

Nomination Committee - Terms of Reference

Preliminary - These terms of reference apply to the Nomination Committee for, respectively, the Low Carbon Contracts Company Limited and the Electricity Settlements Company Limited.

1. Membership

- 1.1 The Committee shall comprise at least three directors. A majority of the members of the Committee shall be independent non-executive directors.
- 1.2 Only members of the Committee have the right to attend Committee meetings. However, other individuals such as the Chief Executive and external advisers may be invited to attend all or part of any meeting, as and when appropriate.
- 1.3 Appointments to the Committee are made by the Board¹. The Board shall make such appointments in compliance with the Articles of Association and any rights of the shareholder² to nominate a director or directors to be appointed to the Committee³.
- 1.4 The Board shall appoint the Committee chairman who should be either the Board Chairman or an independent non-executive director.⁴ The Board Chairman shall not chair the Committee when it is dealing with the matter of succession to the chairmanship of the Board.
- 1.5 In the absence of the Committee chairman and/or an appointed deputy at a meeting, the remaining members present shall elect one of themselves to chair the meeting.

2 Secretary

- 2.1 The Company Secretary or his/her nominee shall act as the secretary of the Committee.

3 Quorum

- 3.1 The quorum necessary for the transaction of business shall be three, all of whom must be independent non-executive directors.
- 3.2 A duly convened meeting of the Committee, at which a quorum is present, shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.

4 Frequency of Meetings

- 4.1 The Committee shall meet at least once a year and otherwise as required.

5 Notice of Meetings

- 5.1 Meetings of the Committee shall be called by the secretary of the Committee at the request of the Committee chairman.

¹ The UK Corporate Governance Code notes that it is useful to refresh the membership of Committees after an appropriate period.

² The shareholder is the Secretary of State for Energy and Climate Change.

³ Note that Article 23(2) states that the shareholder has the right to appoint up to two directors to be members of each Board committee. The Framework Document provides that one director on the remuneration committee and one director on the audit and risk committee must be a director who is a shareholder representative.

⁴ This accords with the UK Corporate Governance Code.

- 5.2 Unless otherwise agreed, notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be given to each member of the Committee and any other person required to attend. This notice, together with the supporting papers, shall be sent to Committee members and (as appropriate) the other attendees no later than five working days before the date of the meeting.

6 Minutes of Meetings

- 6.1 The secretary shall minute the proceedings and resolutions of all Committee meetings, including the names of those present and in attendance.
- 6.2 Draft minutes of Committee meetings shall be circulated promptly to all members of the Committee and, in due course, to all other members of the Board (unless it would be inappropriate to do so).

7 Annual General Meeting

- 7.1 The Committee chairman should attend the annual general meeting to answer any questions about the Committee's activities.

8 Duties of the Committee

- 8.1 The Committee shall:-
- 8.1.1 regularly review the structure, size and composition (including the skills, knowledge, experience and diversity) of the Board and make recommendations to the Board with regard to any changes;
 - 8.1.2 give full consideration to succession planning for directors and other senior executives in the course of its work, taking into account the challenges and opportunities facing the company, and the skills and expertise needed on the Board and the executive in the future;
 - 8.1.3 keep under review the leadership needs of the organisation, both executive and non-executive, with a view to ensuring the continued ability of the organisation to operate effectively. As part of this, scrutinise the systems for identifying and developing leadership and high potential within the company;
 - 8.1.4 keep itself up to date and fully informed about strategic issues and commercial changes affecting the company and the market in which it operates;
 - 8.1.5 be responsible for identifying and nominating for the approval of the Board candidates to fill Board vacancies;⁵
 - 8.1.6 before any appointment is made by the Board, evaluate the balance of skills, knowledge, experience and diversity on the Board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment. In identifying suitable candidates the Committee shall:-
 - use open advertising or the services of external advisers or other appropriate means to

⁵ Article 20 of the Articles of Association states that the shareholder must consent to the appointment or removal from office of any director of the company and to any material amendment to the remuneration or terms of appointment applicable to directors. The Framework Document states that the consent of the Secretary of State is required in respect of any directors to be appointed by the Board.

facilitate the search;

- consider candidates from a wide range of backgrounds; and
- consider candidates on merit and against objective criteria and with due regard for the benefits of diversity on the Board (including gender), and taking care that appointees (bearing in mind their other commitments) have enough time available to devote to the position;

8.1.7 ensure that on appointment to the Board, non-executive directors receive a formal letter of appointment setting out clearly what is expected of them in terms of time commitment, committee service and involvement outside Board meetings;

8.1.8 review the results of the Board performance evaluation process that relate to the composition of the Board;

8.1.9 review annually the time required from non-executive directors. Performance evaluation should be used to assess whether the non-executive directors are spending enough time to fulfil their duties; and

8.1.10 work and liaise as necessary with all other board committees.

8.2 The appointment of a Board Chairman and Senior Independent Director is the responsibility of the Shareholder. However, the Shareholder may invite members of the Committee to represent the company in the appointment process relating to a Chair and/or Senior Independent Director. The Committee should prepare a job specification for the Shareholder, which should include the time commitment expected. A proposed chairman's other significant commitments should be disclosed to the Board before appointment and any changes to the Chairman's commitments should be reported to the Board as they arise.

8.3 Prior to the appointment of a director, the proposed appointee should be required to disclose any actual or potential business or other interests that could result in a conflict of interest.

8.4 The Committee shall also make recommendations to the Board concerning:-

8.4.1 formulating plans for the orderly succession for both executive and non-executive directors and in particular for the key roles of Board Chairman and Chief Executive;

8.4.2 membership of the audit and remuneration committees, and any other Board committees as appropriate, in consultation with the chairman of those committees;⁶

8.4.3 the re-appointment of any non-executive director at the conclusion of their specified term of office, having given due regard to their performance and ability to continue to contribute to the Board in the light of the knowledge, skills and experience required and the need for progressive refreshing of the Board (particularly in relation to directors being re-elected for a term beyond six years);

8.4.4 any matters relating to the continuation in office of any director at any time including the suspension or termination of service of an executive director as an employee of the company subject to the provisions of the law and their service contract; and

8.4.5 the appointment of any director to executive or other office.

⁶Article 23(2) states that the shareholder has the right to appoint up to two directors to be members of each Board committee.

9 Reporting Responsibilities

- 9.1 The Committee chairman shall report to the Board on its proceedings after each meeting on all matters within its duties and responsibilities.
- 9.2 The Committee shall make whatever recommendations to the Board it deems appropriate on any area within its remit where action or improvement is needed.
- 9.3 The Committee shall produce a report to be included in the company's annual report about its activities, the process used to make appointments and explain if external advice or open advertising has not been used. Where an external search agency has been used, it shall be identified in the annual report and a statement made as to whether it has any connection with the company.
- 9.4 The report referred to in 9.3 above should include a statement of the Board's policy on diversity, including gender, any measurable objectives that it has set for implementing the policy and progress on achieving the objectives.

10 Other Matters

- 10.1 The Committee shall:-
- 10.1.1 have access to sufficient resources in order to carry out its duties, including access to the company secretariat for assistance as required;
 - 10.1.2 be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members (as required);
 - 10.1.3 give due consideration to laws and regulations and the provisions of the UK Corporate Governance Code, as appropriate; and
 - 10.1.4 arrange for periodic reviews of its own performance and, at least annually, review its constitution and terms of reference to ensure it is operating at maximum effectiveness and recommend any changes it considers necessary to the Board for approval.

11 Authority

- 11.1 The Committee is authorised by the Board to obtain, at the company's expense, outside legal or other professional advice on any matters within its terms of reference. In doing so the Committee shall take into account the requirements of the company's Procurement Policy.