

States of Jersey  
States Assembly



États de Jersey  
Assemblée des États

# Corporate Services Scrutiny Panel



## Waterfront Enterprise Board (P.12/2009)

Presented to the States on 18th March 2009

S.R.1/2009

1.	INTRODUCTION .....	2
2.	KEY FINDINGS AND RECOMMENDATIONS.....	3
3.	THE PROPOSED REMOVAL OF STATES DIRECTORS.....	4
4.	THE PROPOSED REVISED ACCOUNTABILITY STRUCTURE.....	6
5.	EXPERTISE.....	12
6.	FUTURE WORK.....	14
7.	CONCLUSION.....	16
8.	APPENDIX 1 – PANEL MEMBERSHIP AND TERMS OF REFERENCE .....	17
9.	APPENDIX 2 – EVIDENCE CONSIDERED.....	18

## 1. INTRODUCTION

- 1.1 The Corporate Services (WEB) Scrutiny Sub-Panel has reviewed *Waterfront Enterprise Board: Revised Memorandum and Articles of Association (P.12/2009)*. The proposition, if adopted, would amend the composition of the Board of Directors of the Waterfront Enterprise Board (WEB) and, in particular, would remove States Directors (i.e. States Members) from the Board.
- 1.2 The proposal to remove States Directors raised the issue of how WEB would become accountable to the States. The Corporate Services Scrutiny Panel agreed that the matter merited scrutiny and a Sub-Panel was therefore established to review the proposition.
- 1.3 The proposition was initially due to be debated on 10th March 2009. As a result, there was a short timescale in which to complete the review. Nevertheless, the Sub-Panel agreed that Hearings with the relevant parties, together with some background research, would allow for initial questioning on the issues involved. Not only would this provide the States Assembly with further information on the proposition but it would also highlight matters for consideration, both during the debate and beyond. The proposition was ultimately withdrawn but it was understood that the proposed measures would be brought back to the States Assembly in due course.
- 1.4 A variety of issues were identified. Essentially, the Sub-Panel has found no reason to reject the removal of States Directors, provided that an appropriate and transparent accountability structure is put in their place. This is imperative, given that WEB is seemingly to pass through a period where its Board may not be at full capacity; and where some have concerns as to what has happened in the recent past.
- 1.5 The Sub-Panel has made a number of recommendations with regard to the accountability structure proposed in P.12/2009. In particular, Ministerial Decisions relating to WEB should be subject to a 'grace' period. This would facilitate transparency and allow for appropriate scrutiny. Furthermore, the rôle of the Board's Ministerial Appointee should be clarified. Finally, thought must be given to how WEB should be scrutinised and whether it fits neatly into the current Scrutiny structure.
- 1.6 It is apparent that P.12/2009 is not the end of work to be undertaken on WEB. Indeed, it is probable that proposals to subsume WEB within a company with a larger remit will be brought forward. The issues of accountability and transparency must continue to be borne in mind as this work continues.

## **2. KEY FINDINGS AND RECOMMENDATIONS**

### **KEY FINDINGS**

- 2.1 The proposal to remove States Directors from the Board of WEB can, in itself, be justified and is consistent with previous decisions of the States Assembly. (See 3.8)
- 2.2 Any new plans for WEB will need to be monitored carefully to ensure there is an appropriate balance between the maintenance of commercial confidentiality and a sufficiently high degree of transparency. (See 4.34)

### **RECOMMENDATIONS**

- 2.3 An Oversight Committee of WEB, consisting of States Members, should be established. (See 4.11)
- 2.4 Further clarification should be provided on the rôle to be played by the Ministerial Appointee. (See 4.18)
- 2.5 Ministerial Decisions relating to WEB should be subject to a fifteen day 'grace' period in order to allow sufficient transparency and scrutiny. (See 4.24)
- 2.6 The remit of the Comptroller and Auditor General in relation to WEB should be widened. (See 4.27)
- 2.7 WEB's annual accounts should be formally presented to the States Assembly. (See 4.37)

### 3. THE PROPOSED REMOVAL OF STATES DIRECTORS

3.1 *Waterfront Enterprise Board: Revised Memorandum and Articles of Association* (P.12/2009) was developed following recommendations made by the Comptroller and Auditor General (C&AG), Mr. C. Swinson OBE. The C&AG reviewed WEB in 2008, partly in relation to rules of corporate governance. An interim report was produced in June 2008, and a final report in November 2008, which included the recommendation that States Directors be removed from the Board of WEB.

3.2 If adopted, the proposition would amend the structure of WEB's Board of Directors in the following manner:

Current Composition of WEB's Board of Directors	Composition of WEB's Board of Directors proposed in P.12/2009
Managing Director	Managing Director
3 States Directors	1 Ministerial Appointee
3 Non-States Directors	At least 4 Non-States Directors

Currently, the membership is set at seven; if P.12/2009 were adopted there would not be a maximum limit.<sup>1</sup>

3.3 The particular focus of this Scrutiny review was the removal of the States Directors. The C&AG's recommendation arose from his finding that States Directors faced a 'conflict of accountability.' In essence, States Directors served two masters whose different requirements were difficult to reconcile. The C&AG explained the matter to the Sub-Panel:

*"They [the States Directors] all of them had found this position difficult because, as members of the board, they were bound by normal confidentiality within a board to make decisions, which they could not easily break and report to the States."*<sup>2</sup>

3.4 This was not say to that there were no advantages in having States Directors on the Board. The C&AG advised that States Members did reflect the "*general interests of the Island*" and, as such, could make a unique contribution. However, in his view, the difficulties faced outweighed these advantages.<sup>3</sup>

3.5 The Sub-Panel sought to clarify the matter directly with some of those who had served as States Directors. Senator P.F. Routier, a current States Director, confirmed that the need to maintain commercial confidentiality placed States Directors in a difficult position when reporting back to the States:

<sup>1</sup> *Waterfront Enterprise Board: Revised Memorandum and Articles of Association* (P.12/2009), page 31

<sup>2</sup> Mr. C. Swinson OBE, Comptroller and Auditor General, Public Hearing, 10th February 2009, page 4

<sup>3</sup> *Ibid*, page 5

*“The main conflict arises when States Members want the private business details of a deal made public and they expect the States Director to make that public. The duty of a Director is in company law to the company and not to the States. This is obviously a particularly difficult position to be in for any States Member.”<sup>4</sup>*

3.6 The difficulty facing States Directors was acknowledged by Senator B.E. Shenton. Notwithstanding Senator Shenton’s general views on WEB, and a specific view that States Members should be maintained on the Board for the time being, he recognised that there was a conflict of some kind.<sup>5</sup>

3.7 The Chief Minister, Senator T.A. Le Sueur, advised that the proposal to remove States Directors from WEB’s Board was in line with previous decisions made by the States.<sup>6</sup> The Chief Minister was referring to *Jersey New Waterworks Company Limited and Jersey Electricity Company Limited: Directors* (P.1/2002). The proposition was adopted on 29th January 2002. Notwithstanding the difference of the companies involved to WEB, the Sub-Panel noted the following statement from the accompanying report:

*“The task of a director in a Company is governed by the Companies (Jersey) Law 1991 and that Law provides that a director, in exercising his powers and discharging his duties shall act honestly and in good faith with a view to the best interests of the Company. The primary duty of a director is therefore to the Company and not to the States.”<sup>7</sup>*

This referred to Article 74 of the Law.

#### **KEY FINDING**

**3.8 The proposal to remove States Directors from the Board of WEB can, in itself, be justified and is consistent with previous decisions of the States Assembly.**

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<sup>4</sup> Senator P.F. Routier, Written Submission, 16th February 2009

<sup>5</sup> Senator B.E. Shenton, Public Hearing, 10th February 2009, pages 10-11

<sup>6</sup> Senator T.A. Le Sueur, Chief Minister, Public Hearing, 11th February 2009, page 2

<sup>7</sup> *Jersey New Waterworks Company Limited and Jersey Electricity Company Limited: Directors* (P.1/2002), page 3

## 4. THE PROPOSED REVISED ACCOUNTABILITY STRUCTURE

- 4.1 States Directors were initially placed on WEB's Board of Directors in 1993 to represent the public interest and "*to ensure political accountability.*"<sup>8</sup> This was also the understanding developed by the C&AG during his own review.<sup>9</sup> The rationale behind the presence of States Directors on the Board did not appear to have changed in the interim.
- 4.2 However, the C&AG advised that States Directors had provided the 'appearance' of States influence over WEB but not the 'substance' of influence.<sup>10</sup> As such, their removal would merely remove that 'appearance' of influence.
- 4.3 If States Directors were to be removed, the replacement structure would need to provide sufficient accountability and transparency and ensure that 'substance' of influence.
- 4.4 P.12/2009 recognised the need for appropriate political accountability. The proposition suggested that WEB effectively become accountable to the States through the Minister for Treasury and Resources. The recommendation that WEB become accountable to a single Minister was initially made by the C&AG. P.12/2009 provided a number of 'commitments' of actions by the Minister for Treasury and Resources that would, according to the proposition, "*promote accountability, transparency and awareness.*"<sup>11</sup>

### ALTERNATIVES

- 4.5 The Sub-Panel questioned whether any alternatives had been considered. It questioned the C&AG on the options he himself had examined during his review and was advised that they had included the following:
- a. Establishment of a 'special board' (i.e. creation of an entirely new body to manage WEB);
  - b. Making WEB directly accountable to the States (i.e. removing the Ministerial direction inherent in P.12/2009); and
  - c. Making WEB an activity within a Department of the States.

These options were not pursued as they were not considered as practical or viable as the solution ultimately proposed.<sup>12</sup>

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<sup>8</sup> *Waterfront Enterprise Board (P.16/1993)*, page 6

<sup>9</sup> Comptroller and Auditor General, Public Hearing, page 3

<sup>10</sup> *Ibid*, page 10

<sup>11</sup> P.12/2009, page 4

<sup>12</sup> Comptroller and Auditor General, Public Hearing, pages 7-8

- 4.6 Of most interest to the Sub-Panel was the suggestion in the C&AG's interim report that an 'oversight committee' be established. It became apparent that this would not have been a management committee but a body that would oversee and scrutinise WEB.
- 4.7 The C&AG explained that he had raised the idea of an oversight committee as:
- "WEB does not fall easily into the committees that currently exist because it is a mixture of looking back at what has happened and looking at the policy of what will happen."*
- As a result, the committee would potentially fall between the stools of Scrutiny and the Public Accounts Committee (PAC).<sup>13</sup>
- 4.8 In some respects, scrutiny of WEB would currently fall within the remit of the Corporate Services Scrutiny Panel itself (as this report attests to). However, it is apparent that further consideration may need to be given to the appropriateness of the structure and to how exactly WEB could be monitored and scrutinised.
- 4.9 At the Sub-Panel's Hearing with the Chief Minister the matter was considered. It was noted that Scrutiny could consider WEB. However, it was agreed that more consideration could be given to an appropriately structured 'oversight committee'.<sup>14</sup>
- 4.10 Strictly speaking, the establishment of an 'oversight committee', whether or not it be done through 'fine tuning' of the current structures, would not be an alternative to the proposals within P.12/2009. Rather, it would be an addition, albeit one that could assist in ensuring sufficient accountability.

#### **RECOMMENDATION**

**4.11 An Oversight Committee of WEB, consisting of States Members, should be established.**

- 4.12 Given the relevance to its own remit, this is a matter which the Corporate Services Scrutiny Panel will itself also consider.

#### **MINISTERIAL APPOINTEE**

- 4.13 The adoption of P.12/2009 would make WEB accountable to the States through the Minister for Treasury and Resources. Under the proposed changes to the Articles of Association, the Minister would personally be able to nominate one of the Directors. This would be the Ministerial Appointee who would not need to be a States Member.

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<sup>13</sup> Ibid, page 14

<sup>14</sup> Chief Minister, Public Hearing, page 7

- 4.14 It is not apparent from P.12/2009 what precise rôle the Ministerial Appointee would play. It is clear from Article 28 that the Minister would appoint that Director personally with no prescribed input from the States. This was confirmed at the Hearing with the Chief Minister.<sup>15</sup> All other Directors would be approved by the States on the recommendation of the Minister. However, it would appear that the States would retain the power to dismiss the Ministerial Appointee. Whilst the Minister would have that capacity alone, Article 30(b) indicates that the States could also remove any of the Directors from office. As a result, if P.12/2009 were adopted, the States would have no say on the appointment of the Ministerial Appointee but would be able to remove that person, if so desired.
- 4.15 Notwithstanding the above, the Sub-Panel remained uncertain at the end of its review as to the precise rôle of the Ministerial Appointee. Indeed, there was a question as to whether a direct Ministerial Appointee was required, given that WEB itself was to be made accountable to the States directly through the Minister for Treasury and Resources.
- 4.16 The possibility of a Ministerial Appointee was mooted by the C&AG. The comments in his report in this regard did not dispel the Sub-Panel's uncertainty and, in particular, it noted the following remarks to the effect that the Appointee, as a representative of the sponsoring Minister (i.e. the Minister for Treasury and Resources) would:
- “in this capacity [...] be accountable to the relevant Minister and not the States.”<sup>16</sup>*
- 4.17 It is not certain how this premise would fit within a structure designed to ensure political accountability to the States. Furthermore, if the Appointee were a States Member, such as an Assistant Minister for Treasury and Resources, it is not certain whether that Assistant Minister would face the same difficulties as the current States Directors.

#### **RECOMMENDATION**

- 4.18 Further clarification should be provided on the rôle to be played by the Ministerial Appointee.**

#### **MINISTERIAL DECISIONS**

- 4.19 One of the commitments ascribed to the Minister for Treasury and Resources by P.12/2009 was that formal, relevant Ministerial Decisions should be published. Specifically, these would be Ministerial Decisions relating to property transactions or

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<sup>15</sup> Chief Minister, Public Hearing, page 21

<sup>16</sup> *Waterfront Enterprise Board Limited: Review of Corporate Governance (Final report)* (R.122/2008), page 4

where (under Article 22 of the Articles of Association) the Minister provided a direction to the Directors.<sup>17</sup>

- 4.20 This element of P.12/2009 also stemmed from the recommendations of the C&AG's report. The C&AG advised the Sub-Panel that the use of Ministerial Decisions in this manner would help to ensure transparency. His final report included an analysis of how, in practice, Ministerial Decisions could be used in this manner to assist with accountability.<sup>18</sup>
- 4.21 Questions remained at the end of the Sub-Panel's review, however, as to whether the provisions of P.12/2009 in this area would provide sufficient safeguards for the accountability of WEB.
- 4.22 In a separate matter, Standing Order 168(3) provides that the Minister for Treasury and Resources must present to the States information regarding land transactions to which the Minister has agreed. At least fifteen days' notice must be provided.
- 4.23 A similar arrangement for all Ministerial Decisions relating to WEB would potentially be beneficial. Indeed, the Chief Minister confirmed that he would agree to such an arrangement.<sup>19</sup> Clarification would be required as to the precise arrangements for this mechanism, for instance, as to whether a report should be presented to the States (as with Standing Order 168(3)) or whether the Ministerial Decisions would go to the relevant Scrutiny body. However, the principle is one that should assist in ensuring transparency and accountability.

#### **RECOMMENDATION**

- 4.24 Ministerial Decisions relating to WEB should be subject to a fifteen day 'grace' period in order to allow sufficient transparency and scrutiny.**

#### **ROLE OF C&AG**

- 4.25 During his deliberations with the Sub-Panel, the C&AG advised the Sub-Panel that his remit in relation to WEB was somewhat limited:

*"I do not have the full range of powers. I can look at corporate governance of WEB, but I cannot look at anything beyond corporate governance because the powers are not given to me to do that."*

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<sup>17</sup> P.12/2009, page 4

<sup>18</sup> R.122/2008, page 18

<sup>19</sup> Chief Minister, Public Hearing, page 7

The Sub-Panel was subsequently advised that an increase of the C&AG's rôle would potentially be of benefit and that such an increase might arise from a review of *Public Finances (Jersey) Law 2005* that was due to be undertaken.<sup>20</sup>

- 4.26 Senator Shenton advised, in his capacity as Chairman of the PAC, that the PAC would potentially come to the States with such a proposition to extend the C&AG's rôle.<sup>21</sup> The Chief Minister confirmed he would be content to see this happen.<sup>22</sup> It would appear to the Sub-Panel that an increased remit for the C&AG in relation to WEB would assist in strengthening arrangements for the accountability and transparency of WEB.

#### RECOMMENDATION

- 4.27 The remit of the C&AG in relation to WEB should be widened.**

#### CONFIDENTIALITY

- 4.28 P.12/2009 indicated there is a need to reconcile the objective of ensuring political accountability with that of providing “*a practical basis on which persons outside the States will be prepared to work as Non-Executive Directors.*”<sup>23</sup> It is not entirely clear what would be required for this ‘practical basis’. However, it would appear that the issue of confidentiality is one that would need to be addressed.
- 4.29 The issue was apparent throughout the review. As such, the Sub-Panel had been advised that the need for States Directors to respect commercial confidentiality had led to the ‘invidious position’ in which they had found themselves.
- 4.30 Senator Shenton suggested that problems with confidentiality could still be faced under the proposed arrangements. For example, when asked for his views on whether an oversight committee would be beneficial, Senator Shenton intimated the system could be hampered by lack of access to information and the need to retain commercial confidentiality.<sup>24</sup>
- 4.31 The Sub-Panel questioned the C&AG on the issue, in particular in relation to the proposal that Ministerial Decisions be published as a means of ensuring transparency. Ministerial Decisions can be classed as confidential and the Sub-Panel asked whether the need to retain commercial confidentiality would impact on that process. The C&AG indicated that:

<sup>20</sup> Comptroller and Auditor General, Public Hearing, page 11

<sup>21</sup> Senator Shenton, Public Hearing, page 17

<sup>22</sup> Chief Minister, Public Hearing, page 29

<sup>23</sup> P.12/2009, page 4

<sup>24</sup> Senator Shenton, Public Hearing, page 15

*“The content [of a proposed contract] might be [confidential], but it should be possible for the Minister to say that the contract exists and to give some indication of both the provisions of the contract and the reason he agreed to sign.”<sup>25</sup>*

4.32 P.12/2009 acknowledges that the requirement for commercial confidentiality would not disappear, as seen in one of the commitments ascribed to the Minister for Treasury and Resources:

*“To agree the key elements of the WEB Business Plan (including consolidated accounts, whilst observing commercial confidentiality) and ensure that they are reflected within the Treasury and Resources Business Plan.”<sup>26</sup>*

4.33 Ultimately, there was insufficient time within the Sub-Panel's review to reach a conclusion on whether confidentiality issues would be addressed by the structure proposed in P.12/2009. However, it was apparent that the issue must be addressed to avoid some of the problems encountered in the past.

#### **KEY FINDING**

**4.34 Any new plans for WEB will need to be monitored carefully to ensure there is an appropriate balance between the maintenance of commercial confidentiality and a sufficiently high degree of transparency.**

4.35 In terms of transparency, the Sub-Panel noted that one of the C&AG's recommendations had been that WEB's annual report and accounts should be formally presented to the States. The C&AG reaffirmed this recommendation at his Hearing with the Sub-Panel and indicated he would anticipate formal questioning of the accounts to occur.<sup>27</sup>

4.36 P.12/2009 did not specifically mention presentation of the accounts as one of the commitments ascribed to the Minister for Treasury and Resources. However, the proposition indicated that the Council of Ministers had endorsed all of the C&AG's recommendations. The Sub-Panel agrees with the C&AG that presentation of WEB's annual accounts would assist in ensuring appropriate transparency and scrutiny. This measure should therefore be included within the revised plans for WEB that are to be developed.

#### **RECOMMENDATION**

**4.37 WEB's annual accounts should be formally presented to the States Assembly.**

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<sup>25</sup> Comptroller and Auditor General, Public Hearing, page 27

<sup>26</sup> P.12/2009, page 4

<sup>27</sup> Comptroller and Auditor General, Public Hearing, page 21

## 5. EXPERTISE

5.1 The Sub-Panel's review primarily focused on the rôle of States Directors and WEB's accountability to the States. It was aware that some people had other concerns or views on other matters regarding WEB. Indeed, some of these were covered during the Public Hearings held by the Sub-Panel.

5.2 One issue relating to the composition of the Board arose and merits being highlighted: that relating to the dynamism and qualifications of the Board.

5.3 This was an issue raised by Senator Shenton. At his Hearing with the Sub-Panel, the Senator highlighted the need to ensure that the appointments process was appropriate and that it resulted in a 'strong' board. In his view, issues had been caused by the fact that the Board had been allowed to weaken.<sup>28</sup> A successful Board required expertise and strength. In principle, it was not guaranteed that States Directors could provide that expertise.

5.4 This matter was also discussed with the C&AG who advised that, were his recommendations to be followed:

*"Then the Board would be very much an implementation activity and you [would] need people who are skilled in the ways of the commercial and property worlds to make sure that the interests of the States are being preserved and properly safeguarded."*<sup>29</sup>

5.5 The Chief Minister also raised the issue and provided a similar argument:

*"I think for any company, particularly any company owned by the States, you expect to have directors who are directors with a capital D and who are professional in their approach and their outlook."*<sup>30</sup>

5.6 The need for a strong and dynamic board was evident when WEB was established. In 1993, when the proposal to create WEB was approved, the report accompanying the proposition stated that lessons learnt from elsewhere showed:

*"The successful schemes have been led by a dynamic Board and an executive with a clear remit."*<sup>31</sup>

5.7 The need for a strong and suitably qualified Board may be self-evident. However, the Sub-Panel raises it for two reasons. Firstly, it is possible that no States Member would

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<sup>28</sup> Senator Shenton, Public Hearing, pages 9-10

<sup>29</sup> Comptroller and Auditor General, Public Hearing, page 21

<sup>30</sup> Chief Minister, Public Hearing, page 28

<sup>31</sup> P.16/1993, page 5

have the requisite expertise. This would provide further justification for accepting the removal of States Directors.

- 5.8 On a second point, consideration of this matter raises the question of the appointments process. The Sub-Panel was advised that the appointments process would be suitably robust. It has no reason to doubt that this will be the case. However, it would underline the imperativeness of this fact. The appointments process must be seen to be robust in order that the States can trust it has the dynamic and expert board that is required. Without that trust, true political accountability may be difficult to achieve.

## 6. FUTURE WORK

- 6.1 P.12/2009 was initially due to be debated on 10th March 2009. However, on 25th February 2009, the proposition was withdrawn, along with *Waterfront Enterprise Board: appointment of States director* (P.13/2009), a proposition from Senator Shenton to have himself placed on WEB's Board.
- 6.2 If it had been adopted, P.12/2009 would evidently have required implementation. At the Hearing with the Chief Minister, the Sub-Panel was advised that the appointments process was ready to begin as soon as the proposition was approved. However, it would not have been possible to have a full board in place by 31st March 2009, when the term of office of the current States Directors would come to an end. Interim measures might therefore have become necessary. For example, it might have become necessary to appoint temporary directors. The term of the current Non-States Directors would end in August 2009, at which time it would be feasible to obtain a full Board.<sup>32</sup>
- 6.3 Senator Shenton stated that the situation was not ideal and that P.12/2009 should not have been lodged at this time. Instead, other issues relating to WEB should be addressed before this proposition was effectively 'rushed' through.<sup>33</sup> The Chief Minister agreed that, ideally, the proposition to remove States Directors would have been brought earlier.
- 6.4 The fact that this would not have been an ideal situation suggested that greater vigilance is required to ensure that the proposed structure meets the requirements for accountability and transparency. It is understood that the proposal to remove States Directors from WEB's Board will be brought forward again in due course. However, in the interim, measures will be taken to address the issues that have arisen, as described in Paragraph 6.2 and also as highlighted in this report.
- 6.5 Beyond implementation of the proposals in P.12/2009, the precise future of WEB remains undecided. The Chief Minister advised that P.12/2009 was "*very much the first stage*" of work on WEB.<sup>34</sup> The longer-term plans involved widening the remit of WEB beyond that which comprised 'West of Albert'. The title would need to be changed from WEB, as a result, but it would in his view "*be a better way forward than the States itself trying to regenerate these sites [in St Helier]*."<sup>35</sup>
- 6.6 This decision recalled the proposals for a Jersey Enterprise Board (JEB) that had been put forward in 2008. Reviewed by the previous Corporate Services Scrutiny Panel (see

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<sup>32</sup> Chief Minister and Mr. W.D. Ogley, Chief Executive, Public Hearing, pages 32-33

<sup>33</sup> Senator Shenton, Public Hearing, pages 11-12

<sup>34</sup> Chief Minister, Public Hearing, page 3

<sup>35</sup> Ibid, page 14

*Review into the Proposed Establishment of the Jersey Enterprise Board (SR9/2008)*), the proposals had ultimately been shelved. The Chief Minister admitted that the plans for JEB could have been improved and advised that successor plans for JEB would be brought forward later in the year. It was subsequently clarified that the proposals would most likely be taken to the Council of Ministers in April 2009, after which time they would become available for Scrutiny.<sup>36</sup>

- 6.7 In light of this advice, the Corporate Services Scrutiny Panel shall retain WEB on its work programme.

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<sup>36</sup> Chief Executive, Public Hearing, page 17

## **7. CONCLUSION**

- 7.1 By necessity, the Sub-Panel had to undertake its review within a short timescale. As a result, at times, it has merely been possible to highlight issues for consideration; it was not feasible to explore these issues in greater depth to ascertain how they would be addressed by the Council of Ministers.
- 7.2 When examining the structure for WEB's accountability to the States, the underlying message appears to be that 'we are not quite there yet'. The Sub-Panel has made recommendations with the view that these should assist in ensuring that a suitable structure for accountability and transparency is put in place. Similarly, its findings, while to an extent perhaps self-evident, are intended to highlight the expectation that these matters should remain at the forefront of the Council's thinking with its future plans for WEB.

## **8. APPENDIX 1 – PANEL MEMBERSHIP AND TERMS OF REFERENCE**

8.1 For the purposes of its review of P.12/2009, the Corporate Services Scrutiny Panel established the following Sub-Panel:

CONNETABLE D.J. MURPHY, CHAIRMAN

SENATOR S.C. FERGUSON

DEPUTY C.H. EGRE

8.2 The Panel in itself comprised the following members:

SENATOR S.C. FERGUSON, CHAIRMAN

DEPUTY C.H. EGRE, VICE-CHAIRMAN

CONNETABLE D.J. MURPHY

DEPUTY T.A. VALLOIS

8.3 The following Terms of Reference were established for the review:

1. To review the current situation with regard to membership of the Board of Directors of the Waterfront Enterprise Board.
2. To consider the implications of a States decision to approve *Waterfront Enterprise Board: Revised Memorandum and Articles of Association (P.12/2009)* with particular regard to the following:
  - a. The proposal that States Directors be removed from the Board of Directors; and
  - b. The proposal that the Minister for Treasury and Resources be politically accountable for the Waterfront Enterprise Board.
3. To identify and assess whether any alternatives to the removal of States Directors were considered by the Comptroller and Auditor General and Council of Ministers.
4. To examine any further issues relating to the topic that may arise in the course of the Scrutiny Review and which the Panel considers relevant.

## 9. APPENDIX 2 – EVIDENCE CONSIDERED

9.1 The following documents are available to read on the Scrutiny website ([www.scrutiny.gov.je](http://www.scrutiny.gov.je))

### Documents

1. *Waterfront Enterprise Board – Review of Corporate Governance*, Council of Ministers (15th January 2009)
2. *Waterfront Enterprise Board: Revised Memorandum and Articles of Association* (P.12/2009), Council of Ministers, Lodged on 27th January 2009
3. *Waterfront Enterprise Board: Appointment of States Director* (P.13/2009), Senator B.E. Shenton, Lodged on 28th January 2009
4. *Jersey New Waterworks Company Limited and Jersey Electricity Company Limited: Directors* (P.1/2002), Finance and Economics Committee, Lodged on 8th January 2002.
5. *St Helier Waterfront Development* (P.156/1995), Policy and Resources Committee, Lodged on 7th November 1995
6. *Waterfront Enterprise Board* (P.16/1993), Island Development Committee, Lodged on 2nd February 1993
7. *Waterfront Enterprise Board (P.16/93): Amendment* (P.19/1993), Senator R.J. Shenton, Lodged on 9th February 1993
8. *Waterfront Enterprise Board (P.16/93): Second Amendments* (P.24/1993), Deputy S. Syvret, Lodged on 16th February 1993
9. *Companies (Jersey) Law 1991*
10. *Waterfront Enterprise Board Limited: Interim Report*, Comptroller and Auditor General (30th June 2008)
11. *Waterfront Enterprise Board Limited: Review of Corporate Governance (Final Report)*, Comptroller and Auditor General (24th November 2008)
12. *Waterfront Enterprise Board Limited – Annual Report and Accounts for the Year ended 31 December 2007*
13. *Review into the Proposed Establishment of the Jersey Enterprise Board* (SR9/2008), Corporate Services Scrutiny Panel, Presented on 12th June 2008

**Written Submissions**

1. Senator P.F. Routier 16th February 2009

**Public Hearings**

1. Mr. C. Swinson OBE, Comptroller and Auditor General 10th February 2009
2. Senator B.E. Shenton 10th February 2009
3. Senator T.A. Le Sueur, Chief Minister  
Mr. W.D. Ogley, Chief Executive 11th February 2009