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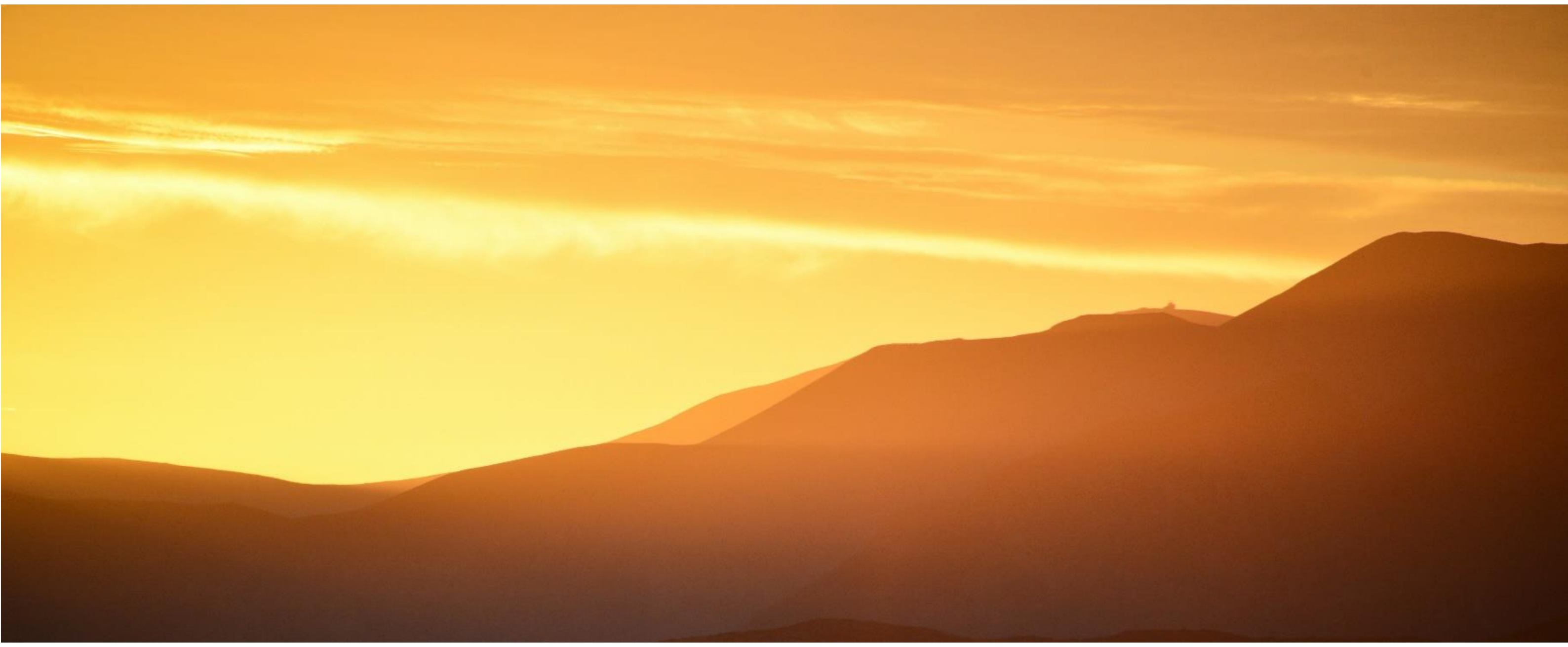

Report to pobal

government supporting communities

Governance and Related issues at Waterford Area Partnership

Private and Confidential

December 2020

Contents

1 Summary

Having engaged with the Waterford Area Partnership CLG (WAP) for the purposes of developing a Governance and Management Plan, as per our terms of reference, we have formed the opinion that WAP is not a viable organisation.

The organisation is facing an unusually challenging combination of issues which will require an amount of time, effort and investment at public cost that presents very poor value for money and a significant risk of failure regardless of the investment. These issues include:

- Legacy matters which are occupying Board and management time;
- Significant persistent operational difficulties;
- Governance systems and structures which are not fit for purpose;
- A strong likelihood that there will be no management in place from early 2021;
- Insufficient membership of the Board, following recent resignations; and
- Management and organisational systems and structures which are not fit for purpose.

These issues are set out in detail in the subsequent sections.

Our conclusion is that despite any efforts to reform and repair WAP CLG, there remains a very high risk of the organisation's collapse. The focus of any efforts should not be on saving the legal entity of WAP CLG; rather, efforts should be targeted at preserving the programmes and services currently delivered by WAP and transferring their delivery to another entity with a demonstrated capability to discharge governance and corporate responsibilities to a high standard.

2 Legacy Issues and Persistent Operational Difficulties

2.1 Overview

WAP is not currently capable at either Board or senior management levels of considering the organisation's strategic position or taking any action in the direction of improving the company's position as they are either non-functional or fully occupied in addressing serious legacy and operational issues.

2.2 Legacy Issues

2.2.1 ETB Rental Scheme

Arising from a historic scheme to circumvent rules for the funding of Local Training Initiatives, WAP has a liability for approximately €116,000 owed to Kilkenny and Carlow Education and Training Board and Waterford and Wexford Education and Training Board.

A proposal has been made to the ETBs for the repayment of these funds over a long period, but as of yet no agreement has been made.

The absence of active and effective financial controls (both present and historic) within the organisation have contributed to this situation's existence and caused significant delays to its resolution.

2.2.2 Waterford Food Bank

In 2017, the Waterford Food Bank was established using WAP's charity number without the Board's knowledge or approval.

Negative media reporting on the situation and a lack of clarity about the Food Bank's present status and relationship with WAP have drawn attention to the issue which has occupied Board and management time.

2.2.3 Local Government Audit Service Report and Response Plan

A report into WAP's delivery of the SICAP programme during the 2018 financial year highlighted major issues with WAP's accounting procedures, system of internal control and other organisational systems and structures. There is limited evidence of action taken in respect of many of the identified issues and a significant body of work would be required to satisfactorily address these.

2.3 Current Operational Difficulties

2.3.1 Financial Controls

As highlighted in the context of several legacy issues, WAP has (and has had for some time) an almost complete absence of adequate financial management controls in place. [redacted]

WAP had significant issues in the preparation of its 2018 AFS and is currently experiencing similar difficulties with the preparation of the 2019 AFS. WAP has recently contracted a temporary financial controller to begin to address the organisation's financial management system.

The delay in addressing these issues has had a number of serious impacts:

- There is no financial management capacity in WAP;
- There are major delays and blockages within the financial management process; and
- A report has been made to the CRO in relation to the 2018 AFS about WAP's failure to maintain proper books of account.

There are also questions regarding compliance with Circular 13/2014 Management of and Accountability for Grants from Exchequer Funds. The circular requires grantees to submit their audited accounts to the grantor without delay after the year end and to have adequate financial controls in place. It is not clear that they currently meet the requirement regarding having financial controls in place considering the report to the CRO for failure to maintain proper books and records.

The failure to produce accounts for 2019 and the issues encountered by the auditors suggest that the financial controls are still lacking. This will be further complicated for the 2020 accounts, as a revision to the auditing standard covering going concern requires the board to have robust governance, oversight and approval processes to challenge and validate management assessments of going concern. To do this, the Board would need to possess the skills and knowledge to understand and challenge the management assessment. Key management personnel would also need to have the relevant skills to make the assessment regarding going concern. We do not currently believe such capability exists in WAP, either now or in the short to medium term.

2.3.2 Engagement with the Charities Regulator

Arising from both legacy and financial control issues, WAP is at serious risk of failure to comply with its obligation to make an annual compliance return to the Charities Regulator. The Regulator has already engaged with WAP seeking assurance of the Directors' approach to addressing a number of serious matters of which they have become aware.

We do not expect that WAP's Directors will be capable of adequately responding to the Regulator's requests for information.

2.3.3 *Enquiries from an Garda Síochána*

WAP has recently become the subject of enquiries by the Gardaí. In our role, providing executive support, we are not involved in this matter, but our view is that its existence is a significant difficulty for the organisation because of WAP's lack of capacity to respond adequately, and any potential reputational or operational implications of an investigation.

2.3.4 *Board of Directors*

The Board of Directors of WAP is in *de facto* collapse. The Chair, Treasurer and three other Directors have resigned and a further two Board Members have effectively disengaged from the organisation. The Board does not have sufficient members for a quorate meeting and therefore only has the power to act to increase its membership.

Notwithstanding the major governance and compliance issues within WAP, there is no scope for the Board to act to introduce any of the reforms necessary to improve WAP's position.

We have no confidence that any potential Director who is competent and knowledgeable (in respect of governance responsibilities) could be reasonably expected to take on the risk and workload associated with addressing all of WAP's issues with the prospect of investigations by the Gardaí, Charities Regulator, the Revenue Commissioners and any future liquidator appointed to the company, plus the prospect of disqualification as a Director should the company collapse.

3 Governance

3.1 Overview

Notwithstanding the present situation with the WAP Board of Directors, the organisation's governance systems and structures are not fit for purpose.

3.2 Competence and Business of the Board of Directors

The Board of Directors (currently and recently) has demonstrated insufficient knowledge, skill and competence to discharge the responsibilities that they have under the Companies Act 2014 and the Charities Act 2009.

The Board devotes itself to relatively minor operational matters, such as approval of trivial expenditures and spends effectively no time on consideration of the organisation's strategic position or the system of internal control.

3.3 Governance Policies and Procedures

The Board does not have adequate (or any) policies and procedures documented and effectively implemented for:

- Appropriate reserving and delegation of organisational matters;
- Conduct, training, responsibilities and succession planning for Board Members;
- Ethics and standards and the management of conflicts of interest;
- Audit, finance and risk management;
- Defining the Board's (and any subcommittees') terms of reference and standing orders; and
- Consideration of strategic and corporate plans.

4 Organisational Systems and Process

4.1 Overview

Notwithstanding the present operational difficulties within WAP and the challenge of addressing these and legacy issues, there are major flaws in WAP's organisational systems and structures.

4.2 Organisational Structure

WAP operates with an almost completely flat organisational structure. Each Programme provided by WAP operates as a silo reporting directly and entirely into the CEO.

The unusually flat management structure means that the CEO is effectively the line manager for all 14 programmatic activities in the organisation and also has unique responsibility for corporate services (HR, finance, ICT, facilities, etc.). The company has no other management capability in place, and if the CEO were to depart from his current role, WAP would then have no-one in a management role.

WAP's structure has three major drawbacks:

- There is an unreasonable burden placed on the CEO to provide operational support and oversight for every element of every programme;
- The silo type structure militates against integration or collaboration of the administrative elements of WAP's programmes; and
- The organisation has no central corporate services, providing a consistent level of internal service in respect of:
  - Financial management and financial planning,
  - Human resource management, career development and line management/accountability, and
  - Organisational infrastructure (facilities, ICT, etc.).

This lack of integrated and supported organisational structure exacerbates the fact that the organisation operates on an extremely constrained financial basis and has a relatively small discretionary budget to provide for general organisational support and development.

As identified in the LGAS audit report, the structure as it is implemented does not conform to the structure set out in the SICAP contact 2018 – 2022. There is no provision or structure for apportionment of staff costs across all programmes and the role of a Financial Controller is not an operational role.

4.3 Organisational Policies and Procedures

The organisation does not have adequate (or any) policies and procedures documented and effectively implemented for:

- Financial management and management accounting;
- Overheads apportionment;
- Human resources (including development, progression and pay scales); and
- Reporting and management accountability in general.

5 Conclusions and Recommendations

As outlined in the Summary to this report, we do not feel that WAP CLG is viable as an organisation, due to the combination and seriousness of the issues facing the organisation.

If the issues were confined to one component (say Board Governance) and not compounded by the prospect of major investigations into the organisation's governance and management conduct on a statutory basis, we would consider it possible to develop a plan to resolve WAP's issues.

However, in the circumstances we are of the view that any effort to save WAP CLG would be a risky use of public funds and would not represent good value for the level of investment which would be required.

It is our recommendation that the focus of Pobal and the Department of Rural and Community Development's efforts should be on preserving some of – if practicable or possible – all of the programmes currently offered by WAP and the benefits they provide in alleviating economic and social deprivation in Waterford City and its environs.

The objective should be on the identification of a suitable alternate provider of those programmes and the orderly transfer of WAP's activities to that provider in such a way as to minimise disruption to the programmes being provided, the jobs currently provided by WAP and the real benefits within the community.