

READING BOROUGH COUNCIL

REPORT BY DEPUTY CHIEF EXECUTIVE

TO:	POLICY COMMITTEE		
DATE:	14 JUNE 2021		
TITLE:	READING TRANSPORT LIMITED SHAREHOLDER REPORT		
LEAD COUNCILLOR:	COUNCILLORS PAGE & BROCK	AREA COVERED:	TRANSPORT & STRATEGIC ENVIRONMENT AND STRATEGIC FINANCE
SERVICE:		WARDS:	BOROUGHWIDE
AUTHOR:	Jacqueline Yates	TEL:	
JOB TITLE:	Deputy Chief Executive	E-MAIL:	Jackie.Yates@Reading.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 Reading Transport Ltd (RTL) is a wholly owned company of Reading Borough Council.
- 1.2 In light of RTL's trading position and the significant financial impact of Covid 19 on all passenger transport operators, it was agreed that the Council should commission an independent review into the governance and operating arrangements of the Company with a view to improving its financial viability going forward.
- 1.3 Systra, a leading engineering and consulting firm specialising in public transport were commissioned in September 2020 to undertake the review. Their findings were presented to a joint meeting of senior RBC and RTL representatives in early January 2021.
- 1.4 The purpose of this report is to set out the proposed actions and next steps arising from Systra's recommendations in respect of Part 1 of their report: RTL's governance arrangements.

2. RECOMMENDED ACTION

It is recommended that the Policy Committee acting as Shareholder of Reading Transport Ltd (RTL) note:

- 2.1 Systra's recommendations in respect of their Part 1 report commissioned by the Council.

It is further recommended that Policy Committee acting as Shareholder of Reading Transport Ltd. agree:

- 2.3 To the recruitment of a new board of Non-executive Directors to take effect from 1st January 2022.
- 2.4 That the Assistant Director for Legal and Democratic Services formally write to RTL's current Non-executive Directors serving them with notice and advising them of the recruitment process, once finalised, should they wish to apply.
- 2.5 That the Assistant Director for Legal and Democratic Services prepares a revised set of Articles of Association in line with the recommendations in Systra's Part 1 report for consideration at a future Policy Committee.
- 2.6 That the Assistant Director for Legal and Democratic Services prepares a draft Shareholder Agreement to give effect to the operational recommendations in Systra's Part 1 report for consideration at a future Policy Committee.
- 2.7 The Shareholder representatives to sit on the interview panel.

Appendices:

Appendix 1 Draft job description and proposed timeline for the recruitment of new Non-executive Directors

3. BACKGROUND

- 3.1 In light of RTL's recent trading position and the significant financial impact of Covid 19 on all passenger transport operators, an independent report was commissioned by the Council in September 2020, with a view to significantly improving the Company's financial viability. The terms of reference for the report were twofold:
 - 1) To undertake a review of governance within RTL, including the roles, responsibilities, composition and required skill set of the Board, to ensure decision making is robust and that there is appropriate challenge and review within the system, and
 - 2) In conjunction with RTL's Executive Directors undertake a review of the Company's operations, in order to make viable recommendations to secure the financial sustainability of the Company and deliver the Shareholder's aspiration for a reasonable financial dividend in the medium term.
- 3.2 Systra, a leading engineering and consulting firm specialising in public transport were commissioned in September 2020 to undertake the review. The work was carried out by a multi-disciplinary team of industry experts.
- 3.3 The findings and recommendations were reported and subsequently presented by Systra to a joint meeting of senior RBC and RTL representatives in January 2021.
- 3.4 A summary of Systra's findings in relation to the first part of their commission are set out in para 3.9 below.

3.5 RTL’s existing Board is made up of 12 members in accordance with its Articles of Association. These include:

- 8 Non-executive Directors including the Chair, 1 Employee nominated, 3 with Commercial/ Business experience and 3 nominated by RBC
- 4 Executive Directors

Non-executive Directors are appointed for a four-year term and automatically retire on the expiry of their term. However, the term can be rolled over if parties are willing. There is currently no limit on the number of times an appointment can be rolled on and several members have served more than 10 years with one serving 14 years.

3.6 The Company’s Articles of Association allow the Council as Shareholder to serve notice on the Non-executive Directors prior to the end of their term.

3.7 The minimum number of directors the Company can have at any one time is 4.

POINTS TO NOTE

3.8 In undertaking the first part of their review Systra undertook one to one interviews with RTL Board members and considered supporting documents and information provided by RTL. Their findings and recommendations are set out in Table 1 below:

Table 1. Systra Part 1 Recommendations

Topic Area	Conclusions	Recommendations
Framework for Future Board Appointments	There does not appear to be a formal appointments framework in place.	<p>An assessment of the skills, experience, and knowledge missing in respect of the board should be undertaken prior to appointing non-executives.</p> <p>The skills, experience and knowledge required for nonexecutive and executive directors should follow industry best practice. See Table 2 below.</p>
Skills Audit	More robust selection, induction and training regimes are required for non-executives.	<p>Clear and measurable targets need to be set for the Chief Executive against which progress should be measured.</p> <p>A formal selection process for nonexecutive Board members should be introduced.</p> <p>Induction training should be formalised for all non-executives.</p> <p>Training modules such as “finance for non-finance professionals” should be developed and made available to non-executives.</p>

Board Composition and Size	<p>There are concerns over the number of long serving nonexecutives</p> <p>SYSTRA believe that there are too many non-executive Board Members.</p> <p>There are a limited number of nonexecutives effectively running the Board with the remaining members having limited or no influence.</p>	<p>A maximum of two four-year terms should be established for nonexecutive directors.</p> <p>RBC as Shareholder should approve changes to the Board composition and membership</p> <p>The number of non-executive directors should be reduced to five including the Chair.</p>
Financial Scrutiny	Business decisions must be based on relevant, timely, accurate and robust financial information.	A process map of internal procedures should be developed
Financial Reporting	<p>There is no consistency in presentational formats of the profit/loss between the three operating companies.</p> <p>The Finance Director aims to increase the emphasis onto providing rolling forecasts and reporting variances against this.</p>	<p>Financial Reporting should be standardised across the business</p> <p>Profit/loss reporting should show revenue split; local bus (on-bus, concessions, scholars, tenders etc) and other revenue (coaching, contracts, advertising etc). Costs should be shown in following split; Direct costs (drivers wages, fuel & tyres), Semi-direct (engineering, traffic, PCV, marketing costs) and overheads (buildings, admin payroll, non-motor insurance, non-PCV depreciation etc).</p> <p>Reports should include key nonfinancial metrics (mileage, PVR, number employees and passengers).</p> <p>Cashflow forecast should be provided for at least six months into the future and track actuals against forecast.</p> <p>Quarterly Board meetings should become more frequent.</p> <p>Draft budget should be presented in Jan/Feb.</p>
Audit & Remunerations Committees	The requirement for the need to have Audit and Remunerations Committees should be proportionate to the task, and will vary according to the size, complexity and risk profile of the company.	<p>SYSTRA do not believe Audit and Remunerations Committees would be of additional benefit to the business nor to the Shareholder.</p> <p>It is not felt that there is a need for additional committees to be instigated at this time.</p>

3.9 Table 2 below sets out in broad terms the recommended skills and knowledge non-executives should have.

Table 2: Non-Executive Director's Required Skills and Knowledge

Ability to see the “big picture”
Knowledge of corporate governance
Independent mindset
Stakeholder Management
Energy & Commitment
Specialist skills/knowledge*
Appropriate Qualification/Experience

*not necessarily industry specific

Whilst Executive and Non-executive board members share the same responsibilities, legal duties, and potential risks, their roles differ. The role of Non-executive board members is to oversee and be a “critical friend” to the senior leadership team, constructively challenge executive colleagues in the implementation of plans and strategy and provide advice and support for the benefit of the Company and its Shareholder.

3.10 In light of the outcomes of the review it is recommended that:

- the Council exercises its right under section 28.2 of the Company's Articles of Association to serve notice on RTL's current non- executive board members effective from 1st January 2022.
- a formal recruitment process for new non-executive directors is undertaken in October 2021 with adverts placed in the Guardian and other media.
- the Council as Shareholder reviews RTL's Articles of Association in light of Systra's recommendations and amend them to limit the number or terms a non-executive director can serve to 2 (8 years in total) and,
- determines who its representatives will be on the interview panel.

3.11 Due to the roll over arrangements set out above; retirement dates of non-executives are not coterminous, and none fall due in the current financial year. Additionally, the maximum number of non-execs allowed within the Company's Articles is 7. Therefore, in exercising its right under section 28.2 of the Articles and seeking to refresh the non-executive Board membership in its entirety; there is a risk that none of the current post holders will either participate or be successful in a recruitment exercise which may result in a loss of experience and knowledge. There is also a risk that some may choose to resign in advance of the notice date.

3.12 The cap on the number of non-executive board members largely dictates the timing of the recruitment process, assuming all current post holders serve until

the termination date of the 1st January. A draft timetable and proposed job description are attached.

4. CONTRIBUTION TO STRATEGIC AIMS

- 4.1 The proposals set out in this report seek to clarify the expectations of the Council as Shareholder of RTL and strengthen the companies governance arrangements, ensuring that the RTL Board have the requisite skills and capacity to ensure the Company remains a going concern and continues to contribute to the Council's Corporate Plan priorities of providing a Healthy Environment and Thriving Communities.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising directly from this report. However, RTL's financial position as reported to the Policy Committee in its capacity as Shareholder in November 2020 has not improved and securing its long-term financial viability is essential.
- 5.2 RTL's loss as at 6th April 2020, still subject to auditor sign off, is marginally worse in overall terms than previously reported. The outturn position for 2020/21 is not yet clear.
- 5.3 The Company have budgeted for a breakeven position in the current year. However, they are operating in a very difficult environment and industry experts are suggesting that at best patronage levels are only likely to get back to 80% of pre pandemic levels due to changes in people's behaviours - increased homeworking and online shopping. Ensuring the Company does as a minimum break even is essential in order that it remains a going concern.
- 5.4 Currently RTL are only required to report to the Shareholder twice a year. It is recommended that more frequent reporting is standardised and that the Assistant Director of Legal and Democratic Services drafts a Shareholder Agreement for consideration by Policy Committee to formalise this together with the other operational recommendations made by Systra.

4. LEGAL IMPLICATIONS

- 5.1 The Constitution of the Company is its Articles of Association. The Articles were last reviewed by the Council in 2013. The Council, as the sole shareholder in the Company has the right to amend the Articles of Association.
- 5.2 The Articles of Association are the primary governance document for the company but of course any company is also subject to the provisions of the Companies Act 2006, and as far as local authority controlled or influenced companies are concerned, the Local Government and Housing Act 1989.
- 5.3 The Articles cover such matters as:
- Directors powers and responsibilities
 - Reserve powers of the Council
 - Decision making by Directors

- Operation of Board meetings
- Appointment and dismissal of Directors
- Directors remuneration and expenses
- Issue of shares and dealings in shares
- Distribution of dividends
- Decision making by Shareholders
- Administrative issues
- Indemnity and insurance

5.4 The Articles give power to the Shareholder to appoint and dismiss directors. This is a power which is exercised concurrently with the Directors and this is a common scenario in companies generally. Shareholders may be happy for the Board to appoint and terminate director's appointments, but they also have a reserve power to make these decisions themselves if they consider it appropriate.

5.5 In addition to stipulating Governance matters within the Articles, shareholders often require companies to enter into a "Shareholder Agreement" which sets out requirements of the shareholder on operational company matters such as investment decisions, financial limits and targets, reporting, key performance indicators etc. A Shareholder Agreement may be in place for a number of years but can be amended from time to time. It is a document which sets out the expectations of the Shareholder that the Company is expected to deliver. Such agreements are helpful to clarify the relationship between the shareholder and the company in finer detail than the Articles.

5.6 The Systra report makes a number of recommendations for the future operation of the Company and these can be articulated in a Shareholder Agreement so that the Company is obliged to deliver them.

5. ENVIRONMENTAL IMPLICATIONS

6.1 RTL contribute to the Council's Corporate Plan priority of ensuring Reading's environment is clean, green and safe, in particular by improving air quality and the reduction in carbon emissions.

6. BACKGROUND PAPERS

There are none.