



## **CORPORATE GOVERNANCE COMMITTEE – 2 SEPTEMBER 2013**

### **REPORT OF THE COUNTY SOLICITOR**

### **ANNUAL REPORT ON THE OPERATION OF THE MEMBERS' CODE OF CONDUCT 2012/13**

#### **Purpose of Report**

1. This report fulfils the requirement for the Monitoring Officer to report to the Committee on an annual basis on the operation of the Member's Code of Conduct, in accordance with the decision of the Committee on 24 September 2012. The report also sets out the action taken to implement the adoption of a new Code of Conduct from 4 July 2012, to move towards a Code which may be adopted by District Councils in Leicestershire and the arrangements for training of members.

#### **The Code of Conduct**

2. In light of the changes introduced in the Localism Act 2011, a new Members' Code of Conduct was adopted at the County Council meeting on 4 July 2012, following consideration of the proposed changes at the Constitution Committee on 22 June and the Corporate Governance Committee on 29 June.
3. At that stage, it was acknowledged that the Code would require further amendment for two main reasons:-
  - (a) As a consequence of the way in which the changes to the legislation had been introduced, work had been undertaken over a relatively short period of time to produce a new Code of Conduct and it was considered that further change might be needed in light of experience gained in its operation;
  - (b) There was widespread agreement across the Council that it would be beneficial for a 'Common Code' to be adopted which could be agreed by District Councils to avoid, so far as possible, inconsistency between authorities and potential difficulty for dual-hatted members.
4. The effect of the Constitutional changes were to give the Corporate Governance Committee responsibility for dealing with matters relating to the Code of Conduct for Members and a report was brought to the Committee on 7 March 2013, recommending changes to the Code of Conduct with a view to

establishing a 'Common Code'. These were agreed by the Committee and then by Council on 20 March.

5. The current position is that two District Councils (Charnwood Borough Council and Oadby & Wigston Borough Council) and the Leicestershire Fire and Rescue Service have adopted the Code for operation in their authorities. The Ethical Governance Committee of Harborough District Council has recommended that the Code be adopted and the issue will now be considered by that authority's full Council. Hinckley and Bosworth Borough Council has adopted the majority of the County Council's Code, in particular, those parts relating to the principles and interests of Members, but considered it unnecessary to adopt the section setting out the general obligations (part 3 of the Code). The issue remains under consideration at Melton Borough Council. North West Leicestershire District Council have indicated they are unlikely to adopt the Common Code, as action was taken at an early stage in that authority to introduce a code in common use across the parish councils in the area and the District Council and for practical reasons it would be extremely difficult for the County Council's Code to be adopted by all the parishes in the district. Blaby District Council has also decided not to adopt the Common Code.

#### **Arrangements for dealing with Member Conduct complaints**

6. Detailed arrangements for dealing with allegations were considered by the Corporate Governance Committee on 24 September 2012 and a procedure for dealing with allegations was agreed. This report sets out further details of complaints which have been received and how those have been dealt with at paragraphs 10 and 11 below.
7. The Corporate Governance Committee received a report on 26 November 2012 to address concerns which have been raised as to the steps which could be taken in the event that a Member who had been the subject of complaints processes refused to comply with the outcome of those procedures. Concern was expressed at the lack of sanctions in the regime for dealing with the conduct of Members in light of changes to the legislation and the Committee asked that in the event of non-compliance, the Monitoring Officer report the cases to the Corporate Governance Committee. This issue has not arisen since that date.

#### **Joint Committees and Committees with Membership drawn from outside the County Council**

8. It has become clear that as partnership bodies assume greater importance in the development of services and in the absence of a national Code of Conduct applicable to all bodies, careful consideration does need to be given to the question as to what Code of Conduct will apply to Members serving on such bodies with executive powers or statutory responsibilities. This issue will differ according to the statutory nature of the body concerned. For example:

- (a) The Combined Fire Authority is, by law, a separate authority in its own right with its own Code of Conduct. Members of the County Council who serve on that body will be bound by that Code of Conduct. As agreement on the Common Code has been reached with the Fire and Rescue Service, this issue does not arise for members of the County Council.
- (b) In the case of Joint Committees, a Councillor attends as a member of the authority which is, itself, a member of the Joint Committee and therefore is subject to the Code of Conduct of his/her 'home' authority when acting in that capacity. The County Council takes part in the following joint committees : ESPO Management Committee, East Midlands Shared Services (with Nottingham City Council), the Parking and Traffic Regulations outside London Adjudication Joint Committee (PATROL) and the Police and Crime Panel. The two joint committees most likely to meet on a regular basis are the ESPO Management Committee and the Police and Crime Panel. Members of ESPO Management Committee are accustomed to operating in this manner. There has been a considerable amount of discussion at the Police and Crime Panel as to how members from different authorities, who are therefore subject to different Codes of Conduct, will approach the question of Declaration of Interests arising from their involvement in relevant bodies such as Community Safety Partnerships. That issue was discussed at the Panel on 26 June 2013 and it is likely that a consistent approach will be possible on this issue.
- (c) The Health and Wellbeing Board is a committee of the County Council but, uniquely includes representation from district councils, health bodies and officers of the County Council. The production of a Code of Conduct for that body is the subject of a separate report on the agenda for this meeting.

### **Training on the Code**

- 9. At its meeting on 24 September 2012, the Corporate Governance Committee recognised that it would be appropriate for intensive training on the Code to be undertaken after the County Council elections; this also had the beneficial effect of the training taking place on the Code as amended following the Council meeting on 20 March 2013. Training sessions took place on 28<sup>th</sup> and 29<sup>th</sup> May 2013. The County Solicitor has also met with the Independent Persons appointed to support the Member Conduct process and the Independent Persons co-opted to serve on the Police and Crime Panel. A number of members have sought advice on particular aspects of the Code and their application to them as individuals.

### **Complaints received under the Member Code of Conduct**

- 10. Since August 2012, 5 complaints have been received by the Monitoring Officer under the Member Code of Conduct process. In addition, a further complaint has been received relating to the way a member behaved at a

meeting which was not presented as a complaint under the Code and was resolved informally. Of the 5 complaints, 3 were directed at 1 member and related to the same set of circumstances. None of the 5 complaints progressed beyond the first stage of the Code of Conduct procedure, namely receipt of a complaint by the Monitoring Officer, for the following reasons:-

- One complaint related to a District Council not a County Council matter and was dealt with by the District Council;
- The three related complaints were not pursued by the complainants;
- One complaint was not pursued by the complainant and would, in any event, have been unlikely to engage the Member Code of Conduct procedures, as it related to the actions of a County Council's candidate during the County Council elections; that person was not re-elected.

11. In addition to the above cases, the Corporate Governance Committee received a report on 14 June 2013 advising the Committee of the outcome of the investigation into allegations concerning the conduct of the former Leader of the County Council, Mr David Parsons. In light of the fact that Mr Parsons was no longer a member of the County Council, the Committee agreed to take no further action under the procedures for dealing with allegations of a breach of the Members Code of Conduct in respect of those complaints.

### **Conclusions**

12. It is the view of the Monitoring Officer that:
- (a) The County Council's current Code of Conduct has been developed, as noted in previous reports, to meet the expectations of the Committee of Standards in Public Life and in the light of discussions with colleagues from other authorities in the Leicestershire area;
  - (b) It is helpful that the Fire and Rescue Service and two District Councils have agreed to adopt the Code and that one has adopted key parts of the Code; further progress in adopting the Common Code will be a matter for the other District Councils;
  - (c) The new arrangements for handling Member Conduct complaints have not as yet been tested in practice by reason of the comparatively low level of complaints and the fact that they have not progressed to a formal stage;
  - (d) In these circumstances, no recommendation is made to the Committee for further changes to the Code or to the arrangements for dealing with complaints.

### **Recommendation**

13. The Committee is asked to note this report.

**Resource Implications**

None

**Equal Opportunities Implications**

None

**Background Papers**

Report to the Constitution Committee on 22 June 2012 – ‘Review and Revision of the Constitution’

Report to the Corporate Governance Committee on 29 June 2012 – ‘Review and Revision of the Constitution’

Report to County Council on 4 July 2012 – ‘Review and Revision of the Constitution’

Report to the Corporate Governance Committee on 24 September 2012 – ‘Arrangements for dealing with Member Conduct Complaints’

Report to the Corporate Governance Committee on 26 November 2012 – ‘Arrangements for dealing with Member Conduct Complaints’

Report to the Corporate Governance Committee on 7 March 2013 – ‘Revised Members Code of Conduct’

Report to County Council on 20 March 2013 – ‘Revised Members Code of Conduct’

Report to the Corporate Governance Committee on 14 June 2013 – ‘Investigations into Allegations concerning Member Conduct’

Report to the Police and Crime Panel on 26 June 2013 – ‘Police and Crime Panel: Constitution and Governance Issues’

**Circulation under the Local Issues Alert Procedure**

None

**Officer to Contact**

David Morgan, County Solicitor and Monitoring Officer  
Tel: 0116 305 6007      Email: [david.morgan@leics.gov.uk](mailto:david.morgan@leics.gov.uk)

This page is intentionally left blank