



**REPORT OF SERVICE DIRECTOR, TRANSPORT, PROPERTY &
ENVIRONMENT**

PROPOSED SCAPE GROUP REORGANISATION

Purpose of the Report

1. To seek the approval of the Policy Committee to support the reorganisation of the Scape Group of companies.
2. To authorise the County Council's Shareholder representative to vote in favour of the reorganisation of the Scape Group of companies.

Information and Advice

3. Scape System Build Limited (SSBL) is a company limited by shares, whose stakeholders are Derby City Council, Derbyshire County Council, Gateshead Council, Nottingham City Council, Warwickshire County Council Nottinghamshire County Council (the Shareholders). Each Shareholder has the right to appoint a director to the board of SSBL, as its representative. The County Council's Shareholder representative to the Scape Board is Cllr David Kirkham.
4. SSBL is a holding company and has four wholly owned subsidiary companies: Scape Venture Limited, Scape Reinvest Limited, Scape Limited (collectively Subsidiaries) and Scape Group Limited (SGL).
5. SSBL is also a trading company and therefore has or holds, amongst other things, the management structures, contracts and assets to enable it to operate as a business together with liabilities and obligations which are the natural part of being an operating company.
6. At a meeting of the Scape Board, the Scape Management proposed a three stage reorganisation:
 - **Stage One** – establishing SGL as a non-trading intermediate holding company above SSBL. Following Stage One, the Shareholders would hold the issued shares in SGL, SGL will hold the issued shares in SSBL, and SSBL will hold the issued shares in the Subsidiaries.
 - **Stage Two** – transferring the issued shares in the Subsidiaries from SSBL to SGL. Following Stage Two, SGL would hold the issued shares in each Subsidiary and SSBL.

- **Stage Three** – transferring certain assets and liabilities of SSBL to newly incorporated Subsidiaries of SGL.
7. Scape Management are now seeking approval from its Shareholders to transfer the shares they hold in SSBL to SGL in exchange for receiving one share in SGL to implement Stage One.
 8. Each Shareholder is also requested to delegate authority to its shareholder representatives to make any decisions required in relation to the Stage Two and/or Stage Three.
 9. No details have yet been put forward by the Scape Management in relation to the terms of Stage One or Stage Two of the reorganisation. However, the underlying principle is that the “commercial” terms of the relationship between each Shareholder, and between the Shareholder and the “topco” in the Scape Group (currently SSBL and post-reorganisation, SGL) will remain unchanged in real terms.

Rationale of the Proposed Reorganisation

10. The rationale for the proposed reorganisation put forward by Scape Management are summarised below:
 - Managing a diverse range of services essentially in one company is quite complex and doesn't give the necessary agility for products and services to grow and develop
 - The recent management restructure has resulted in dedicated teams that need to manage the products and services under their responsibility. The way that the group is structured currently limits this management process.
 - The products and services reach a maturity they need to operate independently as a commercial entity and develop in order to reach their potential. Being tied to other parts of the business may inhibit this development process.
 - This strategy will also protect the parent company if one part of the business is failing as the Board can decide to close that subsidiary without it affecting the overall business.
 - There are also tax advantages for operating a group structure that could reduce corporation tax
 - It is also easier to demonstrate the continuing contracting authority status of the procurement part of Scape if the more commercial parts of the group are separated out into other corporate entities. Ring-fencing the procurement part of Scape also makes it easier to demonstrate that there is no state-aid being provided to other parts of the business.
 - Putting the procurement part of Scape into a separate subsidiary gives the Shareholders greater flexibility to decide whether to make other trading subsidiaries profit-making or non-profit making.
 - A new group structure enables the ring fencing of assets against litigation risk.

Key Issues for the Authority

11. The primary consideration for the Shareholders is the impact this reorganisation may have on the Council's interest in in the Scape Group's assets. External legal advice has been obtained and the advice is that there should be no impact on the ultimate ownership of assets or liabilities of the Scape Group.
12. Assuming the same number of shares are held in SGL as were held by the Shareholders in SSBL, and that shares of the same class are issued to the Shareholders, the transactions at Stage One and Stage Two should have no impact on the ultimate beneficial ownership of the Scape Group companies.
13. Stamp duty may need to be paid on the purchase of the shares, if their value is £1000 or over although advice would need to be taken on whether relief from stamp duty is available.
14. A number of legal documents will need to be entered into in order to effect the restructure. Further legal advice will need to be obtained. At this stage the Council has not received draft legal documentation relating to the proposals. These documents will need to be reviewed in order to ensure that what is proposed does not have any unforeseen consequences which would affect the merits of the proposals.
15. The recommendations in the report allow for the legal documentation to be considered in greater detail once it has been produced and the proposals are advanced. In order to do this the recommendation in the report proposes that delegated authority is given to the Corporate Director for Environment and Resources to negotiate and approve final details of the terms of the transfer of the Council's shareholding from SSBL to SGL, in consultation with the Group Manager, Legal and Democratic Services and the S151 Officer.

Conclusion

16. On the information available and provided (1) the "commercial" relationships in the Scape Group are not affected and (2) the reorganisation is planned in detail and carried out in accordance with those details plans, there is nothing at this stage which in real terms impacts on the Council's ownership and/or share of control of the Scape Group.

Recommendation

It is recommended that the Policy Committee:

- a) Supports in principle the reorganisation of the Scape Group of companies subject to details referred to in recommendation (c) below being finalised;
- b) Authorise County Council's Shareholder representative to vote in favour of the reorganisation in consultation with the Corporate Director of Environment & Resources and the Group Manager, Legal & Democratic Services;
- c) Give delegated authority to the Corporate Director for Environment and Resources to negotiate and approve final details of the terms of the transfer of the Council's

shareholding from SSBL to SGL as specified in paragraph 7, in consultation with the Group Manager, Legal and Democratic Services and the S151 Officer;

- d) Approves the Council entering in the necessary legal agreements to effect the above recommendations;
- e) Subject to the transfer of shareholding taking effect, that the list of Outside Bodies be updated as necessary.

Jas Hundal
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Constitutional Comments (SLB 29/10/2014)

17. Policy Committee is the appropriate body to consider the content of this report.

Financial Comments (3/11/2014)

18. Assuming the assumption in paragraph 14 is correct and there are no other issues which would affect this, stamp duty relief should be available on this transaction, and there are no immediate financial implications as a result of this report.

Background Papers

None.

Electoral Divisions and Members Affected

N/A