

**MINUTES OF A JOINT MEETING OF THE
AUDIT COMMITTEE AND THE
CORPORATE SERVICES OVERVIEW AND SCRUTINY PANEL
HELD ON MONDAY 8 AUGUST 2011 FROM 7.00PM TO 9.30PM**

Present:- Norman Jorgensen (Chairman), Parry Batth, Chris Bowring, Alistair Corrie, Michael Firmager, Jenny Lissaman, Philip Mirfin, Barrie Patman, Bob Pitts, Beth Rowland and Paul Swaddle

Also present:-

Councillor Matt Deegan, Executive Member for Community Regeneration and Chair of TESC

Azhar Ghose, Senior Solicitor

Susan Law, Chief Executive

Andrew Moulton, Director of Transformation

Susanne Nelson-Wehrmeyer, Director of Legal and Electoral Services

Madeleine Shopland, Senior Democratic Services Officer

PART I

1. ELECTION OF CHAIRMAN

RESOLVED: That Norman Jorgensen be elected Chairman of the meeting.

2. APOLOGIES

An apology for absence was submitted from Ken Miall.

3. DECLARATION OF INTEREST

There were no declarations of interest made.

4. PUBLIC QUESTION TIME

There were no public questions received.

5. MEMBER QUESTION TIME

There were no Member questions received.

6. GOVERNANCE ARRANGEMENTS OF LOCAL AUTHORITY TRADING COMPANIES AND THE EXECUTIVE TRADING AND ENTERPRISE SUB-COMMITTEE

The Chairman reminded the meeting of the scrutiny review on the Governance Arrangements of Local Authority Trading Companies and the Executive Trading and Enterprises Sub Committee (TESC) carried out by the Corporate Services Overview and Scrutiny Panel. The Audit Committee had considered the Panel's final report and made comments. The report and the Audit Committee's comments had been considered by the Executive in February. The Audit Committee had relooked at issues relating to the governance arrangements at their March meeting.

Subsequently it had been agreed that a joint meeting of the Committee and the Panel would allow Members to receive information on outstanding issues and to receive an update on the Scrutiny Panel's recommendations. It was noted that Members had been provided with information requested by the Audit Committee at their March meeting.

The Director of Transformation provided an update on the progress of the Corporate Services Overview and Scrutiny Panel's recommendations.

- *Recommendation 1 - That the Panel recommends to the Executive that negotiation with WEL on the company's establishment documents, (setting out the detail of the different relationships between the Council and WEL) should be expedited. In the Panel's opinion this should be achievable within a period of 3 months.* – TESC had considered the relevant documents for WEL at their 26 May meeting. These documents were now all in place. A similar process would be followed for the recently established local authority trading companies. A Member questioned when the establishment documents for Optalis had been produced and was informed that these had been considered at the TESC meeting held on 18 July.
- *Recommendation 2 - That the Panel recommends to the Executive that elected non-Executive Member representatives appointed as Directors of WEL or other Local Authority Trading Companies receive comprehensive briefings and training on their role and its obligations and liabilities prior to taking up their positions on the Board.* – A training package for Member and Officer directors was being produced and training would take place on 17 October for those becoming or interested in becoming a Member director. Training would include elements such as what was required of directors, how they could satisfy themselves regarding the governance of the company and understanding business plans. They could also have access to the Senior Solicitor who could provide information on company legislation. Councillor Deegan indicated that there would be training on local authority companies for all Members in September. It was hoped that Jayne McGivern, Chair of WEL would be able to attend. Members would be provided with information the three local authority trading companies. It would be an opportunity for Members to explore and understand whether they might wish to become a Member director in future. Members were reminded that anyone putting themselves forward would have to undergo an interview process. Councillor Deegan encouraged all Members to attend the training sessions. Azhar Ghose notified the Committee and the Panel that a job description pack was also being produced for Member and Officer directors.
- *Recommendation 3 - That when establishing Local Authority Companies or significant contracts for services that the Council places an obligation on the contracting party that if reasonably requested they participate in Overview & Scrutiny or Audit Committee reviews pertinent to the services provided.* – The establishment documents for WEL and Optalis both stated that board members should make themselves available to Scrutiny and the Audit Committee and it was noted that Andrew was a director of WEL.
- *Recommendation 4 - That the Panel recommends to the Executive that:*
 - i) *the Executive and TESC agree the mechanisms for reporting on the activities of Local Authority Trading Companies.*
 - ii) *for the initial two years of trading the reporting should be on a quarterly basis, the frequency to be reviewed after two years.*
 - iii) *the Executive Member for Community Regeneration, (or appropriate Executive Member) reports to Council on the activities of Local Authority Trading Companies on at least an annual basis.*

On 18 July TESC had received a report informing them of the financial position of WEL for the 3 months to the end of June 2011. They would receive such a report on a quarterly basis. It was noted that the next report would be taken to the TESC meeting which was

due to be held on 26 September and that the Lead Member would provide a report to Council on the activities of Local Authority Trading Companies on an annual basis.

- *Recommendation 5 - That the Panel recommends to the Executive that all Members of the Council be briefed at the earliest practical opportunity on any further proposals to establish Local Authority Trading Companies.* – Optalis had been established in February and had gone live in June. The Executive had agreed to establish a local authority housing company in May. Training on Local Authority Trading Companies would be offered to Members in September.
- *Recommendation 6 - That the Chairman and Committee of the Corporate Services Overview and Scrutiny Panel consider the implementation of any agreed recommendations after a period of 12 months* – The joint meeting of the Audit Committee and the Corporate Services Scrutiny Panel was part of this process.

The Committee and the Panel went through and received answers to the questions on governance arrangements of Local Authority Trading Companies and TESC, previously submitted by Members. Questions and responses are attached as Appendix 1 to the minutes

Following discussions Members agreed that it would be helpful to hold another joint meeting of the Audit Committee and the Corporate Services Overview and Scrutiny Panel in February or March 2012 and for Members to receive an update on the information received. Councillor Deegan would contact Democratic Services with a proposed meeting date.

RESOLVED: That a joint meeting of the Audit Committee and the Corporate Services Overview and Scrutiny Panel be held in February or March 2012 for Members to receive an update on the information received. Councillor Deegan to contact Democratic Services with a proposed meeting date.

These are the Minutes of a joint Meeting of the Audit Committee and the Corporate Services Scrutiny Panel.

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ARRANGEMENTS

1. What is the status of the establishment documents for WEL?

Councillor Deegan commented that these had been agreed and signed off by the relevant parties.

2. What are the financial control mechanisms?

Members were informed by Councillor Deegan that the financial control mechanisms were specific and relevant to the nature of each particular company. This was set out in the Articles of Association of each company. WEL could dispose of property if the value was not more than £1m and this was set out in the Business Plan. Optalis, because of the nature of its business, was tied to a service delivery agreement. The local authority housing company was different again. Mechanisms were included in the Annual Remit Document and were monitored at annual and monthly board meetings.

3. What is the process for agreeing short term plans and medium/long term strategy?

Councillor Deegan stated that these were considered at quarterly Joint Board meetings which were attended by himself, Anthony Pollock, Susan Law, Graham Ebers, Jayne McGivern (Chair) and Steve Robson (Managing Director). The Plans and Strategies were then agreed by TESC.

4. Has a governance checklist been established?

This information was provided to Members at the meeting.

5. What arrangements are in place for the new adult care company?

Councillor Deegan indicated that TESC had noted and endorsed various documents for Optalis including the Strategic Relationship Agreement, Annual Remit Document and the Articles of Association at its meeting on 18 July.

In response to a question regarding WEL's financial limits the Executive Member commented that the limit referred to in the articles was £1m. Councillor Mirfin asked if anything was in place which could be implemented should there be a need to increase the limit. Susan Law stated that the main instrument limiting WEL was in the Annual Remit Document and the Business Plan. Any change to the Business Plan had to be approved by the Joint Board and then TESC. If the change was outside of TESC's remit, approval was also required from the Executive or Council, dependent on the extent of the proposed change. The £1m limit for WEL was a guide as to what could be sold without referring back to the governance structure. If what was to be sold was not in the business plan or was in the business plan but valued at more than £1m, it had to go through the Council and company's governance structure. Members were referred to a diagram of WEL's governance structure.

Councillor Rowland asked what would happen if action needed to be taken quickly in relation to an asset valued at more than £1m. Councillor Deegan commented that this would be dealt with in much the same way as the purchase of Peach Place had been; an Executive briefing and an extraordinary Executive meeting had been called. Meetings could be called quickly, although it was necessary to meet the access to information rules for public meetings. If the decision was outside the Executive's remit a meeting of the Special Council Executive could be called as had been the case with the confirmation of Wilson Bowden as the Council's regeneration partner for the Town Centre regeneration.

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Councillor Pitts asked what controls were in place to ensure that the company did not sell lots of assets worth under £1m in a very short period of time. Councillor Deegan stated that the Joint Board ensured and monitored that the company did what was required of it by its main shareholder, the Council. Four of the six representatives on this Board were from the Council.

GOVERNANCE FOR WEL

- 1. To enable the new management team to focus on developing the various business interests, the guiding principle should be the provision of control information to WBC being no more extensive than what the management team needs to run the business itself.**

The Joint Board for WEL had examined the Annual Remit document and the Business Plan and had a dialogue with TESC on these matters. These documents had been agreed by TESC, who had been delegated the power to do this. Susanne Nelson Wehrmeyer commented that the Joint Board was essentially a working group of Officers, Members and the company. Susan Law indicated that the Joint Board was a formal part of the relationship between the Council and the company and was a means of compelling WEL to work with the Council. Councillor Deegan clarified that he was a member of the Joint Board and the Chair of TESC, but not a Member director.

Members were reminded that TESC was made up of four members, Councillors Deegan, Clark, Pollock and McGhee Sumner. TESC reported back to the Executive and where appropriate the Council.

LIMITED COMPANIES

- 1. If the work of the limited companies was done in-house, papers would be presented under Part II conditions. Why can the limited companies not operate in this manner?**

Councillor Deegan commented that papers for TESC were available in the same way as other committees' agendas were.

- 2. To ensure openness and transparency could the following occur:**
 - a) Documents supplied to Companies House to be provided to Council and circulated to Councillors. At present these documents can only be obtained from Companies House at a cost of £1 each.**
 - b) An open AGM be held annually. Private companies are obliged to hold an AGM if a director requests one.**
 - c) Publication of a separate financial annual report for each limited company, equivalent to a statement of accounts.**
 - d) Limited companies to be subject to Freedom of Information/Access to Information rules. While companies are not obliged to operate in this manner, as they are wholly owned by the Council, it ought to be within the control of the Council to ensure that the limited companies act in as open a manner as possible.**

It was noted that documents considered in the public domain by the Executive or by TESC were available on the Council website. If the papers were not publicly available Members could request copies from Democratic Services.

Councillor Mirfin emphasised that not all Members were aware of where to find information and suggested that this should form part of the all Member training. The Committee and Panel were informed by Councillor Deegan that this joint meeting should help provide a

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steer for what to include in the Members training sessions. He went on to say that monitoring the governance arrangements was a team effort and that should Members have queries they could speak to himself or Officers.

The Chairman asked the Director of Transformation, one of the directors of WEL, whether he felt that undue demands were placed on the company for information and reports. The Director of Transformation responded that he thought that they were receiving the information needed to run WEL efficiently.

It was noted that the companies were obliged to produce statement of accounts. These would be shown separately for the Council.

Members discussed reporting mechanisms. The Corporate Services Overview and Scrutiny Panel had recommended that the Executive and TESC agree the mechanisms for reporting on the activities of Local Authority Trading Companies and that for the initial two years of trading the reporting should be on a quarterly basis, the frequency to be reviewed after two years. The Audit Committee had suggested that updates should be provided every three months on an ongoing basis including beyond the two year review period. It was noted that the companies would report to TESC on a quarterly basis via the Joint Board. As previously stated some members of TESC were also members of the Joint Board. Susan Law emphasised that there would be standing items on the TESC agendas such as a financial performance report. TESC was a sub committee of the Executive and as such reported back to this body. The Lead Executive Member would also provide an update to full Council on an annual basis. Councillor Lissaman commented that the means of providing information to all Members could be improved and that Members should not have to search through heavy TESC agendas for information. Susan Law commented that some documents which went to TESC such as the relationship documents were necessarily detailed. It was noted that the Audit Committee would also receive the companies' Audit reports.

It was agreed that communication was vital and that all Members should be made aware of where they could find information regarding the activities of the Local Authority Trading Companies. Councillor Deegan indicated that this would be addressed as part of the forthcoming Members' training session. Councillor Mirfin commented that this would go some way to satisfying the requirement of visibility and to provide assurance.

PROJECT MANAGEMENT, BUDGETING AND BUSINESS PLANNING

1. What Project Management techniques have been used to control the work of setting up the Local Government Trading companies? Did it include the identification of business benefits and is there a plan for the realisation of the business benefits?

Members were informed that the expected business benefits of setting up Optalis had been identified in the Business Case. This had been prepared in the project start up phase and was used to obtain Executive approval for the implementation. During the implementation, the project was broken down into component workstreams, identifying the major tasks and deliverables for each. Detailed plans were then formulated for individual workstreams and amalgamated into an overall project plan. This was broadly in line with PRINCE2 principles.

In PRINCE2, a Post Implementation Review was usually carried out to determine if the expected business benefits were being achieved. This would normally be done around 3

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months after the project has completed. There were currently no plans to do this for Optalis as the realisation of business benefits would be addressed by the Strategic Business Plan. This is produced by the Company and would set out the planned activities to meet the Council's objectives and the financial and performance indicators.

The Director of Transformation commented that the PRINCE2 management approach had been put in place following the Executive decision on 22 February that the Adult Social Care Provided Services be transferred into a Local Authority Trading Company. A review of lessons learnt was in progress.

Councillor Patman asked where the list of business benefits could be found and was informed that these were set out in the blueprint considered at the previous Executive meeting. Susan Law stated that the Blueprint highlighted why the local authority trading company model had been selected. Expected business and financial performance was identified in the Business Plan and the Annual Remit document.

- 2. WBC needs to have a view at the outset on best/likely/worst case performance of WEL to be able to account to Members and, no later than 15-Sep of each year, to residents. Budgets should include best/likely/worst case dates for payback of the initial investment and maximum intervening cash demand; I am unaware if this information is already available. In general, I would like to see current year's monthly budget, next year's quarterly and at least one year beyond that.**

Councillor Deegan stated that the best/worst/likely scenarios and how these could be managed was detailed in the documentation. From a Member point of view the depth of the business case was vital and if it was not detailed Members would not be able to challenge sufficiently. The Business Plan for Optalis was very detailed.

Councillor Swaddle asked whether the companies reporting cycle was in synch with the Council's cycle. Azhar Ghose commented that the financial reporting was very efficient and information could be collected quickly in order to tie in with the Council's reporting cycle. The financial year for the companies and the Council was the same. Andrew Moulton reminded Members that TESC had received a report which highlighted the financial position for WEL and informed on the financial position of WEL for the 3 months to the end of June 2011. TESC would receive a report on the financial position up to August at their September meeting.

Councillor Bowring questioned whether TESC would become overwhelmed if more local authority trading companies were established in the future. Councillor Deegan commented that TESC met on a quarterly basis at the present time. He, as Chair met and spoke regularly to the Chief Executive and the Director of Resources. He was satisfied with the current size and makeup of TESC and the frequency of meetings but recognised that this may need to be reviewed in the future if the workload became too heavy. In response to a question as to whether there should be one TESC per company Councillor Deegan stated that he felt that this was unnecessary at present.

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- 3. There is a danger that the business plan is put in a drawer and focus is purely on the day-to-day operational issues. A frequency of review of progress against business plan should be defined, possibly quarterly, with a willingness to revamp before the year is up, if appropriate.**

Part of the key functions of the Joint Board was to monitor the performance of the company's business on a quarterly basis having regard to the targets set and the company's Business Plan.

OPERATIONS AND BUSINESS DEVELOPMENT

- 1. In addition to financial reporting needs referred to above, some means of reporting is required on a monthly basis, principally for management within WEL but also for WBC comfort. I have found that a simple one pager in the board papers, prepared by members of the management team, to be effective. Each member produces 2 paragraphs, one on achievements in the past month and the second on plans for the next month. It is thus a rolling record of results and planned/corrective actions required, department by department; brevity and focus are key.**

Monthly meetings and reports were conducted between the Managing Director and Officers of Property Services. These then fed into the Board meetings of WEL.

AUDIT ARRANGEMENTS AND ACCOUNTS

- 1. How are the accounts reflected in the Council accounts?**

These were shown as consolidated accounts with the Council accounts. The Director of Transformation informed the meeting that the companies would have to file accounts with Company House.

- 2. What are the audit arrangements?**

Councillor Deegan notified Members that the companies were required to appoint an auditor under the Companies Act 2006 and who had to be on the Audit Commission's approved list. WEL had consulted with the Audit Commission and a local company had been appointed as the company's auditor.

- 3. How will Internal Audit and the Audit Committee satisfy themselves that the limited companies are running properly and effectively?**

Councillor Deegan indicated that audited reports and the accounts for the company would be available. Councillor Mirfin stated that these would be built into the Audit Committee forward programme.

- 4. How much say does the S151 officer have over the activities of a company which is carrying out business on behalf of the Council, and how will the S151 officer's views be made available to Councillors?**

It was noted that the Section 151 Officer's remit only applied to the Council's activities. Graham Ebers' engagement with the companies was in his role as Strategic Director of Resources and therefore he oversaw the operational aspects of the companies' engagement with the Council. He was also on the Joint Board for WEL.

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- 5. I am unclear on what WBC's needs are of financial data, either for consolidation or just for comment in its own accounts. However, for WBC's comfort and WEL's discipline, a deadline should be imposed; I have worked on the 5th working day of the following month for businesses of £10m but this may be too tight for WEL.**

This was noted.

FORECASTING

- 1. In any new business there will be a degree of uncertainty on what can be achieved and it is important that WEL management can revise forecasts and highlight deviation from budget to be able to review with WBC. This, together with the possible need for "What-If" analyses, may justify the development of a business modelling tool if management attention is not to be diverted with endless re-budgeting. In any case, management needs to know its break-even revenues for any given cost-base.**

Members felt that this had been covered by previous answers.

REPORTING LINE

- 1. What are the reporting arrangements for LATCs?**

The Local Authority Trading Companies reported to the Council via quarterly Joint Board meetings and the annual AGM.

- 2. Will an annual report for each limited company be presented to Council?**

Councillor Deegan confirmed that the companies Annual Accounts would go through the Auditors and then to the Council.

TESC

- 1. Is the make-up of TESC working?**

Councillor Deegan believed that it was. When TESC had first been formed it had had three members. Three members were required for meetings to be quorate and therefore a fourth member had been added to resolve any quorum issues which had occurred.

- 2. Who sets the agenda for meetings?**

Discussions took place between the Chair of TESC, the Director of Resources and the Chief Executive. Other members of TESC and the Leader of the Council could also feed into these discussions.

- 3. How is the content of the agendas set?**

Councillor Deegan commented that the content of the agenda was set as stated above.

- 4. According to the agendas and minutes of TESC meetings, verbal reports are given, but they do not appear to be fully minuted. Does this not give the impression to local residents that TESC is not transparent?**

Councillor Deegan stated that TESC meetings were supported by Democratic Services and were fully minuted in the same way as other committees were. Verbal reports given by Officers to TESC were recorded as part of the minutes.

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5. How are decisions made by TESC?

Decisions were made in the same way as all other committee meetings. TESC was a sub committee of the Executive and if the decision fell outside its remit decisions could be referred to the Executive or Council, where appropriate.

6. Is TESC meeting often enough or too often?

Councillor Deegan commented that the TESC meeting schedule had been fluid during the start up of WEL. Currently the sub committee met on a quarterly basis which tied in with the meetings of the Joint Board. Members were reminded of the need for TESC agendas to meet the access to information rules for public meetings.

7. Should TESC meetings not be held more regularly, for example bi-monthly intervals?

Members felt that this question had been answered previously.

8. Since formation what items has TESC challenged?

Councillor Deegan informed the Committee and the Panel of items challenged by TESC. These included the Business Plan format, the structure of the company, shared service arrangements, the Joint Board structure and the Articles of Association. This was reflected in the sub committee minutes. These documents were living documents and could continue to be challenged and changed whenever necessary.

9. Is a forward programme set and published?

Councillor Deegan stated that items started out on the Executive forward programme and were also within the reports that were discussed at TESC meetings. Items were also contained within the Annual Business Plans. Councillor Mirfin suggested that a separate forward programme be produced for each local authority trading company. It was agreed that consideration should be given to establishing a TESC forward programme which it was noted would include some standing items.

10. How does TESC satisfy itself that LATCs are operating properly?

Members felt that this question had mostly been answered previously. They were reminded that some TESC members attended the Joint Board meetings and that TESC had access to all relevant financial documentation from the companies. Close working relations had been established between the Council and the companies as a result of the service agreements that were in place.

It was noted that during the establishment of WEL, the Council had been advised by Pricewaterhouse Coopers when creating the reporting line structure and relevant documentation.

11. What oversight of financial performance is carried out?

It was felt that this question had been answered previously.

12. Have targets been set and measures established? If not what is the process for assessing success?

These were set out in the Annual Remit Document for WEL and the Service Agreement for Optalis.

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13. TESC is supposed to have oversight of the limited companies. Nothing has happened as a result of the O&S report, so how can Councillors be sure that their concerns shall be acted upon by TESC?

The Corporate Services Overview and Scrutiny Panel and the Audit Committee had identified a number of key areas, such as Member training, which were being addressed. Andrew Moulton had indicated earlier in the meeting that the recommendations were being addressed. Members had also received a full set of documents at the meeting demonstrating that all the Audit committee recommendations had been met.

14. What are the methods for TESC reporting to the wider Council?

It was felt that this question had been answered previously.

15. Who undertakes day to day interaction with the LATCs and what is their remit or delegations?

Susan Law commented that Graham Ebers as Strategic Director of Resources was primarily responsible for ensuring that interaction between the companies and the Council and that the Council was on track to receive the benefits or service from the particular companies. A number of other Officers had day to day contact with the companies, particularly Optalis where the Council was the commissioner and Optalis the service provider.

16. The limited companies are doing work that would have previously been undertaken by the Council and as such should be answerable to Council and not Executive. Should TESC not be a committee of the Council rather than the Executive?

Members were informed by Councillor Deegan that decision making functions were not expressly stated in specific legislation or otherwise, lay with the Executive, not the Council. The current arrangements were in line with the Council's Constitution.

17. The way that TESC is set up means if the number of limited companies continues to grow, individual Executive members will be yo-yoing in and out of meetings. Is this the best way for TESC to operate?

Members believed that this question had been answered previously.

18. TESC has been set up as a mechanism by which the limited companies are to be scrutinised. Why are no questions allowed to be asked at TESC meetings?

Azhar Ghose commented that this was set out in the Constitution. Members and residents could ask questions relating to items on the TESC agendas at Executive meetings as TESC was a sub committee of the Executive and reported to it.

AUTHORITY

- 1. Perhaps this has already been formalised but I would like to see something laid down on recruitment, terms, appointment, review and termination; approval of WBC would be required for all positions at or above a certain tier and salary level in the management structure. Similarly, levels of financial commitment should be defined, taking care to cover chains of, as well as discrete purchases, allowing WEL a degree of authority but requiring WBC's authority on larger commitments. An area less easy to define but perhaps more important is that of business development decisions. Some contract value limitation will be advisable, with WBC involvement in large or extended contracts.**

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The appointment of the WEL directors was discussed. Councillor Deegan explained that five Members including himself had supported the process in conjunction with the Chief Executive and the Strategic Director Strategy & Corporate Affairs. Two Members and the Chief Executive had interviewed candidates across several days. A similar process would be followed for the appointment of external directors to Optalis. It was anticipated that interviews would take place in October.

Azhar Ghose emphasised that the Council as shareholder had reserved for itself the right to appoint and approve the remuneration for all directors (other than for the position of the Managing Director). Susan Law confirmed that advice had been sought on the appropriate level of remuneration. The independent directors were remunerated whilst a decision had been taken not to remunerate Officer and Member directors. It was confirmed that if Member directors resigned as a Councillor mid term or were not re-elected they would automatically cease to be a company director. Councillor Mirfin asked how many Council staff had been TUPEd over to the companies and what the pension arrangements were. Susan Law confirmed that no staff members had been TUPEd over to WEL and that certain Officers supported the company for a number of hours per week. 300 members of staff had been TUPEd over to Optalis. With regards to the staff TUPEd across to Optalis, the Council had received admitted body status through Berkshire Pension Fund to enable these staff to be TUPEd across with their pension arrangements intact. It was noted that Pension arrangements were essentially a company issue. Members were notified that the Officer and Member directors did not have pension arrangements attached to their roles.

JOINT BOARD

1. How is the Joint Board operating, who is on, how does it operate and what has it achieved?

Members believed that this question had been answered previously.

2. From the point of view of trust and transparency, it is not satisfactory that meetings of the Joint Board are held in private, with no agendas, minutes or meeting dates published. What can be done to remedy this situation?

Updates from the Joint Board meetings were provided at TESC meetings.

3. If financial and business development reports are available by the 5th working day, board meetings should be no later than the 10th. Although some corrective action will have been taken before then, it is important that any major changes can be agreed promptly in WEL and with WBC to minimise deviation from plan.

Members believed that this question had been answered previously.

SHAREHOLDER REPRESENTATIVE

1. Is it right that the Chief Executive should be a sole shareholder representative? Does this not equate to a single point of failure?

Susan Law informed Members that she had been granted limited authority to approve minor amendments such as correcting the grammar of the Articles of Association. In all other matters she, as the Council's representative, could only act on TESC or Council's direction. Azhar Ghose stated that under the Companies legislation the Council was required to nominate a representative. If the Chief Executive was unavailable for some time TESC would appoint an alternative temporary representative.

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2. The shareholder can agree to change the memorandum and articles of association – should Members not give their agreement prior to any changes being made?

Members believed that this question had been answered previously.

DIRECTORS

1. Should the procedure for appointing councillor and officer directors and for dealing with conflicts of interest not be codified in the Constitution?

Councillor Deegan commented that the Committee and Panel could make recommendations to the Constitution Review Working Group regarding this should they wish to.

2. What training are councillors and officers being given to equip them for their roles as directors given that they have personal responsibility for health and safety, employment, tax, VAT, etc?

Members believed that this question had been answered previously.

3. Why is there no documentation describing the duties of councillor and officer directors, their liabilities, remuneration by the company, how long their term of office is, and how they can be replaced?

Members were reminded that the Director of Resources was co-ordinating the production of job descriptions and packs for Member and Officer directors.

4. How are the councillor directors accountable to the Council? Should there be a mechanism to ask them questions at Council, or for them to make statements in a manner akin to the members of the Executive?

Azhar Ghose emphasised that Member directors were accountable to the company shareholder, the Council. The shareholder could call Annual General Meetings and Extraordinary General Meetings and issues could be addressed at such meetings. He commented that this could be clarified further during the Member training in September and October.

5. What is the liability of directors, both those appointed as such and any de facto directors? Whilst malpractice cannot be excused, there may be a case for Letters of Comfort issued by WBC, for example to cover financial liability issues outside the control of the directors of WEL.

Susan Law indicated that the directors were open to liability arising in civil and criminal law. The Council provided indemnities for Members and Officers who sat on outside bodies when acting on behalf of the Council, for any loss or damage. However if individuals were to become involved in criminal activity they would be responsible for their own actions.

Councillor Mirfin emphasised that it was not possible to indemnify directors against health and safety incidents. Susan Law explained that the prosecution of company directors with regards to health and safety rested on direct acts of omission or commission. It was unlikely that Member directors would be in this position unless they had been repeatedly informed of a problem by the Managing Director or another reporting officer and had not responded to it.

The Committee and Panel discussed the fact that Member directors were not remunerated for this role. Azhar Ghose explained that due to legislative restrictions Members could not

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be remunerated for this role other than at the same rates as they would receive for undertaking their Council duties. The shareholder had decided not to exercise this right. Some Members expressed concern regarding securing the most suitable candidates if Member directors were not remunerated, in light of the additional responsibilities and work that this role could entail. It was noted that the Independent Remuneration Panel had felt that they were not in the position to make a recommendation as to whether Member directors should receive a special responsibility allowance.

MEMBERS

1. What training has taken place for non Executive Members and what is planned and when?

Members believed that this question had been answered previously.

2. Need to think about frequency and extent of updates to Members. Also, should there be a scrutiny Panel appointed to cover WEL's performance and reporting?

Members believed that this question had been answered previously.

Members discussed risk awareness. Councillor Mirfin questioned how risks relating to the companies would be managed and how this would be reported back to TESC. Susan Law stated that a risk analysis was included in the business plans which had been approved by TESC. In response to a question regarding the potential risks and how they could be alleviated, Councillor Deegan commented that this information was included in reports to TESC and also in the Annual Business Plan.