

Title of meeting: Cabinet

Date of meeting: 14 February 2022

Subject: Portsmouth Harbour Renaissance Limited

Report by: David Williams, Chief Executive

Wards affected: All

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 To update Cabinet on the Council's part ownership of Portsmouth Harbour Renaissance Limited ("**PHRL**").

2. Recommendations

That Cabinet;

- 2.1 Delegates authority to the Chief Executive, in consultation with the City Solicitor and s151 Officer, to discharge all shareholder functions of the Council in relation to PHRL save as they relate to recommendation 2.2; and
- 2.2 Notes that the Chief Executive will initiate discussions with the other shareholder of PHRL in relation to the future of the company; and
- 2.3 Requests the Chief Executive to report back to Cabinet as to any shareholder action that maybe required as a consequence of the discussions at recommendation 2.2.

3. Background

- 3.1 PHRL originated out of the "Renaissance of Portsmouth Harbour Millennium Scheme" ("**the Project**") in the middle of the 1990s funded by the Millennium Commission (superseded in 2006 by the "National Lottery Community Fund" also known as "Big Lottery Fund"). The responsibility for the delivery of the Project was a multi-party engagement involving the Council, Gosport Borough Council, the Portsmouth Naval Base Property Trust and the Portsmouth and South East Hampshire Partnership ("**the Partners**") each of whom were to be responsible for certain elements of the project. It is understood that a condition of the funding, required at the time by the Millennium Commission, was that those parties set up a joint venture vehicle to receive and manage funding.



- 3.2 As a consequence PHRL was set up in 1996 to act as that joint venture vehicle and each of the Partners was allocated $\frac{1}{4}$ ownership of the company (25 shares at a value of £1 per share).
- 3.3 The Articles of Association of PHRL envisaged there being not more than 11 directors of the company, consisting of 2 nominated by each of the Partners with no more than a further 3 who were not linked to the Partners.
- 3.4 Following its establishment, PHRL entered into a Shareholder Agreement dated 19 May 1997 with the Partners. This set out how the board of directors of PHRL were to run the company and to interact with the Partners.
- 3.5 From the Council's records, PHRL entered into a number of agreements in relation to the Project.

The Principal (Grant) Agreement

- 3.6 This agreement is between PHRL and the Millennium Commission and is dated 19 May 1997. The agreement placed obligations on PHRL to ensure that all Projects are carried out, completed and operated in accordance with the agreement. PHRL are also obliged to ensure that no asset created or purchased as a result of grant funding is to be disposed of without the consent of the Millennium Commission, and that where such asset is disposed of, such funds realised are to be part returned to the Commission.
- 3.7 The agreement requires the consent of the Commission in relation to any agreement, decision or determination in accordance with the agreement including the consent in relation to change of ownership, composition or structure of PHRL. The agreement is to continue until the Commission specifies (i.e. it is not dependent upon the completion of the Projects).
- 3.8 It should be noted that if the Commission is not adequately engaged in matters concerning the agreement then an Event of Default may occur which in theory could result in a demand for re-payment of any grant made.

The 1st Supplementary Agreement

- 3.9 The 1st Supplementary Agreement is between PHRL and the Millennium Commission to which the Partners (except the Portsmouth and South East Hampshire Partnership) were also party and was dated 19 May 1997. It records certain variations to the Principal Agreement, to enable PHRL to add additional elements to the Project and to cap the Millennium Commission's obligations to pay Grant for each element of the Project until certain conditions were made.
- 3.10 The primary purpose of the 1st Supplementary Agreement is to bind the Partners so that they observe and perform as though they were each a party to the Principal Agreement (*mutatis mutandis*).
- 3.11 A 2nd Supplementary Agreement between PHRL and the Millennium Commission (to which the Partners except the Portsmouth and South East Hampshire Partnership were also party) was dated 3 October 2002. It records certain variations to the Principal Agreement and the 1st Supplementary agreement.



4. Current status

- 4.1 The purpose of PHRL appears to have been largely met by 2006 (likely tied in with the completion of the Spinnaker Tower) as the independent non-executive directors appear to have left around that time.
- 4.2 Today, PHRL has only two directors, Stephen Baily (Director of Culture, Leisure and Regulatory Services at Portsmouth City Council) and Hannah Prowse (Chief Executive Officer of Portsmouth Naval Base Property Trust) who also acts as the company secretary. Gosport Borough Council have not appointed a director since their Chief Executive Ian Lycett departed the authority in 2016. It is understood that the Portsmouth and South East Hampshire Partnership have had little involvement with PHRL since 2006.
- 4.3 It is not entirely clear what purpose PHRL currently fulfils. As far as the Council understand, it commissions no services and has little funds remaining in its bank account although it is understood that PHRL may retain certain obligations under certain unidentified agreements.
- 4.4 According to the last accounts files for the year ending 31 March 2020, PHRL owes £2,548 to the Council.

5. Reasons for recommendations

- 5.1 There is little action currently required from the Council as shareholder. The assets of the company are minimal and as far as the Council is aware it does not actively trade.
- 5.2 It is proposed that that Chief Executive write to both the Company and the other shareholders in the company to enable a full understanding of the purpose of the company's continued existence, to ascertain the other shareholder's intentions in relation to the company, and to decide as shareholders what to do with the company in the long term.
- 5.3 Although the Project has long since completed, it is unclear whether PHRL remains subject to any obligations under the various funding agreements with Big Lottery, for example regarding maintenance. Consequently, it is likely that further engagement will be needed with the Big Lottery Fund should any significant changes to PHRL be made.

6. Integrated impact assessment

- 6.1 The contents of this report do not have any relevant equalities impact and therefore an Integrated Impact Assessment is not required.

7. Legal implications

- 7.1 PHRL is a private limited company. Because the Council owns no more than 25% of the PHRL, it is unable to exert significant influence over it without the support of other shareholders. It is able, but does not have to, appoint directors to PHRL.

Those directors are required by law to act in the best interest of PHRL and not simply act as a proxy for the decisions of their nominee, save where such action is required by the Shareholder Agreement.

7.2 Through the shareholder agreement, the Council retains an on-going duty to fund PHRL although this responsibility is split with Gosport Borough Council and Portsmouth Naval Base Property Trust.

7.3 The recommendations outlined in this paper pose no significant risk to the Council.

8. Director of Finance's comments

8.1 There are no direct financial implications as a result of approving the recommendations within the report.

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Signed by:

Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: