year's observations and recommendations to the Deputy Leader (summarised below in Section 6).
- 5.6. The Committee also fulfilled its responsibility to oversee the ASDV Change Programme, with updates being brought by the Executive Director – Place in January, September, November and February.
- 5.7. The Shareholder Committee is also scheduled to review and provide comment on 6th April to another stage of the ASDV Change Programme.
- 5.8. A final activity to report was the extra meeting of the Shareholder Committee held in February 2020, so that the Committee could provide timely comment to shareholder on the proposal to pursue a third phase of the joint venture through Ansa with High Peak Borough Council and Staffordshire Moorlands District Council called Alliance Environmental Services. The Committee supported this expansion.

6. Key Findings from the annual ASDV Business Plan Review

- 6.1. In accordance with its core duties the Shareholder Committee:-
 - 6.1.1. Recommends that the 2021/22 Business Plans for Orbitas, TSS and Ansa be approved.
 - 6.1.2. Provides assurance, following its detailed review and scrutiny, that the ASDVs are well run operationally and comply with relevant statutory and regulatory frameworks for their respective areas of operation, including compliance with public contracts regulations.
 - 6.1.3. Observes in reviewing the strategic commissioning arrangements, that:
 - The ASDV Change Programme and review process appears robust, and to be engaging appropriately with the companies;

- In relation to Orbitas, it is to be noted that a report is to be presented to cabinet in February to seek an extension to their contract whilst the review is being undertaken, which has been extended owing to the pandemic;
- In relation to TSS, the current contract runs up March 2022. A review is currently being undertaken with recommendations planned to be presented to Cabinet in May;
- In relation to the revised contract for Ansa, the KPIs need to be sufficiently stretching, noting that the majority of the KPIs in the current suite of measures are reported on as RAG green;
- The Council's proposed new performance management framework for Ansa has amongst its many improvements a clear target on commercial growth, and welcomes reassurances that commercial growth performance will also be captured within the other companies' revised performance frameworks;
- A slight misalignment exists between commissioner and company about who should drive the strategic visioning, recognising the role and vested interests of both parties;
- All three companies are still not investing significant time or resource in building up robust and detailed commercial plans, noting that lack of clarity on how to access Council reserves was offered as one reason why; and
- There appeared to have been improved engagement with the Council's commissioner on the development of the business plans, recognising the role the ASDV Change Programme and Review will have played in this strengthened relationship.

6.1.4. In providing assurance that the overarching performance arrangements for each ASDV are fit for purpose, it requires that:

- The companies' internal management of risk are tightened with:-
 - a standardisation of the risk registers used by the companies (with Ansa's being the most developed);

- a more accurate description of each risk (sometimes only issues were captured);
 - a clear articulation of a mitigating action ensuring that the risk scoring is reduced as a result of that action; and
 - equal attention to reducing the impact of a risk if it occurred, not just the likelihood of a risk materialising.
- The companies take note that the Shareholder Committee would like to further monitor their risk management process and ensure:-
 - The committee is fully sighted on all risks; and
 - That risks are categorised clearly by significance so that the key risks are readily identifiable.
 - Similar reporting to that required for risk is introduced for KPIs, in that Shareholder Committee are privy to the full suite of KPIs but that really significant ones are highlighted for attention.

6.1.5. Regarding the stimulation of commercial growth, the Committee welcomes:-

- The inclusion of KPIs on commercial growth within the revised performance frameworks being rolled out as a result of the ASDV Change Programme that will allow for a more rounded review of performance by the shareholder;
- The inclusion of a specific target for revenue growth for each company, which should ensure that adequate company effort is applied;
- Initial efforts by the companies, despite the unprecedented disruption to normal operations caused by COVID-19, to provide further focus on their commercial growth strategy and plans.
- Acceptance by the Managing Director that more work is needed to provide confidence to the Committee that growth prospects are being maximised, and agreement to consider the Committee's recommendations that, for each company:
 - Appropriate internal KPIs are set to demonstrate progress towards the commercial growth target, considering which will subsequently be useful in presenting a proposition to new business;

- That the achievability of growth targets is built up per different strand of commercial activity, setting out what income might be achievable, by when;
 - That evidence/research is used to inform appropriate conversion rates of prospect to concrete lead to new customer, so that the company Boards, and the Shareholder Committee, can consider pipelines of new business and make realistic assessment of the achievability of a target for each commercial activity strand;
 - In relation to Ansa particularly, the Committee was not confident that sufficient resources were committed to growth, noting the breadth of opportunity available, the lead in time to realise the more profitable opportunities, that each opportunity generally had a set 'window' available to it, and the fact that the more profitable opportunities were inherently more risky.
- 6.1.6. The companies reported concerns about the difference in risk appetite between themselves and the Council, and also flagged that the process for accessing additional reserves/finance was not yet clear. It is advised different risk/value scenarios are worked through, ahead of a real opportunity materialising, so the process doesn't unduly hinder matters when finance is needed.
- 6.1.7. As per last year, the Committee remains concerned about the capacity for growth within the companies, noting that the higher value opportunities required the setting up of sister companies, and also had considerable lead times, yet most immediate small opportunities would nevertheless still be resource intensive. The Committee believes Council as shareholder should be asking for much more detailed and robust growth plans.
- 6.1.8. Within Orbitas, the Committee debated the price point used for funerals, accepting that it was a political decision about the right ethical line in pursuing a profit through funerals. Upon advice that the pricing was significantly lower than what other local authorities were charging, it suggests that further projections should be made to test out the impact of slightly increased pricing within Cheshire East, so that the Deputy Leader could consider whether the current balance is the correct one as part of the current review of this area.

- 6.2 The Terms of Reference tasks the Shareholder Committee to prepare and maintain a strategic risk register, and the refreshed version of this is contained in Appendix 1. The register is maintained by the secretariat for the Committee and will be reviewed at least bi-annually as an item of regular business.
- 6.3 The Committee noted that the pandemic has impacted the risks, not least in that some of the proposed mitigations have not yet been implemented, and that delay has increased the risk ratings of those particularly relating to business growth.
- 6.4 Whilst Covid-19 was unprecedented, and created a level of disruption that we all hope will not be experienced again, it did prompt the Shareholder Committee to reflect on the leadership capacity across the group of companies for driving commercial growth, at a time of great strain, and it suggested the Deputy Leader consider if this risk is acceptable to the Council.

7. Implications of the Recommendations

7.1. Legal Implications

- 7.1.1. Pursuant to the Constitution, the exercise of any of the Council's rights as a shareholder in a company is an Executive function. This function is now supported by the ASDV Shareholder Committee.
- 7.1.2. Ongoing legal advice in relation to matters including contracts, shareholder agreements, articles of associations, company matters and decision making are provided, and a legal officer has been in attendance at all Committee meetings to date.
- 7.1.3. The recommendations required are pursuant to the core function of the Shareholders Committee as references in their Terms of Reference, including making recommendations to the Portfolio Holder that;
- strategic commissioning arrangements for the ASDVs are fit for purpose or provide recommendations to ensure that they are.
 - the overarching performance arrangements for each ASDV are fit for purpose or provide recommendations to ensure that they are.
 - the arrangements for ASDVs comply with the Public Contract Regulations 2015.
 - ASDVs are complying with the relevant statutory and regulatory framework for their respective areas of operation.
 - Prepare and maintain a strategic risk register in relation to the group of ASDVs.

7.2. Finance Implications

- 7.2.1. The review of ASDV business plans by Shareholder Committee does make some assessment of financial information. An assessment on whether the business plans match with the management fee held by the council or exceed it has not been made, and it will fall to the Council commissioner to ensure that the ASDV operates within its budget. Going forward, the Shareholder Committee have requested a clear and transparent statement from the commissioner on each business plan or business case so it can gain necessary assurances on financial and other matters.
- 7.2.2. Ongoing financial advice in relation to matters including business plans, business cases for additional funds, contracts, company matters and decision making are provided, and a finance officer has been in attendance at all Committee meetings to date.

7.3. Policy Implications

- 7.3.1. The ASDVs provide services to the residents of Cheshire East, and their delivery is commissioned by Cheshire East in alignment line with the Council's three-year plan. A core function of the Committee is to provide assurance that strategic commissioning is fit for purpose, and the business plan review reported on herein is a key mechanism in fulfilling this.

7.4. Equality Implications

- 7.4.1. A core function of the Shareholder Committee is to review and advise on the ASDV change programme and any future change. Depending on any recommendations from the programme of change for the group of companies, there could be equality implications. Equality implications will be considered as part of each review undertaken as part of the programme.

7.5. Human Resources Implications

- 7.5.1. The ASDV change programme and individual business cases may have human resource implications, and these will be considered as part of each review or business case brought forward for consideration by the Shareholder Committee.

7.6. Risk Management Implications

- 7.6.1. The Shareholder Committee maintains a strategic risk register in relation to the group of ASDVs under its remit.

7.7. Rural Communities Implications

7.7.1. There are no direct implications for rural communities.

7.8. Implications for Children & Young People/Cared for Children

7.8.1. There are no direct implications for children and young people.

7.9. Public Health Implications

7.9.1. There are no direct implications for public health.

7.10. Climate Change Implications

7.10.1. Depending on any recommendations from the programme of change for the ASDVs, there could be climate change implications. These will be considered as part of each individual review undertaken.

7.10.2. Climate change implications are a consideration included in the ASDV Business Plan/Case Appraisal Tool.

8. Ward Members Affected

8.1. All wards are impacted.

9. Consultation & Engagement

9.1. In fulfilling its functions, the Shareholder Committee may determine that further consultation is necessary before it can make recommendations, and as has happened to date may defer final consideration until further consultation has occurred.

10. Access to Information

10.1. All supporting information is contained within the appendices to this report.

11. Contact Information

11.1. Any questions relating to this report should be directed to the following officer:-

Name: Frank Jordan
Job Title: Executive Director of Place, Lead Officer supporting Shareholder Committee
Email: Frank.Jordan@cheshireeast.gov.uk
And:-
Name: Councillor Steve Carter
Job Title: Chair of Shareholder Committee
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Appendix 1: Strategic Risk Register for the ASDV Group of Companies

	Risk Description (Carried, amended, new)	Likelihood	Impact	Score	SHC Planned Action	Likelihood	Impact	New score
1	Amended:- That companies do not have appropriate access to investment.	2	4	8	<ul style="list-style-type: none"> Company held reserves can be readily accessed for small opportunities Clarification has been provided and will be reiterated that investment is available from the Shareholder but this requires a robust investment proposal and business plan to be produced first 	1	4	4
2	Amended:- There is not the strategic capacity to deliver growth for each company	3	4	12	<ul style="list-style-type: none"> SHC and commissioner scrutiny on each ASDV, will help balance MD capacity across all 3 companies, as will the inclusion of growth KPIs; The demands on the MD, overseeing 3 companies, have been flagged for consideration within this paper 	2	4	8
3	Carried:- Lack of contract certainty is inhibiting a focus on growth	4	3	12	<ul style="list-style-type: none"> ASDV change programme will conclude with clarity on contracts by April 2021 New contracts will include growth KPIs – incl monetary target 	1	3	3
4	Carried:- Current legal structure of companies restrict income-generating potential (The risk RAG has been increased as this year covid has prevented any progress, and the lag time of large opportunities has been explained).	4	4	16	<ul style="list-style-type: none"> SHC will push for progress on Ansa's trading company at its meetings 	2	3	6
5	Carried: - ASDVs don't fulfil full commercial potential (This risk RAG has been increased as there is a lack of detail and transparency about the prospect pipeline, its composition and the potential value and lead in times of each different commercial opportunity)	4	4	16	<ul style="list-style-type: none"> SHC has asked for much more detail from the MDs in its quarterly Directors reports The KPIs in the new operating contracts set by Shareholder, including specific growth target, will ensure resource is applied to generating commercial return 	2	2	4
6	Amended:- Companies fail to deliver a commercial	3	3	9	<ul style="list-style-type: none"> KPIs, including specific growth target set by Shareholder, are 	2	2	4

	Risk Description (Carried, amended, new)	Likelihood	Impact	Score	SHC Planned Action	Likelihood	Impact	New score
	return for the Council				to be included in new operating contracts for start of 21/22 that can then be monitored by SHC			
7	Amended: - Companies could operate in isolation to values of Cheshire East.	2	4	8	<ul style="list-style-type: none"> New KPIs have a clear focus on 2 objectives excellent service to residents and commercial return, suite of KPIs on service should ensure company delivers in line with values/standards it sets Continued SHC scrutiny of business plans and directors reports 	1	1	1
8	New: Risk is not sufficiently identified and managed by the companies to prevent some adverse impact, especially around growth.	3	3	9	<ul style="list-style-type: none"> SHC considers companies risk registers should better define risk, include measures to reduce the impact if risks eventuate, be presented to SHC for scrutiny in full, with key risks highlighted 	2	3	6
9	New: Having the same MD over all 3 companies exposes the Council to higher risk of disruption if they were to be unavailable to work for any length of time – especially in the area of strategic leadership	3	4	12	<ul style="list-style-type: none"> The Council will continue to seek assurances, including through SHC, that strategy and delivery plans are sufficiently robust and detailed that all steps and resource requirements in realising an opportunity are identified, for each service on offer, and there is evidence that these steps are being actioned. 	2	2	4