

**MINUTE EXTRACTS****BUSINESS OVERVIEW AND SCRUTINY COMMITTEE – 18 SEPTEMBER 2018****20 LEADER DECISION REFERRAL - CODE OF PRACTICE FOR GOVERNANCE OF COUNCIL INTERESTS IN COMPANIES**

Following the publication of a Leader decision, Philip McCourt, Director of Governance and Assurance, introduced a report which set out the approach to the governance of the Council's subsidiary companies and, in particular, the part that the introduction of a Council Code of Practice for the Governance of Council Interests in Companies had in promoting and ensuring good governance in relation to those company interests.

The Code set out:

- the law and guidance which governed how local authority companies were to be established and run;
- the way in which a local authority might wish to organise its company interests;
- how those interests might be best governed according to a set of principles;
- how decisions would be taken as shareholder;
- how scrutiny was to be conducted, where there was a scrutiny function and where there was not; and
- how regulatory matters and conflicts of interest might be best managed.

In response to Members' comments, Philip McCourt suggested that the Code would normally be adopted by the Cabinet rather than Council, though it maybe something that the Council could comment on. The draft Code was also being considered by the Audit and Risk Management Committee. It was a very complex issue and he would be happy to give a training session to Members on this. The Council had corporate responsibility in so far as any shareholder would but the company had responsibility as a legal entity in its own right.

**Resolved – That this Committee notes the role of the Code of Practice and the principles within it, in relation to the Council's own Code of Corporate Governance and agrees that a training session provided by the Director of Governance and Assurance be held, open to all Members.**

**AUDIT AND RISK MANAGEMENT COMMITTEE – 24 SEPTEMBER 2019****25 LEADER DECISION REFERRAL - CODE OF PRACTICE FOR GOVERNANCE OF COUNCIL INTERESTS IN COMPANIES**

Philip McCourt, Director: Governance and Assurance introduced notice of a Cabinet Member Decision in respect of the Draft Council Code of Practice for the Governance of Council Interests in Companies. The decision had also included a recommendation that the Draft Code be referred to the Business Overview and Scrutiny Committee and the Audit and Risk Management Committee to note the role of the Code of Practice, and the principles within it, in relation to the Council's own Code of Corporate Governance.

The Director: Governance and Assurance informed that the matter had recently been considered by the Overview and Scrutiny Committee and it had been recommended that an 'All Member' briefing on Local Authority Companies be provided. He further informed that the documentation attached to the Member Decision set out the blueprint for the Principles of Governance i.e. Controls and Freedoms, Relationship, Integrity and Accountability and Understanding of the Role. Members were apprised that the Draft Code had been modelled on the LLG Guidance Note for England and Wales, February 2018.

Mr McCourt highlighted that the governance arrangements would seek to ensure that:

- the executive can make investment decisions based upon complete and accurate consideration of business cases and business plans;
- the executive can evaluate social and financial benefits and returns on investment; and
- the Council's overview and scrutiny committees were able to exercise their powers in relation to the executive's decision making

in a manner that ensured the companies would provide full and frank financial and business reporting against their business plans and be open to an appropriate level of scrutiny without fear of commercial confidentiality being breached.

Mr McCourt directed Members' attention to two diagrams which explained the varying conflicts Members may have in being appointed to differing roles, including the relationship between the Council's and the Council Company's audit committees, and the pivotal role of the Shareholder Board as chaired by the relevant Cabinet Member as decision maker and Overview and Scrutiny observer.

Members questioned the Director: Governance and Assurance on a number of areas that included the need for legal involvement and assurances, what stage the process had reached and the role of Elected Members in terms of scrutiny, and how (if any) conflicts of interest would be addressed.

Mr McCourt responded, informing the Committee that the Code addressed the matter of conflict of interests, stating that once appointed, and acting on behalf of the

company, Member's duty was to that company. He added that the guidance and subsequent briefings would ensure that the legal duties and associated arrangements in terms of stewardship of assets, etc. were appropriately understood by Members of the Council in their role, by officers of the Council associated with those duties, and by directors of the company, or companies.

Following further questioning on the role of scrutiny and a request from a Member regarding the practicalities of access to the shareholder board and company minutes, Mr McCourt informed that the shareholder board non-decision making and company minutes would remain private, but Members could always request information; however, the requests would need to be assessed and cater for a balance of 'need to know' and 'relevance'. He added that any key decisions, for example relating to Capital Investment of Council monies, or the disposal of Council Assets e.g. Land, would still be the subject of the public decision making process (i.e. Member Decision) and would still be subject to call-in.

Prior to the vote on the report recommendation, an amendment was moved by Councillor Phil Gilchrist and seconded by Councillor Jeff Green that:

*'Officers are asked to draw up, and report back on, the establishment of a mechanism, under which the minutes of the shareholder board may be made available for inspection'*.

A vote was taken, and the amendment was lost (3:4).

A vote was then taken on the report recommendation, and it was:

**Resolved (4:3) - That the Code of Practice, and principles within it, in relation to the Council's own Code of Corporate Governance be noted.**