

Remuneration and Reward Policy Issues: Council Arms-Length Companies & Trusts

Policy and Strategy Committee

2 November 2010

1 Purpose of report

- 1.1 This report reviews arrangements for the remuneration and reward of senior salaried employees and non-Executive Directors of Council arms-length companies and Trusts. It proposes a Framework Agreement which will support consistency, transparency and best value and the establishment of a Council Remuneration Committee as a basis for consultation with the various arms-length companies and Trusts.

2 Summary

- 2.1 The City of Edinburgh Council employs a number of arms-length companies and Trusts to deliver specific functions and carry associated responsibilities. These may be appropriate where:
- the management of operations, external to the Council, can be conducted more efficiently and at better value for the public purse; and/or
 - where specialist resources and skills are required to secure effective service delivery and also to deal with circumstances where market-facing commercial operations involve risks that would be inappropriate for the Council to shoulder directly.
- 2.2 The appointment of senior personnel and non-Executive Directors to such companies and Trusts requires careful consideration from a corporate governance viewpoint. There is also a need to ensure that levels of remuneration and reward properly reflect the risks, responsibilities, resources, skills and expertise involved.
- 2.3 Each of these companies and Trusts currently has its own processes for the determination of remuneration and reward and in some cases there is consultation with senior officers in the Council. However, there is a lack of uniformity both in the processes used and in the outcomes achieved by the arms-length companies.

- 2.4 In order to achieve the required level of transparency and consistency across these organisations, it is proposed that a new framework be introduced for establishing the recruitment, selection, remuneration and reward processes for senior employees and non-Executive Directors of Council arms-length companies and Trusts.
- 2.5 It is proposed that a Remuneration Committee be established to determine the parameters and processes to be adopted by Council arms-length companies in relation to remuneration arrangements for new employees.

3 Main report

- 3.1 The arms-length companies in which the Council has either an exclusive or majority shareholding, or Trusts which it provides the main funding for, are set out at Appendix 1. Arms-length companies are typically managed through an operating agreement between the Council and each company, or through a shareholders' agreement, specifying the returns expected by the Council for its investment in and support of the company.
- 3.2 In some cases – such as Lothian Buses – there are legal constraints which would prevent the Council from delivering services 'in-house'. In others, such as the development companies, EDI and Waterfront Edinburgh Ltd, the Council has no legal constraints to 'in-house' delivery but has chosen in recent years to outsource regeneration activities. It has recognised the benefits of managing commercial development risks at arms-length from the Council's core operations, as well as the need for greater flexibility and "fleetness of foot" when operating in a dynamically changing, market environment.

Recruitment and Remuneration/Arms-length Companies

- 3.3 The issue of how best to recruit, select, remunerate and reward senior personnel and non-Executive Directors of arms-length companies and Trusts poses a number of questions for the Council, eg:
- what account should be taken of external (private and public sector) market comparators and the 'going rate' for jobs of similar levels of complexity and responsibility;
 - how best to manage the balance between levels of responsibility, risk and reward, in agreeing incentivisation arrangements and performance bonus criteria;
 - how to deal with temporary projects and special purpose vehicles, where fixed-term or rolling, renewable contracts may be more appropriate than permanent appointments (having regard to the legal and financial implications of such contracts);
 - how best to deal with circumstances in which Council Officers are seconded temporarily to senior roles in arms-length companies;
 - how remuneration and reward policies can best be managed to incentivise and sustain successful performance on an ongoing basis;

- how to deal with the pension related element of the remuneration package;
- how best to size each senior job taking account of responsibilities for staff and financial resources, commercial risk, degree of difficulty and the need for specialist skills and expertise; and,
- how to minimise the risk of significant pay anomalies in relation to senior Council staff who may be managing analogous 'in-house' services.

Framework Agreement

- 3.4 HR support for the arms-length organisations, including advice on remuneration and reward issues, is provided in a number of ways at present. The Council proposes to invite all of its arms-length organisations and Trusts to engage in a Framework Agreement which will be the mechanism which will support consistency and best value on remuneration and reward issues.
- 3.5 Prior to making any new senior appointment, it is recommended that the Board or the Remuneration Committee of the arms-length organisation or Trust meet to consider the job description, the size and scale of the job, the skills required and the appropriate balance of risk and reward and related issues. This will form the basis of a request to the Council's HR service to prepare or procure a confidential 'benchmarking report' setting out:
- the details of remuneration packages for similar jobs;
 - prevailing labour market and wider economic and financial considerations;
 - arrangements for performance incentivisation, taking account of the degree of commercial risk, the responsibilities involved and market norms for the type of post being recruited to;
 - the appropriateness of a performance related premium for 'exceptional performance' (including explicit criteria for triggering performance related bonuses);
 - the requirement that staff be subject to an annual appraisal system;
 - whether a temporary, fixed term (potentially renewable) or permanent appointment is appropriate;
 - all relevant equalities considerations, to ensure the best possible response to recruitment advertising and the selection of the best qualified candidate;
 - arrangements for pension provision and whether or not the post should fall within the scope of the Local Government Pension Scheme (taking special care to avoid risks which could give rise to significant pension liabilities); and
 - the proposed recruitment and selection process, including professional qualification and experience required by candidates, advertising, the

appropriateness of the use of executive search and the use of psychometric and other tests to assist the matching of candidates to the job;

- the professional HR support and advice which can be provided by the Council's HR Division to the Board for the recruitment campaign.

3.6 Once completed, it is proposed that the benchmarking report be circulated to the Remuneration Committee of the company or Trust concerned where that exists; otherwise, it should be considered by the Board with recommendations covering:

- the status of the post – fixed term or permanent;
- the proposed salary range;
- performance incentivisation arrangements, including bonus criteria;
- the proposed pension scheme arrangements; and,
- other relevant features of the proposed remuneration package, e.g. car allowances.

Remuneration Committee

3.7 Thereafter, the Council's Remuneration Committee will consider the benchmarking report together with the views and proposals of the organisation itself in relation to the salary, pension arrangements and reward payments for senior posts. The Committee will either endorse the proposals as presented or where this is not possible, engage in further discussion with the organisation with a view to achieving a mutually satisfactory outcome.

3.8 The remit of the Council's new Remuneration Committee will be restricted to matters concerning remuneration policy issues. A future report will detail the full remit and terms of reference for this Committee.

Annual Statement/Remuneration Policy

3.10 In order to monitor the effectiveness of the Framework Agreement, it is proposed that each arms-length company or Trust should, as part of its operating or shareholder agreement with the Council, be required to submit an annual statement on executive remuneration policy for consideration by the Council. It is also proposed that companies consult the Council, in advance, in cases where a salary rise in excess of 10% is proposed for any senior employee. Operating contracts/shareholder agreements between the Council and relevant arms-length companies should be amended to this end.

3.11 In addition, to ensure that Council arms-length companies and Trusts are not in a position of unfair competitive advantage, it is proposed that any profit making company in receipt of any form of operating subsidy from the Council give first priority to the repayment of such subsidy to the Council before considering profits distribution in the form of management performance bonuses. Performance bonus payments should also be capped at an upper limit as a

percentage of base salary. In all cases, company bonus policy should be set on the basis of transparent operating targets and a clearly established cause and effect linkage between management behaviour and superior company performance.

Secondment of Staff to Arms-Length Companies

- 3.12 In exceptional circumstances, it may be necessary for the Council to second a senior officer to fulfil a senior executive role in an arms-length company or Trust. In such circumstances, a formal secondment agreement between the Council, employee and the arms-length company will be entered into and issued by the Council's HR service. This will set out the terms and conditions attached to the secondment, including details of any remuneration arrangements.
- 3.13 Employees will normally undertake secondments on the basis of their substantive grade and pay. Exceptionally, where a seconded post attracts a higher level of pay, the difference would be paid in the form of an additional, non-pensionable payment by the arms-length company for the duration of the secondment, agreed in advance. Boards of arms-length companies or Trusts would be asked to agree any secondment terms in advance but would have no direct influence over the remuneration arrangements for Council secondees.
- 3.14 In exceptional circumstances, where a post covered by a secondment requires to be filled on a permanent basis recruitment should, as a matter of policy, be carried out through open market competition, unless best value considerations suggest otherwise and a supporting business case has been agreed in advance by the Remuneration Sub-Committee.

Non-Executive Director Appointments

- 3.15 The appointment of non-Executive Directors to arms-length companies or Trusts should be carried out through an open and transparent recruitment and selection process, involving public advertising of all non-executive posts with a formal interview and selection process. This will be especially important for non-executive posts attracting any form of salaried remuneration.
- 3.16 The selection of non-Executive Directors will be a matter for the shareholders and the Boards of arms-length companies and Trusts to determine. However, each company will be required to produce, and update annually, a code of corporate governance setting out its adherence to relevant companies legislation and good practice guidance e.g. following the recommendations of the Nolan and Cadbury reports. Additionally, given the quasi public role of Council arms-length companies, it is suggested that non-Executive directors should be made familiar as part of their formal induction process, with appropriate codes of conduct governing roles in public life in Scotland.
- 3.17 In cases where Council officers or elected members take up roles as non-Executive Directors on Boards of arms-length companies or Trusts, such appointments will generally be regarded as 'ex officio' and will not entitle the post holder to additional remuneration other than payment of travel and related expenses incurred in the course of Board business.

Consultation with Arms-Length Companies/Trusts

- 3.18 The content of this report will be the subject of consultation with the Chairs of the companies listed in Appendix 1 and their views will be reported back to the Committee, to allow final decisions to be made.

4 Financial Implications

- 4.1 This report has no direct financial implications for the Council. Any costs incurred in adherence to the processes outlined above will be directly charged to the arms-length organisation. However, its implementation is intended to mitigate the financial and other risks inherent in having less than fully effective governance procedures in place for the recruitment, selection, reward and remuneration of senior staff and non Executive Directors of arms-length companies and Trusts.

5 Equalities Impact

- 5.1 The adoption of standard practices governing remuneration and reward for Council arms-length companies should, properly implemented, enable the Council to ensure that equalities issues are properly dealt with in Council-owned arms-length companies.

6 Environmental Impact

- 6.1 This report has no significant environmental impact.

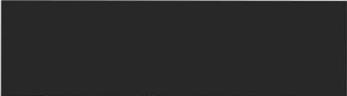
7 Conclusions

- 7.1 The Council will benefit from the introduction of a more consistent approach to remuneration and reward policies for senior posts and non Executive Directors across its arms-length companies and Trusts. This report makes a number of proposals for achieving this including;
- the introduction of a Framework agreement involving the commissioning of a confidential 'benchmarking reports' from the Council's HR Service prior to any new senior appointments within the Council's arms-length organisations;
 - a requirement for arms-length companies and Trusts to produce remuneration policies and stating performance incentivisation criteria more explicitly;
 - better use of operating and shareholder agreements to secure the Council's involvement in these matters.
 - a new Council Remuneration Committee to consider remuneration and reward policies for senior appointments in arms-length companies.

8 Recommendations

8.1 It is recommended that the Committee:

- (i) approves the approach set out in this report as a basis for consultation with the Council and arms-length companies and Trusts; and
- (ii) approves the establishment of a new Council Remuneration Committee to determine the parameters and processes to be adopted by Council arms-length companies and Trusts.


Jim Inch
Director of Corporate Services

Appendices Appendix 1: Council arms-length Companies

Contact/tel/Email

Wards affected

Single Outcome
Agreement

Background
Papers

CHAIRS OF COUNCIL ARMS-LENGTH COMPANIES AND TRUSTS

1. CEC Holdings - G Mackenzie
2. EDI - G Mackenzie
3. Waterfront Edinburgh Ltd (WEL) - T Buchanan
4. New Edinburgh (Ltd) (NEL) – Keith Miller
5. PARC - T Buchanan
6. Shawfair – Peter Watton (both in the case of Shawfair Developments Limited and Shawfair Land Limited)
7. Edinburgh International Conference Centre (EICC) – Robert Aldridge
8. TEL - D Mackay
9. Festival Theatre Trust - Chris Masters
10. Edinburgh Leisure – Dr Charles Winstanley