

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 29 January 2013. Attendances:

Councillor Jones (Chairman)
Councillors Birch, Elkin, Glazier and Tutt

1. Indemnity to Members and Officers

- 1.1 In 2005 an indemnity was approved by the Governance Committee for recommendation to County Council. The indemnity applies to Members and all employees of the County Council in relation to actions or failures to act in the course of their duties for the County Council, or on behalf of an outside body to which the member or employee has been appointed by the County Council.
- 1.2 Following the introduction of the Localism Act 2011 the Standards Regime for Members has changed. The Members' Code of Conduct referred to in the indemnity has been superseded, and therefore it is necessary to update the indemnity to refer to the Council's Code of Conduct as adopted on 1 July 2012.
- 1.3 Furthermore, at the time of approval of the indemnity, power to determine requests by Members and officers for assistance under the indemnity was delegated to the Director of Law and Performance. This post has now been deleted and therefore the power to determine requests should be delegated to the Assistant Director, Legal and Democratic Services, except for requests for assistance by Members in respect of breaches of the Code of Conduct which should be determined by the Chief Executive. This is to avoid a situation where a conflict of interest may arise with the duties of the Assistant Director, Legal and Democratic Services in his capacity as monitoring officer for the County Council.
- 1.4 The indemnity is set out in Appendix 1, which is being circulated separately to Members, with the proposed revisions shown as tracked changes.
- 1.5 The Committee **recommends** the County Council to
 - (1) Approve amendments to the indemnity to Members and officers as set out in Appendix 1; and
 - (2) Authorise the Assistant Director, Legal and Democratic Services to determine requests by officers and Members for assistance under the indemnity, except in the case of requests for assistance by Members in respect of breaches of the Code of Conduct, where the Chief Executive shall be authorised to determine such requests.

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2. Appointment of Returning Officer

- 2.1 Every County Council in England is required by section 35 (1) of the Representation of the People Act 1983 to appoint an officer of the Council to be the Returning Officer for elections of County Councillors.
- 2.2 In view of the County Council elections in May 2013 the Committee has agreed to recommend that the Chief Executive be appointed as Returning Officer for the County Council.
- 2.3 The Committee **recommends** the County Council:
- ✧ To appoint the Chief Executive as Returning Officer for the County Council.

3. Amendments to the Constitution

- 3.1 At present, proposed changes to the Council's Scheme of Delegation, where they relate to non-executive functions, are considered by the Governance Committee prior to submission to the County Council for approval. This process can lead to delays in the Scheme being changed and amendments being implemented.
- 3.2 It is likely that over the coming months there may be a number of proposed changes to the Scheme of Delegation to reflect the structure of the Council as the consolidation and move to increasingly "one council" working is implemented. In order that any proposed amendments to the Scheme of Delegation can be implemented in a more timely manner, the Committee has agreed to recommend the County Council to agree to delegate changes to the Scheme to the Governance Committee.

Delegation of Functions

- 3.3 With greater emphasis being placed on collaboration with other Local Authorities, and public bodies, in an effort to increase efficiency and drive down cost it is likely that there will be a need for more inter-authority joint working. The arrangements to facilitate this can take a number of forms. They can be through a procurement with another authority; the establishment of a jointly owned company, a corporate vehicle for delivering the service; or entering into an administrative agreement delegating a function to, or receiving a delegation from, another authority, sometimes referred to as agency agreements.
- 3.4 In relation to the delegation of functions, the Council's powers to delegate its non-executive functions are set out in s101, Local Government Act 1972, which permits delegation to a committee, an officer or another local authority, subject to certain limitations. Whilst most functions that will be delegated will be executive functions and therefore will be delegated by the Executive, in the situation where a non-executive function is being delegated to another authority, or a delegation is being received from an authority, this has to be agreed by Council. The law in relation to the acceptance of executive functions is set out in sections 9EA and 9EB Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions)

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(England) Regulations 2012, and require acceptance by the Council. This can therefore take sometime to effect, causing delay.

- 3.5.1 Accordingly, the Committee has decided to recommend to the County Council that authority to delegate or receive a function be delegated to the Governance Committee, who will then report to the Council, for information, the Committee's decision. This will of course not affect the Governance Committee's right to refer any matters that it considers should be decided by the Council.

Delegation to the Chief Executive

- 3.6 Currently the Council and the Leader have delegated to the various Chief Officers the functions and powers which relate to the Chief Officers' respective areas of service. The changes that have occurred over the last 12 to 18 months have highlighted a potential issue where a Chief Officer leaves or is absent for a period of time. As a result, a number of reports have been taken to Governance Committee seeking to put in place short term temporary arrangements.
- 3.7 In an effort to reduce the administrative burden the Governance Committee has agreed to recommend the County Council to agree an overarching delegation, delegating to the Chief Executive authority to exercise the powers delegated to any member of staff so far as the law allows. Members of the Committee will be informed in the event that the Chief Executive has to exercise powers which have been delegated to another Chief Officer due to their absence.
- 3.8 This report sets out a number of proposals which will expedite the decision making process and reduce the administrative burden, allowing the County Council to react faster and more flexibly to situations. At the same time it will ensure that appropriate governance and transparent decision making process are in place.
- 3.9 The Committee **recommends** the County Council to:
- ☆ (1) Delegate authority to the Governance Committee the power to agree the delegation of the Council's non-executive functions and powers to officers so far as the law allows;
 - (2) Delegate authority to the Governance Committee to delegate any of the Council's non-executive functions to other local authorities and public bodies so far as the law allows;
 - (3) Delegate authority to the Governance Committee to agree to enter into arrangements to receive, on behalf of the County Council, the delegation of a function from another local, authority or public body; and
 - (4) Delegate to the Chief Executive authority to exercise any of the non-executive functions and powers delegated to any member of staff so far as the law allows.

Peter Jones
Chairman

29 January 2013

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