

Minutes of a meeting of the Corporate Governance Committee held at County Hall, Glenfield on Thursday, 7 March 2013.

PRESENT

Mr. E. D. Snartt CC (in the Chair)

Mr. G. A. Boulter CC
Dr. R. K. A. Feltham CC
Mr. P. S. Harley CC
Mr. G. A. Hart CC

Mr. K. W. P. Lynch CC
Mr. J. Miah CC
Mr. P. C. Osborne CC

66. Questions.

The Chief Executive reported that no questions had been received under Standing Order 35.

67. Questions asked by members.

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

68. Urgent Items.

There were no urgent items for consideration.

69. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

No declarations were made.

70. Revised Members' Code of Conduct.

The Committee considered a report of the County Solicitor, the purpose of which was to present to Members a revised Members' Code of Conduct for consideration prior to it being submitted to the County Council on 20 March 2013 for approval.

Arising from the discussion, the following points arose:

- i. Members welcomed the draft new Code and the proposal for this to be introduced as a common Code across Leicestershire. It was considered that authorities having different Codes would lead to confusion for those Members who served on more than one local authority;

- ii. Concern was expressed that the Code should make specific reference to the need for Members to abide by the local authority's safeguarding responsibilities in respect of both adults and children. Whilst recognising the importance of these issues, the Committee acknowledged that there were many responsibilities undertaken by Members when acting in that capacity and it would not be practical to detail them all within the Code. The Committee considered that specific reference to certain responsibilities, such as safeguarding, could be appropriately identified in a guide to the Code;
- iii. The Localism Act 2011 provided that a Member with a Disclosable Pecuniary Interest (DPI) in a matter could not participate in any discussion or vote on that matter at a meeting. What this would mean in practice had been the subject of much debate and there had been a difference of opinion on this point both locally and nationally. Advice provided by Queen's Counsel to another local authority suggested that this would not prevent a Member from addressing a meeting as a private individual, or as a locally elected Member in cases where a member of the public would be allowed to attend for the same purpose, provided that the Member, after having addressed the meeting, then withdrew from the debate and before a vote took place. In contrast, guidance provided by the Department for Communities and Local Government (DCLG) stated that a Member with a DPI would be prohibited from any form of participation, 'including speaking as a member of the public'. It was the view of the County Solicitor that the advice given by Queen's Counsel was appropriate and clause 4.3 of the new draft Code had been inserted to reflect this. However, given the conflicting guidance received, and in light of the potential criminal liability for Members who failed to abide by the legislation, what action to take in such circumstances had to be a personal decision for each Member, as despite the view of the County Solicitor, full reassurance could not be given as the provisions had not been tested in the courts;
- iv. There might be rare circumstances when a Member could not take part in a debate due to being a member of more than one authority when the matter being discussed was considered to be of great importance to one or both authorities. Declaration at one authority did not mean it would be necessary for a member to declare at another and it would be important to distinguish between a Member representing the view of residents in the area and acting in the interests of the other authority. Paragraph 4.12 had been inserted into the new draft Code to highlight this issue for the benefit of Members and the public. However, the circumstances of each case would need to be considered on an individual basis and in all cases Members would need to have regard to the Nolan principles;
- v. The power to impose sanctions if a Member had breached the Code now rested in the hands of the relevant political groups and the new system would therefore only be effective against those Members that belonged to and remained aligned to such a group. The Committee acknowledged that the Council had four Members that did not belong to a political group and views were expressed that this meant they were not on a level playing field as regards the need to comply with the

standards set out within the Code;

- vi. To ensure all Members felt the same level of public responsibility to abide by the Code, whether belonging to a political group or not, it was suggested that the outcome of a Member Conduct Panel hearing, in cases when a Member had been found to have breached the Code, be reported to County Council for public record. It was acknowledged that it would not be appropriate for such a report to be debated, otherwise there was a risk it could be used inappropriately by the Member complained about, i.e. as a means of appeal, or by other Members to further re-open the decision taken by the Member Conduct Panel. The County Solicitor undertook to consider this proposal further and report back to the Committee;
- vii. The Member Conduct Panel was a politically balanced Panel and, in cases where Members disagreed and a decision was taken by a majority vote, it would be important to record this within the minutes of the hearing;
- viii. The County Council would consider adoption of the new Code on 20 March. Thereafter, District Council's would take this forward through their own processes before considering whether or not to adopt the Code as drafted, or subject to local amendment. It was expected that many, although possibly not all, would adopt the common Code. It was acknowledged that adoption of the new Code would be difficult in those areas that had adopted a new Code in July 2012 which applied at both district and parish level.

RESOLVED:

- (a) That the County Council be recommended to approve the adoption of the revised Code of Conduct for Members as set out in Appendix 1 to the report;
- (b) That the County Solicitor be asked to report to a future meeting of the Committee on the suggestion now made for all Member Conduct Panel decisions, when a Member is found to be in breach of the Code of Conduct, to be referred to County Council for public record, but not for debate.

71. Date of next meeting.

RESOLVED:

That the next meeting of the Committee be held on 14 June 2013 at 2.00pm.

This page is intentionally left blank