

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 26 November 2019

Present: Councillor T Cox (Chair)

| | | |
|-------------|-------------|--------------------------------------|
| Councillors | P Hackett | G Wood |
| | C Cooke | JE Green (In place of C Blakeley) |
| | P Gilchrist | WJ Davies (In place of M McLaughlin) |
| | P Stuart | |

17 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Chris Blakeley and Moira McLaughlin. Councillors Jeff Green and Bill Davies in attendance as substitutes.

The Chair informed that Councillor Gill Wood had given notice of an unavoidable delay - but would be present at the earliest opportunity (Councillor Wood in attendance for discussion of the Governance Review Item).

18 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

No declarations of interest were received.

Councillor Pat Hackett questioned the Director of Governance and Assurance regarding Item 5 (Council Owned Companies) and his (Councillor Hackett's) role on the Shareholder Board. The Director of Governance and Assurance advised that there was no conflict of interests and that no formal declaration was necessary.

19 MINUTES

Resolved – That the minutes of the Standards and Constitutional Oversight Committee meeting held on 26 September be confirmed as a correct record.

20 SUMMARY OF STANDARDS COMPLAINTS 2018/19

Vicki Shaw, Head of Legal Services and Deputy Monitoring Officer introduced the report of the Director of Governance and Assurance (Monitoring Officer) providing a summary of standards complaints received under the Members' Code of Conduct and the Protocol for dealing with complaints against Members between 31 October 2018 and 31 October 2019.

A Member highlighted that a complaint had been submitted in July 2019 and was currently awaiting consideration by the Standards Panel and formal decision.

The Deputy Monitoring Officer confirmed that an investigation had been undertaken and a meeting of the Standards Panel has been scheduled for 4 December 2019. A number of circumstances outside of the control of the Governance and Assurance Service had contributed to the length of time this specific matter had taken to come to fruition.

In respect to the Annual Report - Summary of Standards Complaints 2018/19 – the Deputy Monitoring Officer reported that under the Localism Act 2011 the Council was required to have a Code of Conduct relating to the conduct of Members and arrangements in place to deal with any complaints received in respect of Members conduct.

The Deputy Monitoring Officer informed the Standards and Constitutional Oversight Committee that, in this regard, between 31 October 2018 and 31 October 2019 a total of 15 complaints in respect of the conduct of 9 Members had been received. The complaints were received from 13 complainants who were all members of the public. One complainant had submitted complaints in respect to 4 Members. One incident complained of involved 2 Members and the same complainant made a complaint against a third Member which was connected. She advised that in the majority of cases ‘no breach’ had been found, with 1 local resolution (apology) and 2 complaints not progressed due to the Councillor concerned not having been re-elected. One further (most recent) complaint had been withdrawn.

Resolved – That the report be noted.

21 **COUNCIL OWNED COMPANIES**

Philip McCourt, Director of Governance and Assurance introduced his report providing Members of the Committee with the information previously requested concerning companies which are wholly or partly owned by the Council.

The report informed that the Council currently owned shares in two active companies Edsential and Wirral Evolutions (details of which set out below). Both were regulated by shareholder agreements in conventional form.

| | | | |
|--|-----------------------------------|--|---|
| <p>EDSENTIAL (CRN 09550258)</p> | <p>Community Interest Company</p> | <p>50% of the issued share capital (CW&C holds the remaining 50%)</p> | <p>56290 - Other food services 85600 - Educational support services Primarily school catering and cleaning, support to creative and performing arts, governors, health and wellbeing, music, residential visits and training - More particulars can be found at https://edsential.com</p> |
|--|-----------------------------------|--|---|

| | | | |
|--|-------------------------|----------------------------------|--|
| WIRRAL EVOLUTIONS LIMITED (CRN 09589553) | Private Limited Company | 100% of the issued share capital | 88100 - Social work activities without accommodation for the elderly and disabled More particulars can be found at http://www.wirralevolutions.org/ |
|--|-------------------------|----------------------------------|--|

The Director of Governance and Assurance apprised the Standards and Constitutional Oversight Committee that the Council also owned shares in two other companies both of which were currently dormant, details of which are set out below. Governance issues would need to be fully addressed before the companies commenced trading.

| | | | |
|--|-------------------------|----------------------------------|--|
| WIRRAL GROWTH COMPANY NOMINEE LIMITED (CRN 10669793) | Private Limited Company | 100% of the issued share capital | This company was incorporated to 'hold' the Wirral Growth Company name for the limited liability partnership and has not traded. It is essentially redundant and there is no requirement to keep it, but it could easily be repurposed to accommodate miscellaneous trading activity that the council may care to enter into. |
| WIRRAL HOLDINGS LIMITED (CRN 11750772) | Private Limited Company | 100% of the issued share capital | This is a single purpose company wholly owned by the Council - formed to enter into long term legal arrangements regarding the management of property in 10 years' time, but which has not traded and otherwise has no current assets. This company could be repurposed to discharge not only its original purpose, but also other housing or property related activities. |

The Director of Governance and Assurance further informed that in addition, the Council had numerous other informal arrangements, PFI mechanisms, associations and 'partnerships' which either had no corporate structure or in which the council had no proprietorial interest as well as an interest in the Wirral Growth Company LLP, which, despite its name and it being registered at Companies House, was a limited liability partnership (not a 'Company' per se).

The Chair questioned whether there were any costs involved in registration or liabilities relating to the informal arrangements (PFIs etc). The Director of Governance and Assurance informed the Committee that all had been de-registered and were dormant, and specific costs in this regard amounted to £13.50 per arrangement. He further assured the Committee that if/when a Special Purpose Vehicle (SPV) becomes absorbed by / or member of another company (which can be a grouping of many dormant companies) there would

be no impact on Council finances. He added that should they become (or plan to become) active, the Council must be notified.

Further discussion took place, with additional questions to the Director of Governance and Assurance regarding rights associated with these shares, risk to cost ratio and the use of search agents. Members sought reassurance in these areas and the Director of Governance and Assurance agreed that, if so instructed, he would be happy to take on a project to investigate dormant or dissolved companies to identify possible liabilities, should they exist.

Resolved – That

- 1) the report be noted; and**
- 2) the Director of Governance and Assurance initiate a project to investigate dormant or dissolved companies in which the Council may hold an interest.**

22 **GOVERNANCE REVIEW**

Philip McCourt, Director of Governance and Assurance introduced the report of the Governance Review Working Group that informed that on 14 October 2019, Council passed a resolution that there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020. The Standards and Constitutional Oversight Committee had been charged with preparing a draft revised Constitution to propose to the Council meeting of 16 March 2020.

Following the resolution by Council to change the form of governance, there then followed a process of formal notification, and the report informed that legislation provides that, as soon as practicable after the Council has passed a resolution to change the form of its governance arrangements, it must secure that copies of the document setting out the provisions that are to have effect and ensure they are available at its principal office for inspection by members of the public; Council must also publish a notice in one or more newspapers circulating in its area.

This report further provided an update on the work undertaken by the Governance Working Group following the decision of the Council.

The Chair provided Members with a brief summary of the background to the Committee and Working Group's work since May 2019, and the decision to move to a Committee System of working and the phases of work – i.e. to rewrite the Council's Constitution formalising governance arrangements for the Committee structures - with a view to presenting these matters to Council in March 2020.

The Director of Governance and Assurance informed the Standards and Constitutional Oversight Committee of a recent visit by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) who met with the political group leaders to discuss progress made. He added that in addition to the Member Working Group, a project group of Officers had also been

established, assisted by a member from the Council's project management office – to aid progress with 5 different workstreams, namely:

- Committee design phase
- Constitution re-write
- Training: Members and Officers
- Service review and Staffing re-design
- Members Allowances Scheme

The Director of Governance and Assurance further informed of the iteration process used whereby key questions were put to Members about what they wished to achieve, whether what had been produced would meet those objectives, and consideration of the practical implications i.e. whether the new governance system would impact on the culture of the organisation – seeing the Council running in a different way. Members were apprised of the practical questions that had also formed a major part of the process to ensure the new system of governance was well designed, robust and fit for purpose. The agreed objectives included:

- Accountability
- Credibility
- Transparency
- Collaboration
- Timeliness

The Director of Governance and Assurance apprised the Standards and Constitutional Oversight Committee of matters taken into consideration when progressing the workstreams, that included reference to new regulations, exceptions, possible arrangements for Overview and Scrutiny, and key risks and mitigations. He added that there were some disadvantages to a committee system i.e. the risk of 'silo' working, lack of leadership, lack of openness and transparency, slowing of decisionmaking process and increased bureaucracy. The Director informed arrangements were being considered to mitigate these issues, and that advantages of the new system included:

- Cross party support for a proportionate system to engage all Members / all political groups in the democratic process.
- Council is 'supreme' decision making body – all Members therefore play a part in key strategic decisions.
- Separation in delegations between decisions that are regulatory, operational, policy formulation and policy setting.

He explained that the new arrangements would therefore not be a nostalgic return to the traditional committee system, but would retain the best of an open cabinet system in making decisions that were accountable but also reactive and commercial where required, and make use of 'call-in' overview and scrutiny principles.

Following consideration of the Director's report and presentation, a question and answer session took place. Members questioned the Director and Chair

on how specific areas of the decision making process would work in practice, covering areas such as:

- The legal requirement for a scrutiny/partnership committee – legal requirement.
- Addressing cultural issues.
- The relationship between a Policy and Resources Committee and Council – their specific roles.
- Delegation to a Policy and Resources Committee and how this might work.
- Openness and transparency – giving all Councillors a voice.

The Chair advised Members that it was his understanding that Council was to be the primary decision making body, with a Policy and Resources Committee holding a policy and strategic role. He re-iterated the importance of a sound framework i.e. what committee has control of what and procedures for delegations to Officers.

In response to a question from a Member, the Director advised that the primary instruction given to him had been to produce a business like, timely and open framework and process that fully engaged with Councillors. He added that Officers had already commenced work on committee arrangements and terms of reference. These were currently being circulated to Members.

A Member questioned arrangements for issues to be taken out of delegation, whereby issues that may bring about significant opposition could be reviewed and/or halted. The Chair informed that a 'Call In' process would operate in a similar fashion to how it currently does - a further opportunity for review.

Further debate ensued, with Members providing additional views to the Director on proportionality, building in of flexibility in the system to deal with unplanned events, and highlighting that Council to be the place where major direction is set. A Member also expressed his support for cross party leader meetings and asked if consideration was being given to P&R question time and / or Lead Member question time.

In response, the Director informed that as part of the re-design of Council Standing Orders – access to public questions would be under review. He added that the Member Workshop was also expected to continue beyond next year, as the new committee system established itself.

The Chair thanked Officers and Members for their attendance and informed that the Governance Review was clearly work in progress and that the Member Working Group will continue its work and provide regular updates, he added that proposed arrangements were continually under review and that the Working Group will be discussing options around 'call in' and 'dissent'.

Resolved - That the report and progress to date in designing the new committee structure be noted.