

SUBJECT: GOVERNANCE ARRANGEMENTS FOR PROPOSED ALTERNATIVE DELIVERY MODEL FOR TOURISM, CULTURE, LEISURE AND YOUTH

MEETING: Audit Committee

DATE: 5th July 2018

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

For Members to receive the draft documentation for the proposed Governance arrangements for the MonLife group companies, that will set out and ultimately inform the Governance Framework – ahead of enactment of the ADM model.

2. RECOMMENDATIONS:

For Members to reassure themselves that the draft Governance arrangements for the ADM are as expected and are satisfied with the process to date. .

3. KEY ISSUES:

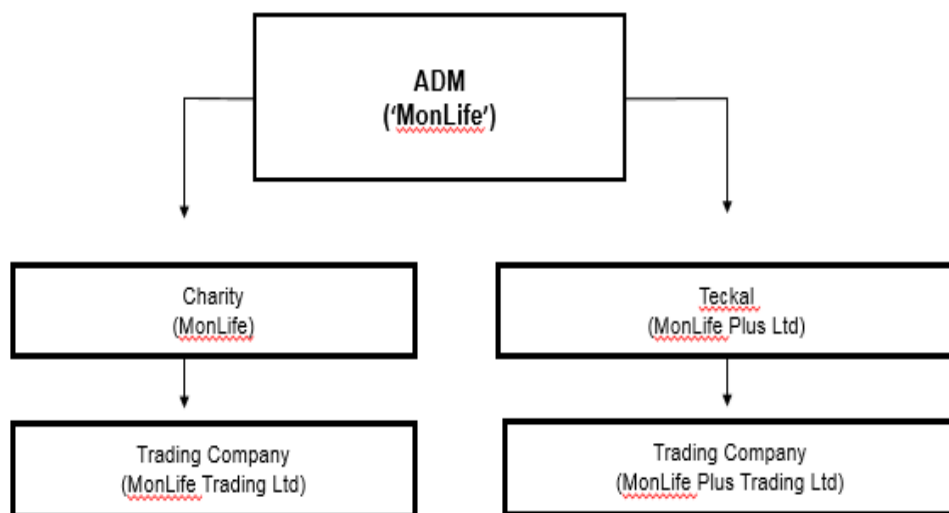
3.1 On 15th February 2018, Council Council agreed that '£155,000 be drawn from the priority investment reserve to fund 'start-up activity for the Alternative Delivery Model' and to 'recognise the need to make provision within the MTFP as part of the budget setting process for the next 5 year period of £388,000, arising from the decision to move Tourism, Leisure, Culture and Youth services into a newly established Alternative Delivery Model'.

3.2 The interim Shadow Board recruitment process has been approved by Cabinet on 6th June 2018 subject to review of, and in line with Audit Committee governance recommendations. Shadow structures to remain internal advisory bodies until such time as the Council approves the decision to enact company operation.

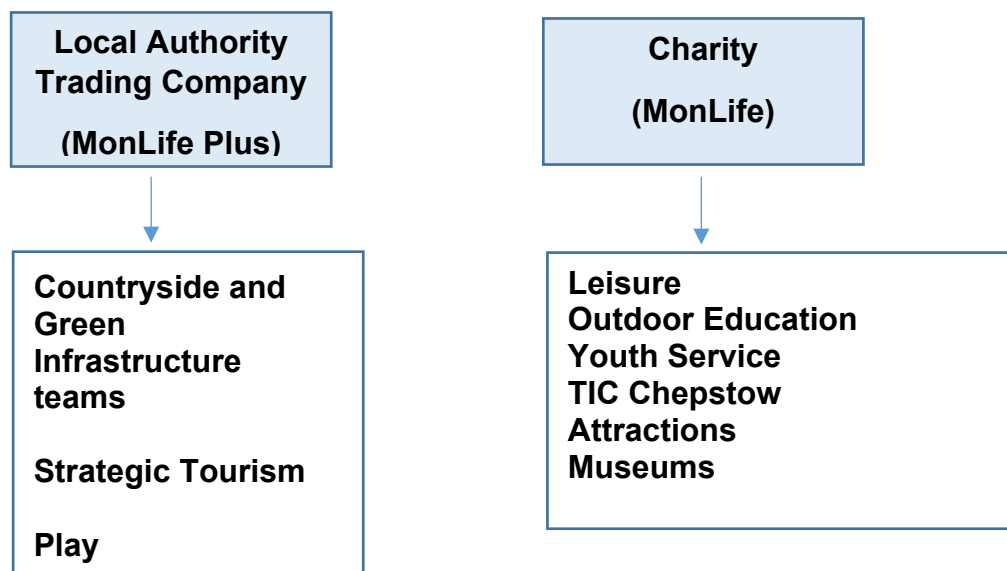
3.3 In preparation for trading, the MonLife group companies comprising the ADM will need to be established in order to protect potential trading names and to avoid delays once final decisions are made. Cabinet have agreed 'to approve the submission of legal incorporation documents in order to secure trading names, website, domains, etc. Companies to be established as shell companies at this stage and will therefore will remain dormant until such time that the Council makes the decision to enact company operation' .

3.4 For the Teckal company, a draft Shareholder Agreement has also been prepared to reflect that it will be wholly owned by the Council. Both the Teckal company and the charitable company will need to be limited companies; the Charity limited by Guarantee and the Teckal company limited by shares.

3.5 The relationship between the Monlife companies are as below:



3.6 The services being delivered within these companies are as below:



Local Authority Trading Company – (MonLife Plus Ltd)

3.7 MonLife Plus Ltd is a separate legal entity. It is wholly owned by the Council, and is set up as a Teckal Vehicle, which means that the Council is able to award contracts directly to it; it is a limited Company which has a Board and a Shareholder Committee.

3.8 Monlife Plus Ltd is owned by the Council, and is funded by public money to deliver services on behalf of the Council. It is important that the Council has sufficient control over its activities to ensure that the Council is able to protect the asset whilst allowing the Teckal to take advantage of its company status in the way it operates.

3.9 Control is exercised through two documents. The first is the Articles of Association (appendix 9), which acts like the Teckal's constitution in that they govern the way in which the Teckal behaves, what it is set up to do etc. The second document is the Shareholder Agreement (appendix 10). This takes priority over the Articles; and sets out the relationship between the Council and the Teckal and the way in which the Council, through the Shareholder Committee, controls the activities of the Teckal.

3.10 There are two sets of appointments to be made. The Teckal needs to have a Board consisting of one Council representative, the CEO and the Finance Director of MonLife, which will be chaired by the Chief Officer for Enterprise. The Shareholder Committee will be administered through Cabinet to avoid any conflict of interest. There needs to be a different membership serving on the Board and on the Shareholder Committee, as there is a clear danger of conflict if this was not the case. Please see appendix 11 for a more detailed description on recruitment to the Local Authority Trading Company.

Charity – (MonLife)

3.11 Monlife is to be a charity. This means that it is outside the Council and is independent from it, existing to fulfil its charitable aims and objectives.

3.12 The charity will be grant funded by the local authority to continue to deliver services on its behalf. The Charity is outside of the local authority control however will be monitored through an agreed performance management framework and provide appropriate reports back to Council.

3.13 It is anticipated in the process of setting up the charity that the Council will retain the right to appoint 2 of the charity Trustees. As this will amount to an appointment to an outside body, it will be the Council who makes these two appointments. It is envisaged that the remaining 7 Trustees including the Chair will be recruited from outside the Council by directors of the Charity.

3.14 The Charity is governed by the Articles of Association and a Grant agreement with the local authority. The charity must abide by charities law which regulate their activities.

Trading subsidiaries

3.15 Both the Teckal and Charity will have Trading subsidiaries. Initially these companies will remain dormant. Both Trading subsidiaries will report to their respective company (Teckal and Charity) and will be governed by the Articles of Association.

Recruitment of Shadow Boards

3.16 To ensure robust, transparent processes for recruitment of the shadow board, it is the intention to place adverts in local papers and promote via our communication channels. All appointments will comply with Nolan's 7 Principles of Public Life (appendix 12), whilst making sure we are attracting the wide range of skills and expertise required to lead the MonLife group companies.

3.17 There will be two boards and one committee formed. One board and a Shareholder Committee for the Teckal Company and a board of Trustees for the Charity. Both Trading companies will be represented by directors/trustees from their respective Teckal and Charity boards.

3.18 The role of the Council as shareholder is an Executive function. This means that the Shareholder Committee will be the Cabinet, which can only have Cabinet members as voting members.

3.19 It is anticipated that the advertising for Shadow Board members for the Charity, will take place mid-July with recruitment and selection being undertaken during August.

3.20 The board members for the Teckal will be appointed by the Chief Officer for Enterprise. The Shareholder Committee will comprise of Cabinet members.

3.21 It is anticipated that the following appointments will be made:

Teckal – Shadow Board of Directors – suggested 3 senior officers appointed by the Chief Office for Enterprise. Chief Officer for Enterprise will be appointed Chair.

Shadow Shareholder Committee – this executive function will be undertaken by Cabinet.

Charity - Shadow Board of Trustees – suggested 9 Trustees of which, one will be appointed as Chair. There will be 2 allocated places for Members.

Trading subsidiaries – Both Boards of the Trading subsidiaries will be selected from a combination of existing directors/trustees from the Teckal and Charity, and new appointments. It is anticipated that there will be 2 board members on each Trading subsidiary.

3.22 The attached draft documentation sets out the Governance arrangements for the MonLife group companies; Draft Articles of Association for Teckal and Charity, Governance framework and Membership of Teckal and Charity Boards; Shadow Boards recruitment process. The Articles of Association and Governance has also been subject to independent professional assurance.

3.23 Initial discussion will need to be considered and agreement made around the financial remuneration for some board members. There will be intention to pay appropriate travelling expenses.

4. OPTIONS APPRAISAL:

4.1 The scale of the future challenge was first recognised in 13/14, when work was commissioned to consider options for future delivery of Cultural Services. Soon after, the scope of this work was widened to include all TLCY services. The whole process has been facilitated by an in-house team following the Welsh

Government's 5 Case Business Model, and informed closely and tested by independent advisors and legal experts. The process has also included full open scrutiny with Members through Seminars, Select committees, Cabinet and Council. In February 2018, Council agreed that '£155,000 be drawn from the priority investment reserve to fund 'start-up activity for the Alternative Delivery Model' and to 'recognise the need to make provision within the MTFP as part of the budget setting process for the next 5 year period of £388,000, arising from the decision to move Tourism, Leisure, Culture and Youth services into a newly established Alternative Delivery Model'.

4.2 The initial and final scrutiny on the draft Governance documentation for the MonLife group company through Audit Select committee will ensure transparent democratic processes has been followed and will assist the future decision on enactment of the ADM, prior to a final decision by full Council currently planned for October 2018.

5. REASONS:

5.1 The draft Governance arrangements and framework requires the Audit Committee to assure themselves that the draft documentation is robust, transparent and meets expectations of the Council.

5.2 Prior to the enactment of the MonLife group companies, the scrutiny process of draft documentation will ensure the MonLife group companies have effective governance in place providing transparency on the way decisions are made and evaluated.

5.3 The recruitment of the Shadow Board members will be critical to the establishment of the Heads of Terms agreements, and provide expert, professional support to the interim project lead and MCC Client Officer to ensure that all companies are ready for enactment in the autumn this year.

6. RESOURCE IMPLICATIONS

6.1 No resource implications to accompany this report.

7. SAFEGUARDING IMPLICATIONS

7.1 There are no corporate parenting or safeguarding concerns regarding this report.

8. BACKGROUND PAPERS

- Appendix 1 Shadow Boards Recruitment process flowchart
- Appendix 2 Draft job description for Shadow Board Director for Teckal
- Appendix 3 Draft job description for Shadow Board Trustees for Charity
- Appendix 4 Draft person specification for Chair of Shadow Board of Trustees for Charity
- Appendix 5 Skills matrix for Shadow Board members
- Appendix 6 Draft Accountability and Governance arrangements for MonLife companies and MCC
- Appendix 7 Draft Articles of Association for MonLife (Charity)
- Appendix 8 Draft Articles of Association of MonLife Trading Ltd
- Appendix 9 Draft Articles of Association of MonLife Plus Ltd
- Appendix 10 Draft Shareholder Agreement
- Appendix 11 Advice re membership of the Board of MonLife Plus Ltd and of the Shareholder Committee relating to MonLife Plus Ltd
- Appendix 12 Nolan's 7 Principles of Public Life

9. FUTURE GENERATIONS IMPLICATIONS

Future Generations Evaluations have accompanied every report submitted and outline the main impacts of the proposal.

10. AUTHORS:

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