

**URN:** 22-176  
**Subject:** Great Yarmouth Services Ltd  
**Report to:** Council – 13 October 2022  
**Report by:** Head of Legal & Governance, Monitoring Officer



## **SUBJECT MATTER**

Preliminary arrangements for the Council's newly incorporated wholly owned company Great Yarmouth Services Ltd

## **RECOMMENDATIONS**

That Council:

1. approve the Delegations Matrix (Appendix 1) which allocates decisions between the Board of Directors and the Council in its role as sole member of GYS Ltd
2. approve a sum of £100,000 required as cashflow for the company to fund preliminary items that need to be in place prior to 1 April 2023
3. appoint Kate Blakemore, the Council's Strategic Director, as Chair of the Board of Directors of GYS Ltd
4. delegate the Council's role as sole member of GYS Ltd to Policy & Resources Committee, and adjust the Terms of Reference of that Committee to include the wording set out in paragraph 3 of this report.

## **1. INTRODUCTION**

- 1.1 Great Yarmouth Services Limited ("GYS"), a company limited by guarantee and wholly owned by the Council, was incorporated on 28 July 2022 and is currently a dormant company, while preparations continue for the transfer of assets and personnel from GYB Services Limited ("GYB Services"), the existing joint venture company partly owned by Norse Commercial Services.
- 1.2. As the date (March 2023) approaches for the contract with GYB Services to expire, and for the Council to remove itself from the joint venture, arrangements must now be made to put GYS in a state of readiness to begin delivering services to the Council, both in practical terms and with regard to the governance structure. The actions described in the recommendations will enable preparations to proceed.

## **2. BACKGROUND AND KEY INFORMATION**

- 2.1 The **Delegations Matrix** has been prepared by external lawyers Browne Jacobson, working closely with the Project Team. The Matrix establishes which decisions are reserved to the Council as sole 'member' (akin to a shareholder – but a company limited by guarantee has no shareholding). The implication is that any decisions not reserved to Council in the Matrix may be made by the Board of Directors.
- 2.2 The Delegations Matrix will be reviewed annually at the annual general meeting (or equivalent) of GYS, and any proposed adjustment can be raised. In all cases the final decision on the Delegations Matrix rests with the Council as controlling member.

Notwithstanding the allocation of decisions set out by the Matrix the GYS Directors shall in all cases consider whether a matter for decision *may* require reference to the Council. This may be due to the reputational or other potential impacts on the Council as controlling member or where the matter for decision is contrary to the Business Plan.

2.3 Members should note that the Business Plan for GYS will work alongside the Delegations Matrix to further define the decisions the Board of Directors may take without first seeking the consent of the Council. For example, there are a number of decisions/activities listed in the Delegations Matrix where they are only reserved to the Council when they fall outside of the parameters of the Business Plan. The ability to review the Delegations Matrix and the Business Plan on an annual basis provides flexibility as to the level of control the Council has over GYS but also helps to ensure that the Board of Directors can operate GYS efficiently and effectively on a day-to-day basis.

2.4 For convenience some examples of the types of decision making reserved to the Council are given below:

- Amending the company articles
- Amending the Delegations Matrix
- Appointing or removing a company director
- Creating any borrowing outside of the annual budget
- Approval of statutory accounts
- Adoption of the Business Plan
- Undertaking activities outside of the Business Plan
- The sale of land or buildings

#### **Cashflow**

2.5 The company requires funds from the Council in the sum of £100,000 for preliminary cashflow in order to fund the purchase of items which need be in place prior to GYS taking over service delivery as from 1 April 2023, for example, fuel, uniform branding, PPE.

#### **Appointment of Chair**

2.6 The Articles of GYS require the Council, as controlling member, to appoint a Chair of the Board. The Directors are Chris Silverwood, the Council's Director of Operational Services (and the current Managing Director of GYS), Karen Sly, the Council's Finance Director and s151 Officer, and Kate Blakemore, one of the Council's Strategic Directors. Kate has led on the establishment of GYS Ltd and therefore has a thorough understanding of every aspect of the company. It is recommended that she should chair the Board of Directors.

### **3. Delegation by full Council of role as sole member of GYS - additional terms of reference for Policy & Resources Committee**

3.1 Council is asked to delegate decision making in respect of its role as sole member of GYS to Policy & Resources Committee. Policy & Resources Committee already undertakes this role in relation to the Council's trading companies, Equinox Enterprises

Ltd and Equinox Property Holdings Ltd. Members should note the distinction between the Equinox companies which are commercially run and acting in the open market, and GYS which is to be a Teckal company, acting under the Council's close direction and delivering services for it.

- 3.2 The wording for insertion in the Terms of Reference for Policy & Resources Committee is as follows:

*In relation to Great Yarmouth Services Ltd - to exercise the Council's function as sole and controlling member which shall include:*

- 1) *providing the Council's direction and consent for investment and any other decisions of the Company through the approval of its Annual Business Plan and any interim amendments*
- 2) *appointing and removing directors to the Company*
- 3) *carrying out performance review in relation to the Council's corporate strategies and the Company's Annual Business Plan*
- 4) *providing the Council's consent or direction in accordance with the Delegations Matrix and Annual Business Plan and any other decisions of the Company requiring the Council's authorisation*
- 5) *receiving the Annual Business Report from the Directors setting out annual business objectives including the expected returns from the Company*
- 6) *receiving a quarterly report from the Directors including management accounts, performance against the Council's Corporate strategies and the key performance indicators or other targets identified in the Annual Business Plan*
- 7) *receiving regular progress reports, including financial overview including cash flows, balance sheet details, with any significant event to be highlighted, notification of any key commercial and legal risks, including an updated version of the Company's risk register as necessary.*

## **5. Financial Implications**

None particular

## **6. Legal Implications**

None particular

## **8. Appendices**

Appendix 1 - Delegations Matrix

## **9. Background Documents** None

<b>Area for consideration</b>	<b>Comment</b>
Monitoring Officer Consultation:	N/A
Section 151 Officer Consultation:	As the s151 officer is a Director of the Board of GYS limited, the Deputy s151 Officer has been consulted
Existing Council Policies:	None
Financial Implications (including VAT and tax):	As outlined in the body of the report
Legal Implications (including human rights):	As outlined in the body of the report
Risk Implications:	As outlined in report
Equality Issues/EQIA assessment:	None
Crime & Disorder:	None
Every Child Matters:	None

**BJ DRAFT 2.2**

**GREAT YARMOUTH SERVICES LIMITED (COMPANY NUMBER 14260995) (THE COMPANY)**

**DELEGATIONS MATRIX**

**Notes:**

1. This Delegations Matrix is to be reviewed annually at the annual general meeting (or equivalent) of the Company as part of which any proposed variations can be raised. In all cases the final decision on the Delegations Matrix shall rest with the Council as controlling member.
2. The Company and its Directors shall in all cases consider whether a matter for decision may require reference to the Council, notwithstanding the delegations below. This may be due to the reputational or other potential impacts on the Council as controlling member or where the matter for decision is contrary to the Business Plan (or any associated Operating Plan). This will include any matter for decision which may cause the Council to be in breach of, or otherwise act in contrary to, the terms of any agreement entered into by the Council with third parties.
3. It is important that all Directors and senior officers of the Company are made aware of this delegations matrix and should form part of any induction exercise and sign a copy to indicate their knowledge and understanding.
4. Where in this Delegations Matrix reference is made to the “Business Plan”, or any adopted “Operating Plan” or equivalent lower tier plan, this shall mean an express reference in the Business Plan, or Operating Plan (or equivalent), to a course of action in some meaningful way related to the Activity (Column 2) in question.
5. A reference to the “Business” is to the activities of the Company as set out in the Articles and/or Business Plan.
6. This Delegations Matrix may be supported by an Operating Protocol detailing lines of reporting and liaison, officer/member/director roles, and the like. This Protocol is not part of the Company’s formal constitutional documentation and may be amended from time to time.

The Directors shall ensure that none of the following matters shall be taken or approved without the written consent of the Council.

	<b>Activity</b>
	<b>Corporate matters</b>
1.	Amending Articles
2.	Amending the Delegation Matrix
3.	Ceasing to carry on the Business or the carrying on of the Business on any materially reduced scale or the commencement of any new business not being ancillary or incidental to the Business.
4.	Making any petition or passing any resolution to wind up or making any application for an administration or winding up order or any order having similar effect or giving notice of intention to appoint an administrator or file a notice of appointment of an administrator (save as expressly contemplated by the Articles or as required by Law).
5.	Acquiring, or investing in, another company or business or the incorporation of any Subsidiary
6.	Expanding, developing or evolving the business not as contemplated in the Business Plan.
7.	Entering into or participating in any joint venture, partnership or other profit-sharing arrangement with any person or making any amendment or variation to any such arrangement.
8.	Changing the name of the company.
9.	Making any change in corporate structure to address legislative or regulatory requirements.
	<b>Company Directors</b>
10.	Appointing or removing any director.
	<b>Finance</b>

	<b>Activity</b>
11.	Appointment of and making any change to Auditors or accounting reference date.
12.	Changing accounting and reporting policies (otherwise than as recommended by the Auditors to comply with generally accepted accounting standards).
13.	Approval of statutory accounts.
14.	Writing off any single debt of more than £10,000.
15.	Making any agreement with any revenue authorities or any other taxing authority or making a claim, disclaimer, election or consent of a material nature for tax purposes in relation to any of the Companies or their business, assets and/or undertaking.
16.	Creating any borrowings or other indebtedness or obligation in the nature of borrowings (including obligations pursuant to any debenture, bond, note, loan stock or other security and obligations pursuant to finance leases) except as specifically provided for in the annual budget for the relevant Accounting Period and outside of any financial loan arrangements between the Council and the Company.
17.	Creating any encumbrance (or allowing one to subsist) over all or any part of the business, undertaking, property or assets of the company.
18.	Giving any guarantee, indemnity or security in respect of the obligations of any other person.
19.	Amalgamating, merging, consolidating, selling, transferring or entering into a lease or licence which, in any case, materially alters, or in any other way disposes of, all or a substantial part of the business, undertaking, property or assets of the Company, whether by a single transaction or series of transactions related or not.
	<b>Business Plans</b>
20.	Adoption of the Business Plan unless the procedure to develop and agree the Business Plan, as set out in the agreement for services between the Company and the Council, has first been undertaken and the Council have presented to the Company the finalised Business Plan for adoption.
21.	Undertaking activities outside the scope of the Business Plan provided that the Company shall be permitted to explore new commercial activities and opportunities in furtherance of its objects without the prior consent of the Council.
	<b>Operational</b>

	<b>Activity</b>
22.	Materially deviating from Council policies, in particular the contract procedure rules.
23.	Procurement of works, services and supplies, contracting and/or entering into a commitment to contract expenditure - in each case outside of the parameters of Business Plans.
24.	The variation/extension of any other contracts for works/services/supplies outside of the procedures as set out in the contract procedure rules (unless expressly provided for in the Business Plan).
25.	Where not covered in a previous line item, entering into any contract, liability or commitment (or series of connected contracts, liabilities or commitments) in excess of £25,000 unless provided for in the Business Plan approved by the Council.
26.	Terminating any agreements which are material to the business.
27.	Appointing any employee with an annual salary in excess of £75,000 p.a.
	<b>Claims and proceedings</b>
28.	The involvement of the Company in any legal action, claim, litigation, arbitration or other proceedings without the prior notification of any such activities to the Council's Monitoring Officer.
29.	<p>Unless the settlement agreement is approved by the Council's Monitoring Officer, the initiation, conduct (including defence), settlement or abandoning of any claim, litigation, arbitration or other proceedings with an estimated quantum (excluding interest and costs) in excess of £50,000 except in any case in relation to:</p> <ul style="list-style-type: none"> <li>• debt collection in the ordinary course of the Business not exceeding the sum of £50,000 for any single claim; or</li> <li>• any Related Claim.</li> </ul> <p>For these purposes the estimated <b>quantum</b> is the value of the claim and not the legal or other costs.</p>
	<b>Land and assets</b>
30.	In the ordinary course of business under the Business Plan, entering into deeds in respect of properties (easements, wayleave, consents or other impact on title).



	<b>Activity</b>
31.	Acquiring, disposing or agreeing to acquire or dispose of any land interest or asset, or any interest in any asset (including the exercise of an option) or any other land or buildings with a value in excess of £150,000.
32.	Agreeing or carrying out the sale of any real property (i.e., land and/or buildings).
	<b>General</b>
33.	The making of any political or charitable donation.

The thresholds and categories identified in this Schedule are intended to be aggregate where such matters relate to one item or a series of connected or linked items of expenditure or activity.

**End**