

Chairman's statement to AGM

As we start this reconvened meeting I would like to read the following statement. I have tried to keep it as short as possible although the situation is quite complicated.

Firstly we are now quorate. The company's governing document, called the Articles of Association, states that if a general meeting cannot go ahead due to a lack of a quorum, then the meeting will be postponed for one week. At that meeting the number of members who attend will be held to be a quorum.

I have been reviewing the contents of the Articles of Association and relevant company law over the last week, and would make the following comments.

The Byres Road & Lanes BID Company Ltd is a private company limited by guarantee, which has no shareholders.

Its governing document or constitution, called the Articles of Association, sets out requirements such as the calling and running of general meetings, the quorum of such meetings, the appointment and powers of the directors, the definition of who can be a member of the company and so on.

I know that my predecessor David Howatt was not happy with the way that the Articles were written, and I agree with him. The document is very badly drafted. Unfortunately as the document predates my involvement with the BID, and I have no idea who drafted them and why this particular version of the document was used when the company was first formed.

One example of the poor drafting is that the definition of who is a "member" of the company is unclear. There is a list of categories of members of the company which includes "BID members" and then another paragraph which states "any person who pays the BID Levy within the BID Area is eligible to apply for membership". The words "any person" are not further defined. For example, if the levy is paid by a limited company or a partnership, who is eligible to attend meetings and who has the right to vote at them?

After reviewing the Articles and the background company legislation further, I came to a surprising discovery: THERE IS NO LEGAL REQUIREMENT FOR US TO HOLD AN AGM

Public limited companies are required to hold an AGM. As far as private limited companies are concerned, any such requirements to hold an AGM, and details of how it should be run, may be set out in the Articles of Association.

Our Articles make no such provision.

Do I think that we should hold an AGM? Yes, I do, as part of "best practice" I believe that there should be an annual meeting of the company where the accounts are presented to the members, and the directors report on the activities for the last year and look ahead to the future. But I repeat that under our current constitution, there is no legal requirement for that to happen.

There is also no legal requirement in the Articles for the directors to be re-appointed each year. The directors are appointed by the Board, or by a resolution at a general meeting, but after that their term of service is open ended, unlike that of public companies and various charity or trust companies

which often require that a certain number of directors have to stand down and be re-appointed each year.

The section of the Articles which has caused the problem that arose last week relates to the quorum of a general meeting. This shows that a quorum of 25% of the members is required. The confusion here is whether a person or company who owns more than one property in the BID area has just one vote in a meeting or whether they have one vote per property they own. Again the Articles do not address this. There are approximately 200 individuals and companies that own businesses in the BID area out of a total number of around 240 businesses. If we accept that one “member” can hold many properties then we are talking about a quorum of around 50 people.

I do not know of any organisation – whether a private limited company, trust, club, charity or anything else - where you would expect that 50+ people would turn out for an AGM. It is simply not practical. A quorum of 10 would be more realistic. We are however stuck with what we have in this document for the time being (more on that later)

I fully admit that I was not as aware of the detailed provisions of the company’s Articles as I should have been, and for that I apologise. When I took over as Chair of the Board following David’s sudden death in 2019, we simply carried on doing what we had done before in relation to how the AGM was run. For some reason I had it in my head that the quorum was seven, which is why last week I asked Deborah to check the number to clarify what the quorum was, and I was completely shocked at the result. I was wrong, and I own up to that error.

How does this affect the decisions at the AGMs we have held in the past, which were clearly not quorate under the provisions of the Articles? Firstly as mentioned before, there is no legal requirement for the company to hold an AGM. Secondly it is my understanding that those meetings would be considered as informal gatherings of the members, and any decisions made at such meetings would be considered as advisory, and would not, for example, be held as legally binding in the event of any legal proceedings.

So where do we go from here? Clearly the current Articles are not suitable for our purposes and will need to be changed.

The Board have agreed to carry out a comprehensive review of the Articles of Association in 2026 with a view to replacing them with a document that more suits our needs. This will include clarifying who is a member of the company, inserting provisions for holding and running an AGM, as well as updating to include provisions for online meetings. Professional advice will be sought and we will provide details of the new draft documentation to BID members for comment and discussion.

Changes to the Articles will require a special resolution and a vote of at least 75% of the members of the company (although proxy voting can be used) and this will obviously take some time to arrange. However we confirm that we will move forward with this in the New Year.

As far as today’s meeting is concerned, the Board has agreed to accept that those who are levy payers, or are representatives of the company or partnership who pay the BID Levy, will be viewed as “members” for the purposes of today’s meeting

We will now move to the main body of the meeting

