

NEGC LTD JOINT SCRUTINY PANEL
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Note from the Head of Governance and Legal Services

Shareholder Group or Board

Extract from LLG Guidance Note

- 6.1 The structure described creates a governance process whereby, so far as appropriate under this Code's Principles, the company is left to get on with its business. Following the UK Corporate Governance Code, the companies will utilise a unified board, with appropriate non-executive directors providing outside expert help and with board committees (such as an audit committee) to provide oversight and ensure delivery.
- 6.2 The Leader, in turn, will seek to inform the executive decisions and to hold the company to account by utilising a reflection of the company board structure in the form of a Shareholder Group, including external expertise and sub-groups. The role of this group is to provide the necessary oversight from a shareholder's perspective that the parameters, policies and boundaries that the executive as the shareholder has established for the company are being adhered to. In it, the Leader (or his or her appointee) remains the decision maker but the Group act as advisors in the making of those executive decisions.
- 6.3 Such a Shareholder Group is considered to be an effective means of governance of the companies. This is because it allows for decision making and discussion in an informed atmosphere, which also provides the executive with:
- a mechanism to communicate the shareholders' views to the company; and
 - a means to evaluate the effectiveness of the company board and the delivery of the company performance against strategic objectives.
- 6.4 It is intended that the Mayor/Leader (or his/her appointee) will make most decisions concerning the executive's role in respect of company interests at meetings of the Shareholder Group (in a similar manner to the Mayor/Leader's executive decisions made at various partnership boards and the health and well-being board). It is envisaged that key decisions concerning the companies will, however, still normally be made at meetings of the Cabinet.
- 6.5 The Terms of Reference for the Shareholder Group are set out at Appendix 1 (below)

SHAREHOLDER GROUP - TERMS OF REFERENCE

Overview

The purpose of the Shareholder Group is to advise the Leader in the exercise of their responsibility for the Council's functions as corporate shareholder of a company, in their role to represent the interests of the Council as Shareholder Representative at meetings of a company.

Decision making

The Leader or other Cabinet member appointed by the Leader for this purpose (referred to "as the appointed Cabinet Member") may make decisions concerning companies in which the Council is or is proposed to become a shareholder (**consider major/minor shareholders**), either:

- (a) in Cabinet; or
- (b) in the presence of the Shareholder Group.

TDC Note: Make reference to recording decision

Membership and Arrangements

The Shareholder Group shall consist of the Leader (or the appointed Cabinet member) in the presence of:

- (a) Any additional Members of the Cabinet as are appointed by the Mayor/Leader (which shall be at least two);
- (b) Two co-opted members, who will be independent persons providing relevant expertise and appointed on merit (but which process may be carried out in association with the Audit Committee's arrangements for co-opted appointments); and

TDC Note: Consider use of co-opted members and phrase independent persons (maybe a different definition)

- (c) Relevant senior officers of the Council as are appointed by the Chief Executive; together with

- (d) The Chair of Overview and Scrutiny, as a Member of the Council from outside of the Cabinet, to act in the capacity of Observer.

TDC: consider Audit Committee Observer?

The Section 151 Officer and Monitoring Officer, will be advisors to the Group to provide open and strong advice.

Other members of the Cabinet (who are not directors of any of the companies concerned) may attend and vote as substitutes in the event that an appointed member of the Shareholder Group is unable to attend

Restrictions on Membership

As the Shareholder Group is to advise and discharge executive functions in relation to company matters and the role of the Shareholder Representative, only Cabinet members can be members of the Shareholder Group with voting rights, although other Cabinet members and non-Cabinet members can be invited to attend, without voting rights.

Meetings

The Shareholder Group shall meet on a basis agreed by itself and normally in private.

The quorum shall be the Leader or other appointed Cabinet member in the presence of a minimum of:

- (a) one other Cabinet Member;
- (b) one independent co-optee; and
- (c) one senior officer appointed to the Group (or their appointed deputy).

An invitation to attend must have been provided to the Chair of Overview and Scrutiny Committee (or their nominated deputy) at least three clear days in advance of the meeting taking place. This notice period may be waived if the Chair of Overview and Scrutiny Committee (or their nominated deputy) so agrees.

An invitation to attend must also have been provided to the section 151 officer and the monitoring officer (or their nominated deputies), which will normally be at least three clear days in advance of the meeting taking place.

The Leader (or appointee) will chair the Shareholder Group and a Vice Chair will be selected from the elected members of the Shareholder Group.

Sub Groups

To assist it in its functions the Shareholder Group:

1. may establish and consult standing sub-groups, such as might be required in respect of:

- (a) Audit and Risk;
 - (b) Ethical practices; or
 - (c) Nominations and Remuneration
2. may establish and consult ad-hoc or task and finish sub-groups in respect of any matter; and
 3. may establish and consult stakeholder groups on any particular aspect or the generality of the objects of the trading companies

A sub-group or stakeholder group may contain such co-opted members, advisors or observers as the Shareholder Group sees fit.

Functions

1. Monitor the performance of a company in relation to its Business Plan and, in particular, the company's performance:
 - (a) in financial matters
 - (b) against the social goals of the company as set out in the company's Objects, Business Case or Business Plan; and
 - (c) against the values of the Council.
2. Evaluate and monitor:
 - (a) the financial and social returns on investment (be that shareholding, loans or direct investment); and
 - (b) risks and opportunities including those arising from joint ventures or new opportunities.
3. Consider matters reserved to the Council for shareholder approval, such as:
 - (a) Varying Articles of Association
 - (b) Varying ownership and structure
 - (c) Variations to shares (number of, rights, etc.
 - (d) Entering contracts that:
 - (i) have a material effect on Council business (including other companies within the group)
 - (ii) are outside of the business plan or do not relate to the business
 - (iii) significant in relation to the size of the business, the business plan, etc.
 - (e) Material legal proceedings outside of ordinary business
 - (f) Adopting and amending business plans each year and strategic plans (3 years)
 - (g) Appointment, removal and the remuneration of directors (members of the company board)
 - (h) Selection of the chair of the board
 - (i) Appointment of auditors

(j) Issue of dividends
as more particularly set out in a company's Articles of Association or
Shareholder Agreement.

Relationship

The Shareholder Group as it considers appropriate in accordance with its functions described above, may:

1. report and make formal recommendations to the Leader, directly or to the wider Cabinet;
2. make reports to and consult Overview and Scrutiny (including full Council) or
3. make reports to and consult the Audit Committee, in relation to that Committee's particular functions.