



**SHAREHOLDER BOARD**  
**Wednesday 1 September 2021**

<b>REPORT TITLE:</b>	<b>WIRRAL EVOLUTIONS GOVERNANCE WORKSHOP AND REVIEW</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

**REPORT SUMMARY**

This report seeks approval to hold a Governance workshop with Wirral Evolutions Limited, conduct a comprehensive review of the governance of the company by the Council and present an options paper to a future meeting of Shareholder Board.

This matter affects all wards within the Borough.

This matter is not a Key Decision.

**RECOMMENDATION**

The Shareholder Board is recommended to:

1. Authorise the Director of Law and Governance to convene as soon as is reasonably practicable a governance workshop to be attended by the members of Shareholder Board, the Directors of Wirral Evolutions Limited and appropriate senior officers of the council including but not limited to the Director of Law and Governance, the Director of Adult Social Care and Public Health, Director of Resources. The purpose of the workshop is to identify and address areas of concern to the Council and Wirral Evolutions Limited regarding existing governance arrangements; and
2. Request the Director of Law and Governance, following the completion of the governance workshop session or sessions, to bring a report to the next available meeting of Shareholder Board summarising the outcome of the workshop session/s and presenting a review of the options available for the future governance of Wirral Evolutions Limited.

## **SUPPORTING INFORMATION**

### **1.0 REASONS FOR RECOMMENDATIONS**

- 1.1 To address concerns that the Council and Wirral Evolutions Limited have both expressed about the apparent lack of good quality communications between the two organisations.
- 1.2 To address concerns that the Council has:
  - (a) at the apparent reluctance of Wirral Evolutions Limited to fully adopt and observe the 7 Principles of Public Life (commonly known as the Nolan Principles) established by the Committee on Standards in Public Life and the historic reluctance of the company to offer transparency to the Council and the public around its activities; and
  - (b) about the apparent inability of Wirral Evolutions limited to secure significant third-party contracts.
- 1.3 To address concerns expressed by Wirral Evolutions Limited:
  - (a) about the confidentiality of its information shared with the Council, the commercial sensitivity of information relating to its activities and potential conflicts of interests of Members and officers engaging with the company:
  - (b) about the perceived lack of strategic input received from Shareholder Board
  - (c) that the Shareholders Agreement is, in part, unfit for purpose and inhibits the company's ability to secure external contracts and develop its business.
  - (d) about the lack of strategic support and direction from the Council.
- 1.4 To address any matters raised by the Audit Report on Wirral Evolutions Limited being prepared by the internal audit team of the Council if available at the time of the workshop.
- 1.5 To promote and facilitate an unlimited, frank and open discussion between all relevant parties around the governance of Wirral Evolutions Limited and more generally the relationship between the two organisations.
- 1.6 To identify possible mechanisms to improve and strengthen the relationship between the Council and Wirral Evolutions Limited which may include but would not be limited to:
  - (a) the establishment of regular interaction between the Directors of Wirral Evolutions Limited and Shareholder Board;
  - (b) the publication of Wirral Evolutions Limited board papers to Shareholder Board prior to board meetings so as enable Shareholder Board to offer input to the board of Wirral Evolutions Limited;

- (c) participation in Wirral Evolutions Limited board meetings by appropriate senior officers of the Council as observers or directors;
- (d) performance of board secretariat duties by officers of the Council; and
- (e) regular engagement and liaison meetings between senior officers of the Council and Wirral Evolutions Limited.

## **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Doing nothing. This option has been discounted as it fails to address the stressed relationship between the Council and Wirral Evolutions Limited. Such failure is unlikely to be rectified if direct and positive action is not taken.
- 2.2 Formal enforcement of the provisions of the Shareholder Agreement and the Council's rights under the formal constitution of Wirral Evolutions Limited (Articles of Association) and at law under company legislation. This option has been discounted, at present, as it is preferred to explore a reasonable negotiated position before resorting to more formal resolution measures.

## **3.0 BACKGROUND INFORMATION**

- 3.1 Wirral Council established Wirral Evolutions in December 2015 as a private company limited by shares with Wirral Council as the sole shareholder. The company was originally set up to deliver adult social care services in Merseyside. There was an expectation that when Wirral Evolutions was established it would diversify and grow the business, increase activity, achieve economies and diversify its customer base, so that it was not solely depending on Council funding to enable it to be financially sustainable.
- 3.2 Approximately 97% of Wirral Evolutions' income is derived from a block contract with the Council to deliver Day Services for People with a Learning Disability. The current value of this contract with the Council is £5.015m for 2021/22. In normal circumstances the company also generates some additional vocational income which was forecasted to be £150,000 on its recent draft Annual Business Plan.
- 3.3 The Company occupies headquarters and delivery premises which are leased from the Council and buys back support services from the Council under an informal Service Level Agreement.
- 3.4 A shareholder agreement was agreed when the company was established which sets out how the parties have agreed to manage the affairs of the Company.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications directly arising from the subject matter of this report, but it is anticipated that making appropriate changes to the existing governance arrangements will enhance the ability of Wirral Evolutions Limited to

perform in its market sector and thereby reduce its financial dependence on the Council, its shareholder.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 Wirral Evolutions was established with the appropriate Certificate of Incorporation for a Private Limited Company with associated articles in December 2015. The shareholder agreement was agreed on the formation of the company.
- 5.2 Wirral Council does not have a legal duty to provide day services but does have a legal duty to meet the assessed needs of adults requiring care and support.
- 5.3 As a company wholly owned by the Council, Wirral Evolutions Limited is bound by the Nolan Principles and the public sector procurement regime.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 There are no direct implications to staffing, ICT or Assets arising from the subject matter of this report.

## **7.0 RELEVANT RISKS**

- 7.1 Failure to address relationship issues between the Council and Wirral Evolutions Limited may prejudice the future performance of the company and whilst there no issue with the quality of the service delivered the failure of the company to expand into the market sector and achieve required reductions in costs may challenge the company's continuance as an economically viable operator.
- 7.2 There is a reputational risk for the Council over the performance of its wholly owned company.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 Regular informal interaction between the directors and senior employees of Wirral Evolutions Limited and Officers of the Council has taken place and has identified the issues referred to above in section 1 of this report, but formal discussions, engagement and consultation have not taken place.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 There are no direct equality implications arising from the subject matter of this report.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 There are no direct environment and climate implications arising from the subject matter of this report.

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**BACKGROUND PAPERS**

Shareholder Agreement

Wirral Evolutions Limited Draft Annual Business Plan

7 Principles of Public Life (commonly known as the Nolan Principles) established by the Committee on Standards in Public Life

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>