

CORPORATE GOVERNANCE COMMITTEE
23 SEPTEMBER 2014

REPORT OF THE COUNTY SOLICITOR

**ANNUAL REPORT ON THE OPERATION OF THE MEMBERS' CODE
OF CONDUCT 2013/14**

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 Members' Code of Conduct, in accordance with the decision of the Committee on 24 September 2012. The report is intended to highlight any amendments which may be required to the relevant procedures and any emerging trends, and to report on activity since the last annual report to the Committee in September 2013.

Member Code of Conduct: Emerging Issues

2. When the Annual Report on the operation of Members' Code of Conduct 2012/13 was presented to the Committee on 2 September 2013, the difficulties facing members in applying relevant Codes of Conduct in the case of joint committees or committees with membership drawn from different bodies was highlighted as a consequence of the absence of a national Code of Conduct applicable to all such bodies. In the two months prior to that Committee meeting, reports on that issue had been presented to the Health and Wellbeing Board and the Police and Crime Panel. It is pleasing to note that whilst these issues remain important there have not been further major problems during the period covered by this report.
3. It is to be expected that at a time of financial stringency when the County Council has to make difficult decisions with regard to services which have an impact upon District Councils, the question of declarations of interests for members of more than one authority ("dual hatted" members) would assume greater importance; clearly these issues will also be faced by District Councils.
4. The relevant extract from the Guide to Leicestershire County Council's Members' Code of Conduct is attached as Appendix A. The underlying principle is that members of Leicestershire County Council must act in the interests of the Council, the people of Leicestershire and the people they represent (and the comparative importance of these interests has to be weighed and balanced by members).

5. Membership of another authority should not, of itself, normally prevent a member from taking part in debates, speaking and voting on an issue in discharging those responsibilities.
6. The Guide sets out examples of circumstances in which, because of their specific nature or because of the financial implications for the other authority, a member may have to declare a personal interest which might lead to bias and take no part in the proceedings.
7. In the case of dual-hatted members, the common law principles relating to bias may also come into play. A member should not, when participating in decision making at one authority allow his or her decision to be unduly influenced by membership of another authority. The interests of that other authority may be relevant and, if so, may be taken into account. However, they are secondary to the underlying principle set out above and must not influence the members' thinking to the extent of being unable to act in accordance with that principle; so, to act would be to breach common law principles and may be in breach of Principle 3 in the Code of Conduct requiring members to act with objectivity and without bias.
8. The attention of the Committee has previously been drawn to the requirements imposed upon authorities as a result of the development of the Public Services Network. A report elsewhere on the agenda draws members' attention to the inclusion in the Corporate Risk Register of potential risks to IT security arising from members' use of emails, which result from both the need to comply with the Public Services Network and the approach taken by the Information Commissioner's Office. Whilst it is acknowledged that more work needs to be done to ensure that IT systems are fit for purpose for members' use, the provision in the Members' Code that members "*Must, when using... resources of the Authority... act in accordance with the Authority's reasonable requirements*" is relevant in this context.

Arrangements for dealing with Member Conduct Complaints

9. One amendment to the current Procedure for dealing with allegations of a breach of the Members' Code of Conduct is recommended. Paragraph 3 of the Procedure deals with the initial assessment of a complaint carried out by the Monitoring Officer. Paragraph 3.4 states: "*The Monitoring Officer may seek the views of one of the Independent Persons appointed by the County Council and/or consult with the Chairman of the Member Conduct Panel on any complaint received*".
10. Since the Procedures were adopted, a practice has developed of identifying a pool of members who may sit on the Member Conduct Panel with the consequence that there is no standing chairman. It is therefore recommended that the words "*and/or consult with the chairman of the Member Conduct Panel*" be deleted.
11. One option would be for the Monitoring Officer to be able to consult with the Chairman of the Corporate Governance Committee. However, the role of that

Committee is not to deal with individual complaints, but to monitor the operation of the system and to receive reports on that issue. In practice, it has not been necessary for the Monitoring Officer to make use of the provision and it is therefore recommended that the words are deleted.

Complaints Received under the Members' Code of Conduct

12. Since the Corporate Governance Committee meeting on 2 September 2013, three complaints have been made under the Code of Conduct.
13. The complaints were unrelated in subject matter and against different members of the County Council. None of the complaints proceeded to a referral to the Member Conduct Panel. In one case the alleged misconduct was not corroborated and, in any event, was not of such a nature as to be subject to action under the Code. One complaint is being dealt with by means of informal resolution with the agreement of the complainant. In the third case, the Monitoring Officer was also asked to carry out a review as to whether there had been any unlawfulness or maladministration. In that case, the conclusion was that this was not the case and that there had been no breach of the Members' Code of Conduct.

Recommendations

14. The Committee is asked to:
 - (a) note the actions taken by the Monitoring Officer in discharging his responsibilities under the Procedure for dealing with allegations of a breach of the Members' Code of Conduct; and
 - (b) to agree that paragraph 3.4 of Procedure for dealing with allegations of a breach of the Members' Code of Conduct be amended to read "*The Monitoring Officer may seek the views of one of the Independent Persons appointed by the County Council on any complaint received*".

Resource Implications

None.

Equal Opportunities Implications

None.

Background papers

Guide to the Leicestershire County Council Members' Code of Conduct

Leicestershire County Council's Procedure for dealing with allegations of a breach of the Members' Code of Conduct.

Report to the Corporate Governance Committee on 24 September 2012 -
'Arrangements for dealing with Member Conduct Complaints'

Report to the Corporate Governance Committee on 2 September 2013 – 'Annual
Report on the operation of the Members Code of Conduct'

Circulation under the Local Issues Alert Procedure

None.

Officer to Contact

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Relevant Impact Assessments

None.

Appendices

Appendix A - Extract from Leicestershire County Council's Guide to the
Members' Code of Conduct (relating to "dual hatted"
members).