

Eden District Council

**Council
20 April 2017**

Heart of Cumbria Limited - Staff Support

Reporting Officer: Chief Executive

Responsible Portfolio: Leader

1 Purpose of Report

- 1.1 Staff within the Council have been providing limited support to the Heart of Cumbria Limited and in relation to the general proposal since the summer of 2016 although the Company has not been operational since that time. That support has involved undertaking some research and also attendance at some meetings. Some time by the Financial Services Manager and also the Senior Legal Advisor has been used in supporting the Company and its meetings since November 2016.

2 Recommendation:

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| 1. | That the Council recover the actual cost of any accommodation, goods, services, staff and any other thing it supplies to Heart of Cumbria Limited. |
| 2. | That, the time that is expended by Officers on working for the Company be formally recorded on the timesheet system and that it be reported on a regular basis to the Executive. |
| 3. | A grant of £100,000 be paid to the Company to provide funding for it to carry out its activities during the first three years of business whilst it establishes itself and secures a return on its investments and generates income. |
| 4. | Supplementary budgets of £33,333 for grant expenditure and recoverable income be approved for 2017-2018 to recognise grant payment and recovery from the Company. Similar sums will be included in 2018-2019 and 2019-2020 budgets. |
| 5. | That this situation be kept under review as part of the Council's annual revised estimates and budget making process. |

3 Report Details

- 3.1 Heart of Cumbria Limited is wholly owned by the Council. The Company was established in order to undertake commercial activity which the Council itself is unable to undertake. The Company is intended to be engaged in the provision of housing and in undertaking economic development initiatives. In

undertaking its functions the Company will adhere to the remit which has been set for it by the Council at the shareholders general meeting.

- 3.2 The Company will require individuals to undertake some of its activities and carry out its projects and proposals. In part the Company may be able to rely upon its Directors in this regard. However, it is expected that the Company will require the use of Council staff in the short term and for the foreseeable future. The Company currently uses Council accommodation and the Town Hall is its registered office. In addition, the Company also has access to some of the supplies and the facilities of the Council such as through the use of stationery. To date there has been limited staff involvement with the Company although some individuals have been engaged in servicing the Directors' meetings and in carrying out the preliminary measures in relation to financial matters such as establishing a bank account. The Company currently has three Directors who are Councillors and has made appointments to secure two Independent people as Directors. The Company is considering opportunities for investment in pursuing the Council's remit in relation to housing and economic development initiatives.
- 3.3 It is likely that any company which is established as a new body will require some money or facility in the interim period whilst it generates an income. It is usual for the shareholders or the Directors of a company to provide finance through either loans, grants or capital through the issue of shares. The Council as the shareholder is the authority which has set up, in effect, the Company to undertake the remits which it has established and from whom the initial set up monies or facility should be sought.
- 3.4 Council has approved a business plan for Heart of Cumbria Limited. There is a statutory instrument known as the Power to Trade Order 2004 which should be considered in relation to services which are provided to the Company. Generally, the Order requires that the authority concerned should recover the cost of any accommodation, goods, services, staff and any other things that it supplies to a company in pursuance of any agreement or arrangement which is made to facilitate the undertaking of a commercial purpose. The initial set up monies for the Company will be to facilitate the undertaking of the commercial properties for which the Company has been established. The principle which should be accepted and adhered to is that where services are anything that is supplied by the Council to the Company then the Company should meet the cost of the provision.
- 3.5 It is considered that the Company, Heart of Cumbria Limited, should be provided with a grant to enable it to meet its costs in the first three years of trading. It is considered that the sum of £100,000 should be made available to the Company for this purpose. It is anticipated that the money will be provided to the Company as £50,000 in the first year with £30,000 and £20,000 in the second and third years. The Company is considering the acquisition of properties for which fees for surveys, valuations and other activities related to the purchase will be incurred. It is estimated the fees will be in the region of £10k for two properties which are under consideration. The grant will enable the Company to pay the Council for the use of Council staff and any other thing which it supplies to the Company on a cost basis.

The expectation is that the Company will become profitable over time and will make a return to the Council which will include the payment of a dividend to the shareholder.

- 3.6 Staff who undertake activities on behalf of Heart of Cumbria Limited should record their time for this purpose. The Council has a time recording system which is used by all members of staff and appropriate timesheet codes have been established to enable the actual time which is recorded for the Company to be made known and recorded to enable an appropriate charge to be levied. The amount of time which is spent on the Company and the cost which arises therefrom will have to be monitored. It is anticipated that monitoring reports will be submitted to the Executive and the Company on a regular basis to identify the time spent working for the Company. The time spent can be identified and considered and be available to all Members through the budget monitoring process which is undertaken through the financial year.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:
- Decent Homes for All
 - Strong Economy, Rich Environment
 - Thriving Communities
 - Quality Council
- 4.2 This report meets the Quality Council corporate priority.

5 Implications

5.1 Legal

- 5.1.1 The Council has established Heart of Cumbria Limited in pursuance of its general power of competence in the Localism Act. Prior to the implementation of the Localism Act a best value authority had a power to trade under Section 95 of the Local Government Act 2003. The Power to Trade Order 2004 was made under the 2003 Act. The Order sets out that a best value authority shall recover the cost of any accommodation, goods, services, staff any other thing that it supplies to a company in pursuance of any agreement or arrangements made to facilitate the undertaking of a commercial purpose. It is considered that this principle which derives from the Power to Trade Order should be applied to Heart of Cumbria Limited and the provision of anything which the Council makes available to the Company.
- 5.1.2 The statutory provisions and the arrangements which the Council makes with Heart of Cumbria Limited should have regard to the State Aid provisions. The State Aid rules restrict an advantage which a public authority may give through the use of State resources on a selective basis to organisations which, potentially, could distort competition and trade in the European Union. The provision of a sum which is less than €200,000 to an organisation within a three year rolling period is 'de minimis' and as such does not contravene the State Aid rules. It is considered that the State Aid rules should be adhered

to in relation to Heart of Cumbria Limited. It is the case, as with any commercial organisation, it will require some financial provision in the initial stages to enable the Company to establish itself and make a return on its investments and otherwise secure income. It is entirely usual for those engaged with an emerging and new company including the shareholders to make provision to the Company to enable it to undertake its activities in its early stages. It is considered, therefore, that provision should be made for the Heart of Cumbria Limited to receive grant funding of £100,000 to enable it to undertake its activities in the first three years of business. The funding will enable it to engage Council staff and use Council resources on a cost basis. It is anticipated that over time the Company will generate profits and make a dividend payment to the Council as the shareholder. The Company must undertake its activities in accordance with the remit which has been specified by Council at its meeting in November 2016.

5.2 Financial

- 5.2.1 Any decision to reduce or increase resources must be made within the context of the Council's stated priorities, as set out in its Council Plan 2015-19 as agreed at Council on 17 September 2015.
- 5.2.2 The proposal is to charge the Company for staff time and for services and supplies it receives on a cost basis. The Council has processes which enable it to identify the time spent upon the Company and for the costs and charges which should be levied to it to be identified. The charges can be monitored through the time recording system and notified to the Executive and the Company.
- 5.2.3 To ensure the grant and the recovery of the cost from the Company are shown supplementary budgets for £33,333 expenditure and income are required in 2017-2018. These will have a net nil effect on the Council's budget requirement. Similar sums will be included in the Council's revenue estimates in 2018-2019 and 2019-2020.

5.3 Equality and Diversity

- 5.3.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equality Act 2010 and related statutes.
- 5.3.2 There are no equality and diversity implications arising from this report.

5.4 Environmental

- 5.4.1 The Council has to have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.
- 5.4.2 There are no environmental issues arising from this report.

5.5 Crime and Disorder

- 5.5.1 Under the Crime and Disorder Act 1998 the Council has to have regard to the need to reduce crime and disorder in exercising any of its functions.

5.5.2 There are no crime and disorder issues arising from this report.

5.6 Children

5.6.1 Under the Children Act 2004 the Council has to have regard to the need to safeguard and promote the welfare of children in the exercise of any of its functions.

5.6.2 There are no implications arising from this report.

5.7 Risk Management

5.7.1 The identification of the time spent and charges levied to the company will enable the charging cost to be identified with some degree of accuracy for the purpose of payment and transparency.

6 Reasons for decision/recommendation

6.1 To enable the Council to recover the actual costs of services supplied by the Council to Heart of Cumbria Limited.

R Hooper
Chief Executive

Governance Checks:

Checked by or on behalf of the Chief Finance Officer	✓
Checked by or on behalf of the Monitoring Officer	✓

Background Papers:

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