

QUESTIONS FROM HUGH MATHEW 28/09/2020

I must state that I have been asked to put this question on behalf of the Racketball Committee, after some discussion on the matter.

I should also like to express my disappointment that it appears from the formal notice for the AGM that the questions and responses will only be circulated by email and only on the 12th October, a day before voting closes. The email sent out on the 28th August 2020 expressly states

“Members will be invited to submit questions in response to the AGM information pack to which the Board will respond. ***Both the questions and responses will be published on the Club noticeboard and website.***”

I have already mentioned to a Director of the Company that the lack of clarity in this statement leaves it open to be interpreted as either to mean:-

(1) questions and responses will be published well in advance of the meeting, prior to proxy voting, in order to inform debate,

or

(2) questions and responses will be published after the event, which would prevent any sensible debate on the topic.

Currently, it would appear that (2) is the more accurate statement, in this instance.

The reason for preventing members attending the AGM has been explained to me as being in line with the Corporate Insolvency and Governance Act 2020 (which has recently been extended to March 2021) but Guidance issued with the Act by the FRC (the independent regulator, the Financial Reporting Council) stresses, under

“Best Practice Essentials” that

“As a minimum, organisations should consider exemplary member communication as the key element of good practice: This should include

- issuing communications in a timely fashion to ensure members can consider the matters to be voted on,
- ensuring that clarity is given on proxy voting,
- explaining the procedure for both the meeting and any communications prior to the meeting,
- ***giving all members the opportunity to both ask questions and receive responses to those questions prior to voting either at a real time on-line meeting or via proxy,***
- making answers to any questions raised available to all both in the meeting and in written form following the meeting. This could be in real-time in the case of virtual meetings.
- offering a physical meeting to all shareholders once government restrictions are lifted.”

It appears that the Board is making good efforts to comply with these, except from the one clause which I have highlighted in bold. Perhaps this is due to an oversight and could be reconsidered ?

Our question relates to **Resolution No 3** concerning the Company’s Auditors.

The Articles of Association were changed earlier this year and Article 32.2.3 now states that one of the purposes of the Club Annual General Meeting is “to appoint the Club’s auditors or independent examiner” – where before it had only mentioned “auditors”. Although, technically, “Independent Examinations” do not exist, except for charities, the term is still quite widely used (as an alternative to the rather oddly named “limited assurance engagement”) to describe the independent preparation of a Company’s financial statements on a “nothing negative to report” basis

rather than a “positive affirmation after significant investigation” basis like an Audit.

It has already been brought to the Board’s attention that the cost of conducting the simpler task, completely in line with legal requirements, rather than a full Audit, is likely to save some £3000 to £4000 per annum.

Like 97% of all companies in the UK, the Club is “exempt from audit”, because it does not have Revenue of over £10.2 million, Assets of £5.1 million, nor employ 50 people.

Of the 1 million companies of a similar size to the Club (around £500,000 turnover), the number still having a full Audit is estimated to be a fraction of one percent.

Resolution 3 asks us to re appoint MHA as auditors when we do not have any information presented as to:-

1. whether they will be asked to conduct a full Audit or an “Independent Examination” and how much they would charge for either of these.
2. comparative quotes from any other Accountants.

Given the present state of the Club’s finances, is the Board able to confirm that this matter has been fully discussed and able to inform members that the current level of expenditure, which is believed to be around £6,000 for a full Audit, will fall to around £2,000 for an Independent Examination/ Limited Assurance Engagement for the 2020 and subsequent Accounts ?

In addition, and of some concern, I believe that the absence of any mention of the Audit Fee, either in the accounts, or as an explanatory note to the accounts, to be non-compliant with the appropriate Regulations.

I cannot find any mention of the Audit fee in the 2019 Accounts and, unless I have wrongly interpreted the relevant Statute (for which I apologise in advance), an explanation of this would be appropriate before votes are cast.

NOTE : Compliance with Statute

*** Statutory Instrument 2008. 489 – The Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008. Regulation 4 states

Disclosure of remuneration: small and medium-sized companies

4.—(1) A note to the annual accounts of a small or medium-sized company must disclose the amount of any remuneration receivable by the company’s auditor for the auditing of those accounts.

Although this Statutory Instrument was amended in 2011 (by Statutory Instrument 2011/2189), the responsibility to disclose the Audit fee remained on a full audit, such as those presented to our own members and to HMRC.

Up to 2015, this duty did not extend to abbreviated accounts but since then, even in “abridged accounts” lodged at Companies House, the requirements on disclosure have been significantly expanded and I believe that these too now require the Audit Fee (but not other payments made to the auditors) to be mentioned as part of the explanatory notes.

ICAEW is a professional membership organisation supporting over 140,000 chartered accountants around the world. Their Technical Release Tech 14/13 FRF entitled “ **Disclosure of auditor remuneration**” states :-

Q10. What do SMEs have to disclose?

. **10.3.** For companies that are subject to the small companies regime, section 444(1) makes optional the filing with the Registrar of Companies of the directors’ report and the profit and loss account and related notes. ***Such accounts should include the disclosure of auditor’s remuneration for auditing the accounts because this disclosure is required by the Regulations and cannot be construed as a note to the profit and loss account.***^[1]_{SEP}

In the absence of satisfactory answers to the above, the question of whether or not the present incumbents should continue in the role of auditor or independent examiner could be open to debate and members may choose to vote **AGAINST Resolution 3.**

Yours sincerely,

Hugh Mathew

SLT&SC BOARD RESPONSE 02/10/2020

Dear Hugh ,

I am responding to your email of 28 September 2020 directed to the Club's Board of Directors.

I am responding on their behalf.

Firstly, I apologise if the formal notice of the Club AGM sent out on 21 September 2020 was unclear over the publication of responses to members' questions regarding the mailing.

It was always the Board's intention to publish these questions and their responses, as soon as they were dealt with, by putting them on the Club's notice board and including them in an email to members and on the Club's website, thus complying with "best practice" under the Act and its guidelines to which you refer.

Below please find the response from John Turner, the Club's former Treasurer, to your comments regarding Resolution 3.

"The Covid lockdown began just before the Club's year end and created significant uncertainty about the likely rate of membership renewals.

As a result of that the carrying out of the year end audit was deferred from its normal early May date. The accounts were nevertheless prepared at that time, by the then Treasurer. As the impact of Covid on the Club's finances became increasingly clear the Board took the decision not to have an audit of the 2020 accounts, thereby saving approximately £5,000.

The 2020 accounts therefore disclose no cost relating to audit.

The Auditors have been reliable and competent over many years and thus it is proposed that they be re-appointed. That re-appointment does not bind the Club in any way. The Club remains able to appoint different auditors or to have merely an examination by an independent accountant, whether that be conducted by the Auditors or by some other accountant. That decision can be made later in the year, including the possibility of next year having two years' accounts audited or examined.

The Board's view was that with funds so short it was an expense that should sensibly be avoided this year."

We hope that our response has dealt adequately with your queries.

Regards,

Rosalind Dace

HUGH MATHEWS RESPONSE DATED 02/10/2020

Dear Ros

Thank you for your response to my question about Resolution 3. – and about the publishing of the questions and responses in good time before the voting.

It is very pleasing to see that it is the Board's intention for the debate to be informed – indeed I think the Board should be commended for its compliance (and then some) with the Act's "Best Practice".

With regard to JT's response, I am also pleased to note that the Board has taken the decision not to audit in 2020 and save the substantial sum mentioned. Again, something which is worthwhile broadcasting to Members as an indication of the diligence of the Board in preserving funds during the crisis.

Which just leaves my point about the Auditor(s) themselves.

I am aware that the re-appointment of the Auditor does not necessarily prevent the Club from dispensing with their services, but the AGM is perhaps an appropriate time to discuss their position - even in these circumstances.

It may have been the Club's decision, rather than the Auditor, to continue with a Full Audit long after its necessity or benefit, but it is not unreasonable to expect professional advisors to suggest appropriate compliance with Audit Regulations which may be considerably cheaper for their clients. – even if it does reduce their own income.

And JT has forgotten to comment on the rather important point about our Accounts being non-compliant with the Regulations with regard to the omission of any mention of the Audit fee.

For information, if you read my original question, I mentioned the 2019 Accounts – not the 2020, which are not yet available. But I could just as easily have mentioned 2018 or 2017 or 2016. As far as I can tell, the Auditors have never ensured that the amount of their Audit Fee is noted in the Accounts, as I believe they are required to do.....by law.

As I hinted previously, it may be time for a change. There are a number of local Accountants who are perfectly competent and would be very competitive in tendering for such a prestigious account.

Thank you for the opportunity to air my views on this subject.

Good luck with the AGM. I hope it goes off without a hitch, thanks to all your hard work.

Kind regards,

Hugh

SLT&SC BOARD RESPONSE DATED 03/10/2020

Dear Hugh,

Thank you for yesterday's response and for your support. I will forward your comments about including the auditor's fees in the accounts to John Turner.

As you may know, John resigned from the Board with immediate effect a few weeks ago and so until the AGM we are without a treasurer.

I think it is best to leave it to the Board elected at the AGM to investigate whether new auditors should be appointed.

Kind regards,

Ros