

BOROUGH OF REIGATE AND BANSTEAD
EXECUTIVE

Minutes of a meeting of the Executive held at the New Council Chamber - Town Hall on 11 May 2018.

Present: Councillors M.A. Brunt, Mrs N.J. Bramhall, K. Foreman, A.C.J. Horwood, G.J. Knight (Chairman for the meeting) and T. Schofield.

Also present: Councillor Mrs R. Absalom

Before the start of the meeting it was reported that:

- In the absence of the Leader and Deputy Leader the Executive would need to appoint a Chairman for the meeting.
- Mrs Renton was no longer a Councillor and therefore no longer a Member of the Executive.
- The Leader of the Council had appointed Councillor Mark Brunt, with immediate effect, as Executive Member for Housing and Infrastructure.
- Having been nominated and seconded Councillor G.J. Knight was appointed to the position of Chairman for the meeting.

104. MINUTES

RESOLVED that the minutes of the meeting held on 26 April 2018 be approved as a correct record and signed.

105. APOLOGIES FOR ABSENCE

Executive Members: Councillors V.W. Broad (Leader of the Council), Dr L.R. Hack (Deputy Leader), E. Humphreys and Mrs R. Mill.

Non-Executive Members: Councillors N.D. Harrison and C.T.H Whinney.

106. DECLARATIONS OF INTEREST

None.

107. STATEMENTS

None.

108. ANY OTHER URGENT BUSINESS

None.

109. EXEMPT BUSINESS

RESOLVED that members of the Press and public be excluded from the meeting for the following items of business under Section 100A(4) of the Local Government Act 1972 on the grounds that: (i) it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act; and (ii) the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

110. PATHWAY UPDATE

Councillor T. Schofield, Executive Member for Finance, introduced the report and explained that, on 29 March 2018, the Executive had approved recommendations relating to proposals for the future structure and ownership of Pathway for Care. It was highlighted that the purpose of these proposals had been to separate the supported living and digital businesses and to secure two significant investors. It was noted that an update on progress had been considered by the Executive on 26 April 2018.

Councillor Schofield informed the Executive that the Council owned 100% of the digital monitoring company. However, it was noted that officers had reached commercial terms with an investor, who had agreed to take on the assets and liabilities of the digital monitoring company.

The Executive Member for Finance explained officers had sought external advice from legal and tax advisors in order to determine the best mechanism to effect the commercial terms agreed. The Executive was informed that advice had been sought on whether it was best structured as an asset sale or share sale and whether there were any other tax considerations that needed to be considered in concluding this deal. It was noted the report of the tax advisors had been provided as a background paper to the Executive report.

In relation to the advice received, the following points were noted:

- The transaction was best structured as an issue and sale of shares in RBBC Ltd.
- Existing liabilities on the company balance sheet should be restructured as a loan in order to clarify the accounting and tax position and that there were clear obligations from a HMRC perspective.
- A small tax liability for the company would arise if any of the shares assigned as part of the deal were treated as a benefit in kind.

Councillor Schofield went on to explain that previous Executive decisions had provided authority to proceed with the issue and sale of shares in RBBC Ltd. It was noted that benefits in kind were an internal company employment matter. Councillor Schofield reminded the Executive that the decision before them related to advice received in relation to classifying existing liabilities as a loan.

It was highlighted that the proposal, outlined in the report, did not request any additional lending beyond the £15K loan facility previously approved. It was noted that it was just a change of treatment for accounting purposes.

Councillor Schofield informed the Executive that a copy of the Letter of Intent, outlining the terms of the deal with the investor, and the RBBC Ltd balance sheet for the transaction, had been supplied as an addendum to the agenda. It was noted that the Letter of Intent outlined formally the key terms of the deal between RBBC Ltd and the investor and the expected financial position of the company at the time of the transaction.

The balance sheet highlighted that the proposed conversion of loan interest accrued to date and PAYE liabilities into a loan with value £96,000 was a significant proportion of the outstanding liabilities of the company. It was recognised that strengthening the legal status, tax and accounting position of these items would support the company to get off to a successful start with new investors on board.

In response to questions, the Executive was informed that the legal team and tax advisors were creating the necessary documentation to support the deal that was expected to conclude within days.

During the discussion a number of issues were considered including:

- The Balance Sheet for Pathway Digital / RBBC Ltd, especially in relation to current assets, fixed assets, current liabilities and non-current liabilities.
- Risks associated with the deal, including the software licence.
- The subscription price for shares to be allotted at Completion.
- Conditions relating to the Proposed Transaction.
- The Shareholders Agreement.
- The timetable for completing negotiations and the deal.
- The importance of agreeing acceptable terms on the loan.

Councillor Schofield concluded by stating the deal represented a positive step for growing the business, expanding the quality service to local residents, and generating future revenue income and capital returns for the Council.

RESOLVED that in line with tax advice received, the Finance Director be authorised to enter into a loan agreement for £96,600 with RBBC Limited, the holding company for Pathway Digital, to formalise the loan interest and other amounts owed to the Council within RBBC Limited's existing liabilities, subject to agreeing acceptable terms on the loan.

Reason for decision: To enable officers to complete previously approved transactions in a manner which gave both the Council and the investor clarity on the tax and accounting position.

Alternative options: To reject the recommendation, and for officers to proceed with the transaction with the council or investor possibly facing additional costs due

to tax liabilities, or defer the recommendation and seek further legal and tax advice before finalising the transaction.

The Meeting closed at 10.22 am