

LiveWire Warrington CIC

Governance Review

Report

September 2017

Private and confidential



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Introduction

1. Introduction

LiveWire Warrington CIC (Livewire) is a community interest company (CIC) established in 2012 to take over the provision of wellbeing, sport, leisure and library facilities and activities from Warrington Borough Council (Council). Livewire currently operates from two neighbouring hubs, four leisure centres and 11 libraries which attract more than three million visitors each year. It is the largest provider of such facilities and activities in the town.

As five years have now elapsed since Livewire was established, the Council believes it is appropriate to commission an independent review of the organisation's governance arrangements. The report's sponsor is the Chief Executive of the Council.

2. Engagement terms

This report is provided pursuant to our engagement letter dated 26 July 2017. The report is intended solely for internal purposes by the Board of Directors (Board), who are responsible for governance of Livewire, and should not be used by, or distributed to, others without our prior written consent.

To the fullest extent permitted by law, Jackson Stephen LLP does not accept or assume responsibility to anyone other than Livewire and the Directors as a body, for our work, this report, or for the conclusions we have formed.

Should you wish to make this report available or communicate it to any other party, you must obtain our prior written permission. We consent to the distribution of this report to, and use of it by, the Council.

We have assumed that the information provided to us is complete, accurate and reliable. We have not independently audited, verified or confirmed its accuracy, completeness or reliability. In particular, no detailed testing of the financial information has been performed.

The matters raised in this report are only those that came to our attention during the course of our work and are not necessarily a comprehensive statement of all the strengths or weaknesses that may exist or all improvements that might be made. Any recommendations for improvements should be assessed by Livewire for their full impact before they are implemented.

We confirm that we are independent of Livewire and the Council.

3. Scope

The scope of this report on Livewire's corporate governance arrangements is derived from 'The Charity Governance Code – Consultation Document (November 2016)' (the Draft Code). The Draft Code is a revised version of 'Good Governance for the Voluntary and Community Sector'. We have adapted the Draft Code to reflect Livewire's circumstances as a CIC.

4. Approach

Our approach to delivering the project scope consisted of:

- conducting 45 - 90 minute non-attributable interviews with:
 - the Board's: Chair; Vice Chair; Managing Director; and Directors appointed by the Council (Council Directors)
 - Livewire's Finance Director and Business Development Director, both of whom are part of the Senior Management Team
 - the Council's: Leader; Councillor responsible for Leisure and Community; Assistant Director for Integrated Commissioning; and Head of Strategic Partnerships and Commissioning
- We also invited the Member of Parliament for Warrington North to participate in the review, but she declined.
- distributing a self-assessment questionnaire which received 13 responses from 17 potential respondents
- a desktop review of a sample of key governance documentation which included (but was not limited to):
 - documents produced or considered by the Board and Board sub-committees
 - Livewire policies and procedures
 - appraisal documents

5. Acknowledgement

We would like to take this opportunity to thank all those who assisted us in the preparation of this report.

Executive summary

Overview

We have reported our detailed findings in Sections 3 to 8 under the following headings taken from the Draft Code:

- Organisational purpose and direction
- Leadership
- Integrity
- Board effectiveness
- Decision making, risk and control
- Openness and accountability

This Executive Summary provides an overview of the key themes emerging from this review.

Organisational purpose and direction

- Livewire is served by a dedicated Board, which is passionate about, and committed to, its work. The review team acknowledges this commitment to the organisation's community purpose and ultimately the people of Warrington served by Livewire. However, the negative press attention at a local level is damaging the organisation. The Board must focus on repairing Livewire's damaged reputation with the public, whilst ensuring that projects key to its future success are front and centre of its strategy. These projects include the Library Review; Great Sankey leisure development; the refreshing of the service agreement with the Council; and achieving the Deficit Recovery Plan.
- The sharing of Managing Director and staff between Livewire and Culture Warrington is confusing for stakeholders and may impair the long-term effectiveness of Livewire.

Leadership

- Whilst the Chair's leadership style and approach received praise, strong leadership will be required to direct the Board's 18 members and obtain appropriate contributions from them, especially in areas key to Livewire's future success. Succession planning for the Chair and Vice Chair is vital.
- The Managing Director was praised for her professionalism, capabilities and resilience but lacks experience running as complex an organisation as Livewire. Future recruitment should be open to external candidates from the start.

Integrity

- It is not clear how declared conflicts of interest are managed by the Chair.

Board effectiveness

- The Board has four or five meetings a year and six new members. The Council Directors are also relatively new to their current Board positions. The volume of material considered by the Board should be streamlined, but should include direct updates from senior management on high risk areas currently considered by the sub-committees. The frequency of Board meetings should also

be increased.

- The quality and accuracy of historic financial information has been questionable. The appointment of a Finance Director in February 2017 has yielded significant improvements to financial information presented for consideration by the Board.

Decision making, risk and control

- Board sub-committees are effective, but the finance and performance elements of Finance Risk Audit Performance & Governance sub-committee should be separated into a new sub-committee. Constituting HR as a separate sub-committee is not necessary, however.
- Sub-committee scrutiny of internal and external audit should be significantly improved to ensure effective oversight.

Openness and accountability

- The Council Directors should play a much more active part in ensuring the two organisations work together effectively and in managing the public perception of key projects. To gain an in-depth knowledge of key projects and risks facing Livewire, we recommend that Council Directors join the Finance Risk Audit Performance & Governance and Strategic Planning sub-committees.

Findings and recommendations

Governance principle

“The board is clear about the CIC’s social purposes and is assured that these purposes are being delivered effectively and sustainably”

Observations

1. Livewire is served by a dedicated Board, which is passionate about, and committed to, its work. The review team acknowledges this commitment to the organisation’s community purpose and ultimately the people of Warrington served by Livewire.
2. Periodic board workshops are used to engage Directors in: setting the strategic scene; looking at the future of wellbeing; integrating Livewire’s wellbeing offering into Warrington; considering the requirements for an effective board; getting to know the senior management team better; and participation in creative exercises to solve problems, identify new products and develop the five-year plan.
3. The governance and leadership of Livewire has featured in the media spotlight for some time, with considerable negative coverage at a local level. This negative attention is damaging the reputation of Livewire.
4. The Livewire Board has a very crowded agenda; many interviewees highlighted the following areas as being crucial to Livewire’s future success: the Library Review; Great Sankey leisure development; refreshing the agreement with the Council to deliver services; achieving the Deficit Recovery Plan; and repairing Livewire’s damaged reputation with the public. The Board must ensure that these projects are front and centre of its strategy.
5. We saw limited use of benchmarking information to help with continuous organisational performance improvement.
6. Warrington Cultural Trust (Culture Warrington) is a charitable trust delivering arts, heritage and events across Warrington. It was formed at the same time as Livewire (in May 2012) by transferring these services from the Council. Although Livewire and Culture Warrington have separate boards, they share a Managing Director, senior management team and staff.
7. Some interviewees were concerned that this arrangement is confusing for stakeholders and may reduce the effectiveness of both enterprises. In the short term, roles and responsibilities should be clarified to stakeholders. In the longer term, dedicating the Managing Director and senior management team to Livewire should be considered to better manage the complexity and demands of Livewire.

Governance principle

“The CIC is headed by an effective board that provides leadership in line with the CIC’s purposes and values”

Observations

1. The Chair’s leadership style and approach received praise during our review. In particular his accepting of responsibility for leading and governance of Livewire, ensuring its effectiveness and fostering debate and discussion in meetings.
2. The Board currently comprises 18 Directors, including the Chair, Deputy Chair, two Council Directors and the Managing Director. Under the Articles, the Board must comprise a minimum of six and maximum of 18 Directors. Increasing board size beyond 12 can impact objectivity and negatively impact board dynamics; it requires careful consideration by the Chair.
3. We found limited evidence of the Chair conducting individual Director assessments, leading an annual review of effectiveness of the Board and its sub-committees or challenging behaviours of Board members when necessary. Non-attendance by Directors at Board meetings over the last 12 months ranged between 31% and 43% leading to some doubts whether the Board could carry out its responsibilities effectively.
4. The role of the Vice Chair was unclear to some Directors. The Vice Chair’s role as an intermediary for the other Directors with the Chair should be clarified to Board members.
5. Both the Chair and Vice Chair will have completed two of a maximum three terms (of three years) by March 2018. A written succession plan should be developed to replace the Chair and Vice Chair. The plan should gain the commitment of the Board, staff and stakeholders so that the transition is properly managed. It should identify leadership qualities needed, include a timeline and manage effective communication. Candidates should be considered from outside of the organisation to maximise the field of possible appointees and gain insight into new ideas.
6. The current Managing Director was appointed following a process which began in October 2015. The Board agreed to an internal recruitment and selection procedure, with the post only being advertised externally if an internal candidate was not appointed to the role. Two internal candidates were interviewed by the Senior Appointments Panel in November 2015 and the current Managing Director was appointed with effect from 1 February 2016.
7. Whilst we accept that internal recruitment was in accordance with Livewire’s ethos of workforce employee development and succession planning, this decision significantly limited the number of potential applicants and the opportunity for the Board to hear new ideas from outside of the organisation.
8. Many interviewees praised the Managing Director’s professionalism, capabilities and resilience in what has been a difficult period for the organisation.

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9. The relationship between the Board and Managing Director appears to achieve a balance of support, scrutiny and challenge. Arrangements are in place for her supervision, support, appraisal and remuneration.

Governance principle

“The board acts ethically and in line with its agreed values and culture to help achieve the CIC’s purposes. The board is aware of the public’s confidence and trust in CICs, and directors undertake their duties accordingly”

Observations

1. There is a register of declarations of interest which is reviewed annually by the Board. New Directors are prompted to declare interests prior to their recommendation for appointment to the Board. Declaring interests is a standard item on the Board and sub-committee agendas.
2. We noted several occasions whereby Directors declared an interest in a matter at a Board meeting. However, it is not clear how this conflict was then managed by the Chair. Minutes should provide clear evidence regarding the management of conflicts of interest.
3. Gifts and hospitality forms, which are completed by hand and signed by the recipient, are kept in a hard copy file at the Orford Hub. A register of gifts and hospitality should be maintained and made available to stakeholders.

Governance principle

“The board works as an effective team using the appropriate balance of skills, experience, characteristics and knowledge to make informed decisions”

Observations

1. The board currently meets formally four or five times a year. We suggest this is reviewed to consider if additional meetings are required to enable the new Board members to understand the current issues and to reduce the volume of information tabled at each meeting.
2. Under the Articles, all Directors serve terms of three years. Council Directors are eligible for reappointment without limit and other Directors to reappointment for up to two further terms of three years each. Good practice would set terms of office limits of six years, including Council appointees.
3. A review of Board papers confirmed that the Board takes collective responsibility for its decisions.
4. A process to recruit new board members which started in March 2017 yielded recommendations by the Senior Appointments Panel to appoint six candidates out of the 11 applications received. All six candidates were subsequently appointed to the Board.
5. We did see good practice exhibited during the recruitment process including: the use of role descriptions; external advertising; a formal application process; panel interviews; and an assessment using a matrix of the candidate’s skills and experience (Skills Matrix) against the role description and overall skills requirements for the Board.
6. We recommend that in scoring the Skills Matrix a more critical and challenging appraisal of skills and experience is undertaken, with the greatest weight awarded to skills and experience that can be brought to bear on risks identified as high in Livewire’s Strategic Risk Register (reputation, finance and infrastructure). Although we saw evidence of challenge by Board members in respect of these high-risk areas, a stronger finance presence on the Board and the Finance Risk Audit Performance & Governance sub-committee (FRAPG) would be beneficial, for example.
7. The Skills Matrix should be extended to introduce scoring of diversity of Board members. The Board gender balance is currently 72% male, for example.
8. Good quality board papers are essential to enable the Board to make informed decisions. To assist effective decision making, Directors must receive good quality financial and non-financial information on how the business is performing in a timely manner. Examples of good practice we noted during our review of board papers included: timely circulation of board papers in advance of board meetings; detailed minutes; the use of tables to track actions arising from board meetings; and the use of red, amber, green status for actions.
9. In addition to receiving reports from FRAPG in relation to progress against the Deficit Recovery Plan and the Budget Strategy, standalone reports and updates are provided by the Finance Director directly to the Board. These reports not only inform decision-making during Board meetings, but also provides all Board members with an opportunity to challenge this crucially

important area. We would expect standing items at all future Board meetings to include these updates.

10. We consider that there is room for further improvement to board packs and highlight below a number of observations and potential enhancements:

- A number of interviewees commented on the large volume of material discussed at Board meetings, which are held in the evenings, and are on occasion lengthy. The agenda would be enhanced by allocating a time for each item.
- In addition to finance, the Strategic Risk Register also identifies reputation (Library Review and Great Sankey leisure development) and suitability of Livewire assets as high risk. We would expect standing items at Board meetings to include direct updates from appropriate senior management on these areas.
- Committee minutes are produced in full to the Board. Some interviewees felt more summarised information relating to sub-committee activity with clearer requests for action would focus Board decision making.
- It is good practice for the Board to have a discussion on the quality and quantity of information, with Board members requesting any relevant changes to management. While Board members have expressed views on the information and requested further or changed information, going forward this process should be formalised.

11. Several interviewees expressed concern over the historic quality and accuracy of financial information received by the Board and the impact on financial decisions that have been made. They, and we, have noted the significant improvement in the quality of financial information following the appointment of an experienced Finance Director in February 2017.

12. Some Directors were unaware that the Board has access to independent professional advice at Livewire's expense if this advice is needed to discharge its responsibilities.

Governance principle

“The board makes sure that its decision-making processes are informed, rigorous and timely and that effective delegation, control and risk assessment systems are set up and monitored”

Observations

1. The Board operates three sub-committees: Finance Risk Audit Performance & Governance (FRAPG); Human Resources (HR); and Strategic Planning (SP).
2. Board Directors are encouraged to join one or more sub-committees by the Chair. This process should be formalised to identify appropriately skilled Board Directors to join sub-committees by expanding the Skills Matrix to cover the sub-committees.
3. Several interviewees praised the operation of the sub-committees, suggesting that this was “where things get done”.
4. New Directors receive induction to the Board; this should be extended to include a robust induction process to the sub-committees so that members understand their responsibilities and the role they must play in an effective committee. This will ensure that time is not wasted bringing new members up to speed.
5. Existing sub-committee members should receive training to keep their skills up-to-date. Without regular training, there is a risk that decisions will be based on out-of-date knowledge. This training can be delivered by courses and seminars as well as relevant publications and presentations at committee meetings. Ongoing training for FRAPG committee members should include updates on emerging risk areas, accounting and financial reporting developments. To maintain appropriate financial literacy, the committee should ensure members keep up with regulatory changes. A review of training needs should take place at least annually.
6. FRAPG’s remit covers three areas: finance and performance; audit; and risk and governance.
7. There are significant benefits to dividing the finance and performance function of FRAPG into a separate sub-committee with its own terms of reference. In general, a finance and performance committee monitors financial practices while the audit, risk and governance committee monitors the process in which the financial practices are carried out. Separating these committees has the advantages of: removing the inherent conflict between overseeing the budget process, financial controls and procedures and auditing them; reducing the workload of committee members serving on each sub-committee; and doubling the number of Board members actively engaged in oversight of Livewire’s finances.
8. Financial information provided to FRAPG has improved significantly over the last year. The financial pack for quarter 4 2015/16 comprised 32 pages of detailed analysis and a further 11 pages of graphs and tables. The same pack for quarter 4 2016/17 consisted of three pages: KPI data; a narrative commentary on operational performance; and summary financial data for the quarter and year to date. Interviewees felt that the reduced volume of information presented at

committee and the focus on financial performance has significantly improved engagement of committee members. Further progress is needed to measure achievement of the Deficit Recovery Plan, but good progress has been made.

9. Livewire has developed a Strategic Risk Register to manage its business risks. The Register is considered at each committee meeting. The Board through FRAPG should develop a statement of risk appetite which should be communicated broadly throughout the organisation to ensure all actions of Livewire are in line with that appetite. Risk appetite defines the level of risk an enterprise feels able to support in pursuit of its business objectives. It provides a direct link between the enterprise's strategy and performance and risk management.
10. The Management Agreement between Livewire and the Council requires an internal audit service to be provided by Audit Warrington, a division of the Council. Audit Warrington specialises in providing public sector internal audit services to local authorities, the NHS, schools and housing trusts. Subject to contractual constraints, Livewire should consider a tender process for internal audit to gain insight into internal audit providers specialising in community interest companies rather than public sector organisations.
11. From the committee papers we reviewed, there was limited evidence of FRAPG's scrutiny and approval of proposed internal audit coverage. We would expect FRAPG to at least consider: the scope of internal audit work; time budgeted to achieve the audit plan objectives; and the areas that require follow up or a re-audit based on previous findings and how they were to be dealt with.
12. Internal audit recommendations should be considered by FRAPG at every committee meeting, together with progress achieving them.
13. To focus internal audit resource on those areas requiring greatest attention, Livewire's Strategic Risk Register should be integrated with the internal audit strategy to identify what assurance over organisational risk is being obtained through internal audit.
14. External audit is provided by Styles & Co. From the committee papers we reviewed, there was limited evidence that FRAPG scrutinises an external audit plan prior to the audit commencing or meets with representatives of Styles & Co. to agree expectations for the audit. Committee papers did not record whether a formal audit findings report was provided by Styles & Co and if so whether this was considered by FRAPG. We would typically expect a formal audit findings report to document: significant audit risks identified at the planning and subsequent stages of the audit and how they have been dealt with; any concerns about financial reporting or organisational performance; significant deficiencies and material weaknesses in internal control processes; evidence of fraud or abuse of systems; issues that management is aware of but has not adequately addressed; and advice on areas that require special attention.
15. FRAPG should amend its terms of reference to require, at least annually, external audit representatives to meet with the committee without the presence of management or internal auditors. These meetings provide external audit a forum to inform the committee about any

time pressures exerted by management; the degree of management's co-operation in the audit; and its impact on audit effectiveness.

16. In our view, it is uncommon to have an HR committee as a sub-committee of the board with the Board itself typically covering HR matters that require its attention.

Governance principle

“The board leads the organisation in being transparent and accountable. The CIC is open in its work, unless there is a good reason for it not to be”

Observations

1. The Council commissions neighbourhood and wellbeing services from Livewire through an agreement, ‘The Management Agreement in Respect of Neighbourhood and Wellbeing’ made in May 2012 (Commissioning Agreement).
2. The Articles require the Council to appoint at least one Director to the Board but limit the maximum number of Council appointees to 19% of the total number of Directors. Livewire currently has two Council Directors neither of whom currently sit on a Board sub-committee.
3. The Council interacts with Livewire through the Council Chief Executive, the Councillor responsible for Leisure and Community, the Assistant Director for Integrated Commissioning, the Head of Strategic Partnerships and Commissioning, the Head of Finance and the Council Directors, amongst others.
4. Livewire and Council interviewees are aware of these interactions but some were unclear as to the detailed responsibilities and roles of individuals, for example the Council Directors. Some Council interviewees felt they were not receiving all of the information they needed from Livewire to perform their roles effectively.
5. There is no doubt that the media will continue to scrutinise Livewire as key projects such as the Library Review and Great Sankey leisure development progress. Formal reporting lines between Livewire and the Council should be documented with agreed information requirements and timetables for delivery. This document should be made available to all Council and Livewire interested parties and refreshed regularly.
6. We recommend that the Council Directors should play a much more active part in ensuring the two organisations work together effectively and in managing the public perception of key projects. To gain an in-depth knowledge of key projects and risks facing Livewire, we recommend that Council Directors join the FRAPG and SP sub-committees.
7. Formal commissioning meetings take place quarterly between the Council and Livewire and interviewees from both sides felt these were productive and effective. Good practice we observed during our review included: a formal agenda for the meeting; the use of key operational performance indicators linked to the Commissioning Agreement; and thorough preparation by senior management team prior to the meetings.
8. The Commissioning Agreement provides for an initial 10-year term with further terms of five years unless the agreement is terminated. Amongst other things the agreement contains: a service specification schedule and the initial annual management fee to be paid by the Council for the services. The initial annual management fee was based on a financial model advised by PriceWaterhouseCoopers and adopted by the Council. Annual business plans are prepared by

Livewire to agree changes to services and the management fee. The Commissioning Agreement and its 10 schedules run to several hundred pages in total.

9. There was widespread agreement from interviewees that the Commissioning Agreement is in need of a “refresh” at a strategic and detailed level. We understand that the process has begun. As outlined above, this process must be managed carefully by the Board and the Council with active participation of the Council Directors.
10. There was consensus from interviewees that the whole community of Warrington is a potential stakeholder in Livewire. There were concerns, however, that the public does not fully understand Livewire’s purpose or its relationship with the Council.
11. There is also a formal annual general meeting where the Board can be challenged on its annual accounts and performance.