

CHESHIRE EAST COUNCIL CHESHIRE WEST & CHESTER COUNCIL

SHARED SERVICES JOINT COMMITTEE

Date of Meeting: 29 November 2013
Report of: Cheshire East – Chief Operating Officer
Cheshire West & Chester – Director of Resources
Subject/Title: Company Board of Directors structure - CoSocius Limited

1.0 Report Summary

- 1.1 This report seeks agreement on the structure for the Board of Directors for CoSocius Limited (the Company) and the high level design for the Company operating model.
- 1.2 The Councils have previously agreed the Business Case which included costs associated with the establishment of the Board Structure, details of which are covered in Section 7. However, the Cheshire East Cabinet approval also noted that ‘this is to be a phased approach with the appointment to each position (except the lead officer) clearly agreed by the Joint Committee subject to progress against the programme plan’. It was further stated that the costs would be reviewed following the appointment of the lead officer.
- 1.3 The design of the future operating model and governance arrangements for the Company has progressed and the CoSocius Managing Director has developed a proposal for the Board structure and high level organisational design for the Company that reduces the original expected costs for the Board and senior management team.

2.0 Recommendations.

- 2.1 To **approve**:
- (a) the CoSocius Limited Board structure proposals outlined in Section 11 and the high level organisational design for the Company outlined in Section 12.
 - (b) the recruitment of the Chairman, Non-Executive Directors and the Commercial & Corporate Development Officer (see detail in Section 11.5).
- 2.2 To **agree** the principle of a remuneration package for Non-Executive Directors with a ceiling rate to be agreed.

3.0 Reasons for Recommendations

- 3.1 To enable the Councils to progress the establishment of arrangements for the operation of CoSocius Limited and to ensure the Company is positioned to commence operating from 1st April 2014.

4.0 Wards Affected

4.1 This report relates to Shared Services that operate across both Cheshire East and Cheshire West and Chester so all wards are affected in both Councils.

5.0 Local Ward Members

5.1 This report relates to Shared Services that operate across both CE and CWAC so all wards are affected in both Councils.

6.0 Policy Implications

6.1 None.

7.0 Financial Implications

7.1 The Councils have previously approved the Business Case for the establishment of the Shared Services SLE¹ and the associated one off costs for setting up the Company during Phase 1 (Transition) in 2013/14 of £396k and the ongoing additional revenue costs in a full financial year of £415k excluding the additional cost of pensions.

7.2 These costs included an amount for additional staff costs to establish the Company, which included funding for the Managing Director and PA support, a Director of Corporate Services and a Business Performance Manager as well as an amount for staff costs associated with Non-Executive Directors and Company Secretary.

7.3 In addition to the above posts (paragraph 7.2), the Business Case also details expected costs for the period 2014/15 during Phase 2 (Commercial) which included an additional amount (£94k) for a Business Development / Marketing Director²

7.4 The proposals and recommendations for the Board of Directors outlined in this paper fall within the amount approved within the SLE Business Case³. Work is on-going to evaluate the job descriptions but due to the reduction in posts, from that which was initially outlined it is expected that the proposals will deliver approximately £70k of savings against the equivalent structure in the original Business Case.

7.5 The Joint Committee is therefore asked to approve the structure on the basis that costs for the Board will fall below the amount outlined in the Business Case.

¹ Report to CWaC Executive 09 Jan 2103 and Report to CEC Cabinet 02 April 2013

² As stated in para 1.2, the funding for this post has been allocated but not approved.

³ £320k was allocated cost within Business Case for the additional Board level posts (above existing Shared Services Posts) for Chairman, NEDs, MD, Dir of Corporate Services and Director of Business Development.

8.0 Legal Implications

- 8.1 The persons appointed to the positions will be Directors of the Company in accordance with the requirements laid in the Companies Act 2006. Such Directors will undertake duties as set out in the Companies Act 2006 and under directions set out in the Articles of Association and they will be accountable to the Shareholders of the Company.

9.0 Risks

- 9.1 The Councils have agreed to establish the Company and for it to be operational from 01st April 2014. The requirement to agree the structure of the Company Board of Directors and commence recruitment of posts outlined is a dependency for ensuring the Company is in a position to commence operations on time. Delay or failure to agree the proposals is likely to have a subsequent impact on the programme delivery.

10.0 Background

- 10.1 The establishment of CoSocius Limited will require the adoption of a new Governance and Operating Structure. This structure will take account of Corporate Governance and Management requirements for a Limited Company including considerations appropriate for Shareholders, Teckal compliance, Companies Act 2006 and UK Code of Corporate Governance. It will also ensure the expectations of Councils are met to drive cultural change, service improvement and commercialisation.
- 10.2 The Governance proposals for the Company are being presented separately for agreement. The proposals contained within this paper, for the Board Structure and high level design of the Company, are the next stage and will ensure the programme can move forward with arrangements to commence operating.
- 10.3 Agreement of the Board Structure is necessary to commence the recruitment process for the three Non- Executive positions (including Chairman) and the new post of Commercial / Corporate Development Officer. This process could take (conservatively) three months. Ideally the Board should start operating during the latter part of shadow mode in order to deliver effectively beyond 01st April 2014. The commercial officer post is required to commence more detailed work on customer relations, contract management and to assist in the development of work associated with on-boarding a 3rd partner. In addition this latter post is key to helping the Company retain existing contracts by raising the bar in regard to client / supplier relationship management.

11. Company Board of Directors Structure

- 11.1 The Board's key purpose "is to ensure the company's prosperity by collectively directing the company's affairs, while meeting the appropriate interests of its shareholders and relevant stakeholders". (*Standards for the Board, IoD*).
- 11.2 In a company structure the Board of Directors manages the day to day business of the company in accordance with the Articles of Association and they must act in the best interests of the Company for the benefit of shareholders (the Councils).

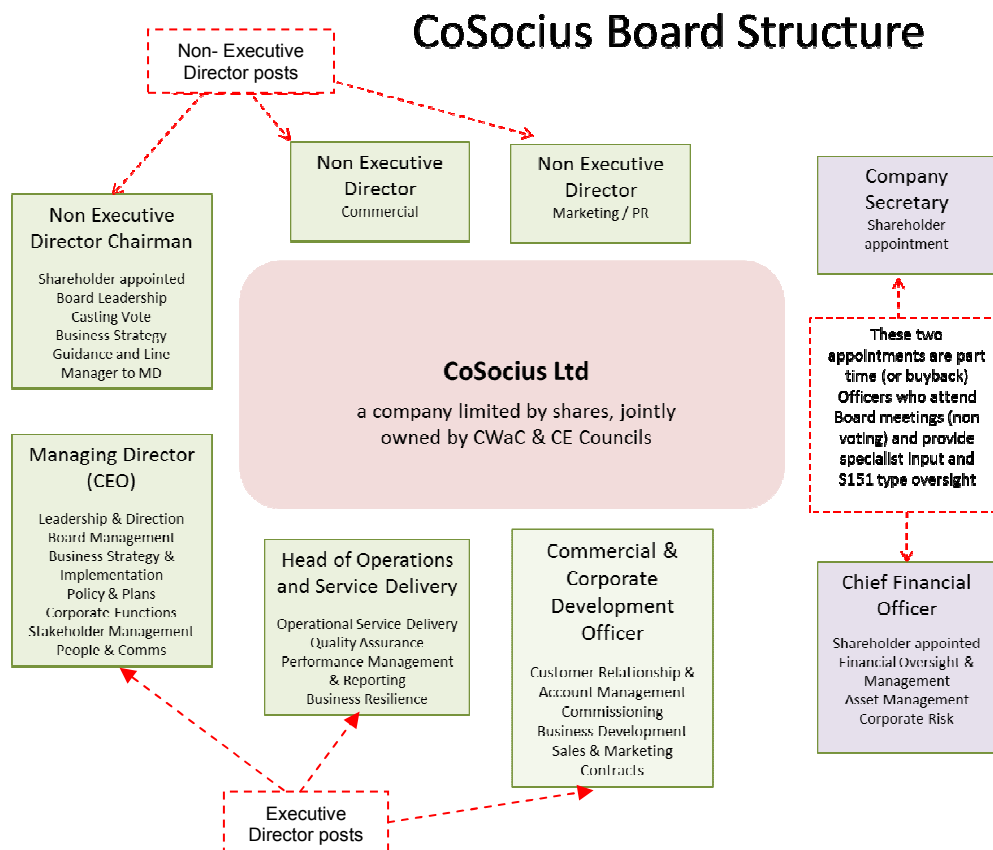
They will report to the Shareholders via General Meetings of the Company and will receive direction and decisions on matters reserved to Shareholders.

11.3 Beyond a requirement for at least one director, the composition of the Board is very much a matter for the Councils although there are general principles set out in the current UK Code of Corporate Governance, in particular, Section B of the Code which deals specifically with the composition of the board and recommends:

- (a) A balance of skills, experience, independence and knowledge to enable the company to act effectively;
- (b) A combination of executive and non-executive directors so that no individual or smaller group can dominate decision making (including independent non-executive directors);
- (c) A minimum of 2 non-executive directors for smaller companies;
- (d) The separation of the roles of chairman of the board and managing director;
- (e) Recruitment based on merit against objective criteria taking account of the benefits of diversity including gender.

11.4 During the development of the Business Case, an initial design for the Board structure was proposed and costs were incorporated into the financial estimates within the reports that were approved by Councils.

11.5 The following Board Structure is proposed, which takes account of the need to blend the Governance requirements as outlined in paragraph 11.2 with the operational requirements of the Company. There are three executive and three non-executive posts plus two part time / buyback appointments (Company Secretary & Financial Officer).



11.6 Board Positions

- **Non -Executive Directors.** Members of the HR and programme team have been working with the Managing Director to assess the requirements for non-executive input on the Board. The non-executive directors play an important part in regularly and rigorously assessing the effectiveness of the board's processes and activities. Legally speaking, there is no distinction between an executive and non-executive director. They share exactly the same individual and collective duties and responsibilities. However, given their (usual) outside perspective, they are sometimes best placed to ensure that the board focuses its energies effectively and provide a useful 'balance' to the executive directors, so as to ensure the board, as a whole, functions effectively.
- **Chairman.** The chairman is responsible for the leadership of the Board, ensuring effectiveness in all aspects of its role and setting its agenda. The chairman has ultimate responsibility for the board and so has a role distinct from that of the other non-executive directors. The chairman's primary role is to ensure that the Board is effective in its tasks of setting and implementing the company's direction and strategy. They work closely with the Managing Director to help lead the Company in line with Shareholders interests and provide appropriate scrutiny and oversight. To ensure the control aspects of the Teckal exemption are met, it is recommended that the Chairman should be a council appointment. This provision is set out in the Articles of Association to be approved as part of the separate governance report.
- **Executive Directors.** An Executive Director is a director of the Company who has the same responsibilities in law as the Non-Executive Directors but who also holds a separate role within the Company as an Executive employee. The proposal for the CoSocius Board includes:
 - Managing Director (MD) (*D V Whelan appointed on 28 Aug 14*) has responsibilities as a director, decision maker, leader, manager and executor. The decision-making role involves high-level decisions about policy and strategy. As a leader of the company, the MD advises the board of directors, motivates employees, and drives change within the organisation and, as a manager, presides over the organisation's day-to-day operations.
 - Head of Operations & Service Delivery. This person will lead the day to day transactional operations for the Company, reporting to the MD and ensuring that excellent service delivery to customers is maintained. They will be responsible for performance management, quality of service and reporting, business resilience and provide technical and operational advice to the Board. This post is currently occupied by the Head of ICT Shared Services. *The post therefore does not require approval for recruitment at this stage.*
 - Commercial & Corporate Development Officer. *This is a new post* that will lead the important function of customer relations, bid management (and the CoSocius end of the commissioning process) account and contract management and business development. The initial focus for the latter function will be to assist in the development of work associated with on-boarding a 3rd partner and potentially others. In addition, this latter post is

key to helping the Company retain existing contracts by raising the bar in regard to client / supplier relationship management.

- Company Secretary. Whilst not a legal requirement, it is highly recommended that the Shareholders appoint a Company Secretary to support the Board and to provide corporate governance input and manage the requirements for reporting and interaction with Companies House. It is envisaged that this post will be covered under buy back arrangements from one of the shareholding Councils. Again, the Articles of Association make provision for Shareholders to appoint the Company Secretary.
- Chief Financial Officer. It is highly recommended that a suitably qualified finance officer is appointed either via a contract (buyback) arrangement, part time employee basis or as a Non-Executive Director, to provide the Board and the Company with appropriate scrutiny, financial oversight and financial compliance management.

12. Company Organisational Design

- 12.1 The development of the CoSocius operating model is underway. At this stage, the organisational design has reviewed the functional areas and a number of changes are being recommended in order to move the Company into a new structure beyond 01st April 2014. This new structure will include the new corporate requirements (leadership and top tier management as well as corporate service provision to the stand-alone company). A diagram of the proposed new functional design and the top level management structure is attached at Appendix 1.
- 12.2 It is also proposed to develop the Commercial, Account Management and Business development into a new functional area, under the direction of the new post outlined in Section 11.6.
- 12.3 The other recommended change is to extract the existing Technical Architecture team out of their current position within Service Delivery into a separate functional area. This will ensure this important area can focus better on business architecture requirements and be able to operate more easily across the full business functions. It will also be able to look forward and outward more, rather than just inward looking.
- 12.4 As part of the TUPE arrangements, the Company will provide outline details of any measures it is likely to take beyond 01st April. It is planned to issue the 'measures letter' in January 2014 and this letter should provide details of the new Company structure and organisational design. Therefore, at this stage, the Joint Committee are being presented with the proposed outline structure based upon the functional breakdown and the top level management posts only. Approval of this will allow more detailed work to then be completed on the full structure.

13. Remuneration of Non-Executive Directors

- 13.1 Whilst some organisations are able to recruit non-executive directors at nil cost, offering a remuneration package has a number of benefits including:

- Encourages a wide diverse range of well qualified applicants to apply for vacancies; including those who would not be financially able to carry out the role in a voluntary capacity;
- Aid Board Member retention, by improving an individual's ability to balance external commitments with Board membership, ensuring retention of experience and skills.
- Promote steady renewal of Board membership, through use of fixed term appointments and effective skills audits and performance reviews of individuals and the Board as a whole.
- Provided payment levels are set at the sector average it will provide a cost effective means of ensuring improved governance and will support the development of a more robust performance review process to ensure that the Board continues to operate effectively and is comprised of an appropriate mix of individuals with the necessary skills and experience to lead the organisation.
- It will allow the company to compete for quality Board members in Cheshire and the surrounding areas.

13.2. The original Business Case allocated a budget for non-executive director costs and Company Secretary costs of £45k. Within this, it was initially envisaged that non -executive directors would be employed at a rate in the region of £250 per day. With Chairman, likely to require up to 40 days per year and the other two posts requiring approximately 22 days per year, this would equate to a budget of £15.5k.

13.3 However, HR colleagues have now investigated suitable rates for non-executive directors in line with market rates for a public sector medium enterprise company. However further work needs to be completed and therefore at this stage Joint Committee is asked to approve the principle of remuneration and the recommendation will be briefed verbally at the Joint Committee meeting.

13.4 In addition, the cost of contracting with Councils for a buy back of the Company Secretary and Finance Officer would depend on the approach taken for these posts but is likely to be circa £10k-£20k assuming each person spends 3 or 4 days per month on Company business. Further detail will be completed in regard to the options for contracting Company Secretary and Finance Officer support, if the Joint Committee approves the structure outlined in this paper.

14. Conclusion

14.1 Approval of the recommendations laid in this paper will enable the programme to progress the important next steps to ensure the Company is ready to commence operating on 01st April 2014.

15.0 Access to Information

The background papers relating to this report can be inspected by contacting the reporting officers:

Officer: Peter Bates, Chief Operating Officer – Cheshire East Council / Julie Gill, Director of Resources – Cheshire West & Chester Council

Tel No: 01270 686013 / 01244 977830

Email: peter.bates@cheshireeast.gov.uk /
Julie.gill@cheshirewestandchester.gov.uk

Appendix 1:

A diagram of the new functional design and the top level management structure

Background Documents:

Cheshire East Cabinet Report – Shared Services – 7th October 2008
Cheshire West and Chester Executive Report – Joint Liaison Committee Recommendations: Caretaker and Nominated Councils; Shared Services: Service Delivery Option; Shared Back Office Services – 15th October 2009
Cheshire East Cabinet Report – Shared Services – 3rd March 2009
Cheshire West and Chester Executive Report – Shared Services – 18th March 2009
Cheshire East Cabinet Report – Shared Services – 23rd March 2009
Cheshire Shared Services Joint Committee Report – 10th June 2009
Cheshire Shared Services Joint Committee Report – 13th July 2009
Cheshire Shared Services Joint Committee Report – 3rd September 2009
Cheshire Shared Services Joint Committee Report – 30th September 2009
Cheshire Shared Services Joint Committee Report – 26th October 2009
Cheshire Shared Services Joint Committee Report – 26th November 2009
Cheshire Shared Services Joint Committee Report – 3rd February 2010
Cheshire Shared Services Joint Committee Report – 12th March 2010
Cheshire Shared Services Joint Committee Report – 31st March 2010
Cheshire Shared Services Joint Committee Report – 28th May 2010
Cheshire Shared Services Joint Committee Report – 16th July 2010
Cheshire Shared Services Joint Committee Report – 17 September 2010
Cheshire Shared Services Joint Committee Report – 29 October 2010
Cheshire Shared Services Joint Committee Report – 26th November 2010
Cheshire Shared Services Joint Committee Report – 7th January 2011
Cheshire Shared Services Joint Committee Report – 25th February 2011
Cheshire Shared Services Joint Committee Report – 18th March 2011
Cheshire Shared Services Joint Committee Report – 29th July 2011
Cheshire Shared Services Joint Committee Report – 30th September 2011
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Cheshire Shared Services Joint Committee Report – 13th September 2013

Documents are available for inspection at either:

*Cheshire East Democratic Services
Westfields
Middlewich Road
Sandbach
CW11 1HZ*

*Cheshire West & Chester Democratic Services
HQ Building,
Nicholas Street,
Chester,
CH1 2NP*

Company Board of Directors structure - CoSocius Limited

Diagram of the new functional design and top tier management

