

## **DERBY HOMES LIMITED**

### **MINUTES OF THE GOVERNANCE COMMITTEE MEETING**

**Held on Thursday 12 November 2020**

The meeting started at 5.30 pm

#### **Board Members Present:**

Mike Ainsley, Lucy Care, Alan Graves, Bob MacDonald, Iain MacDonald,  
Jsan Shepherd (Chair), Sarah Russell

#### **Officers Present:**

Maria Murphy, Managing Director  
David Enticott, Finance Director & Company Secretary  
Taran Lalria, Head of Governance & Corporate Services  
Jackie Mitchell, Governance Services Manager

#### **20/09      Apologies**

There were no apologies received for absence.

#### **20/10      Admission of Late Items**

The Chair admitted a late item on a Rule of 85 request.

#### **20/11      Declarations of Interests**

The Council Board Members were noted as declaring their interest in matters relating to Derby City Council.

The Tenant Board Members declared their interest as tenants (as defined in the Memorandum and Articles of Association) of Derby City Council.

#### **20/12      Minutes of Previous Meeting**

The minutes of the meeting held on the 21 September 2020 were accepted as a correct record.

#### **20/13      Matters Arising**

None.

## 20/14 Leaving Employment Policy Review

The Board considered a report on the 3 year review of the Leaving Employment Policy. The policy includes elements relating to normal operations and also to the potential for voluntary redundancy and early retirements.

This report recommended only minor changes to the previous policy, incorporating the changes required by means of updated pension fund discretions approved by the Board and largely clarifications of wording rather than any substantial change.

Clarification was provided on the McCloud judgement which concerned a legal challenge to pensions arrangements for public sector workers on the basis of age discrimination.

Alan Graves raised a number of queries and was provided with responses (shown in italics)

2.1 This section seems to mean that employees can work beyond retirement, with a subsequent responsibility of DH. Are we legally required to 'keep' employees for as long as they want to remain employed? Would this leave DH vulnerable to 'undesirable' (if such a person exists) staff remaining in post for as long as they wish?

*The law was changed so there is no formal retirement date. Employees and employers will reach an agreement as to when they retire – if a person is not able to undertake their role or responsibilities then it is within an employer's right to end employment on grounds of competency.*

*Derby Homes has adequate capability and health processes to mitigate risk.*

2.4 It talks about retirement between 55 and 75 which contradicts the statement in 2.1

*The Local Government Pension Scheme does require you to draw your pension by 75 years.*

***Agreed to change to "choose to retire and draw their pension".***

3.0 Suggests that members of LGPS cannot retire at any time?

*As above.*

*If you are not a member of LGPS you can retire at any time subject to rules of any other pension you have.*

6.1 Can someone explain why an appeal would come about? If an employee seeks VR, VER or Flexi R, would they not either accept or decline? I need to understand why an appeal would be made.

*If we were to say no to an initial request the employee can appeal against refusal to allow to retire.*

Lucy Care – raised the issue of appeals being considered by the Board when the Governance Committee is made up of the same Board Members.

It was proposed that this issue would be considered further and brought back to the Board in a way that allows each stage to be heard by different people.

10.1 Is this formula standard? I am struggling to see the fairness in a 20 year old who is made redundant after 2 years receiving 2 x .5 weeks' pay whilst a 42 year old in the same circumstances receives 2 x 1.5 weeks' pay.

*Redundancy pay is the standard government formula for statutory redundancy pay. However, Derby Homes does not cap it in the same way.*

Alan Graves felt the government's formula was unfair and discriminatory to people in the younger age bracket; this view was supported by other Board Members.

The Managing Director agreed to take this issue away and obtain a legal opinion on moving away from the statutory position and in consultation with the Council.

It was confirmed that where employee has taken flexi retirement, an increase of more than 6 months will only be permitted for a particular period and when it is in the interests of Derby Homes.

The Managing Director and Director of Finance will look into this matter and report back.

### **Agreed**

The Committee approved the Leaving Employment Policy and agreed to receive a report back on the issues raised.

## **20/15 Financial Procedure Rules**

The Board considered a 3 year review of the Financial Procedure Rules. The report set out details of the proposed changes, other than wording clarifications.

Queries raised by Alan Graves and responses (shown in italics)

The column £10k - £100k is in general terms large sum of money and equally £100k - £250k. I believe that both these columns should include 'in consultation with the Chairman of the Board'. What I mean by that is that is the existing arrangements should remain intact but that expenditure of this nature in both of these columns should also 'pass the desk' of the Chairman. £100k - £250k is also reported to the board (existing) whereas £10k - £100k isn't. This small change gives protection to the officers and links the board to the spending.

The reason for my suggestion is:

1. Multiple invoices for £99k could be paid without the board even seeing them. It wouldn't take many for DH to be in serious problems financially and before we could 'do' anything about it. This is not to cast aspersions but to give assurance to the board and protection to officers.
2. In terms of £100 – £250k I would have thought the Chairman should be aware prior to the spending of these amounts.

This minor change would not affect the running of DH but it would give more knowledge and credence to the Board.

***It was agreed to amend expenditure over £100K to be approved in consultation with Chair or a Vice Chair in the Chair's absence.***

*For expenditure up to £100K, the Managing Director assured the Committee that there are checks and balances in place and would have to be approved by 2 people.*

Some minor points

1. Page 59, D8,45 states see Appendix 1. This part of the document is Appendix 1 and so does not make sense. It would be better if it read see Page 77
2. Page 77 – Approved Write Off Limit - It doesn't expressly state say but write offs (including under £10k should be reported to the Audit Committee. This may already happen, but this document should be clear about it.

The Chair of Audit Committee confirmed that write-offs are reported to Audit Committee.

***This will be included in appendix 1.***

3. Appendix 2 to 4 all state 'Appendix 1 Appendix 2' etc. It is either Appendix 1 or Appendix 2 etc.

Lucy Care suggested consistency is needed in paragraph in B2.2 to include the word 'board' in front of 'members'.

C28 remove the additional word 'or'.

D2.17 – to be reworded.

Delete the random 'f' top of page 85.

### **Agreed**

The Committee recommended to the Board the adoption of the Financial Procedure Rules, subject to the amendments above.

## **20/16 Derby Homes Governance Arrangements Review**

The Committee considered a report regarding the 3 year review of three further sections of the Governance Arrangements.

1. Delegation of Responsibilities
2. Standing Orders for the Appointment of Staff
3. Protocol on Board Member, Executive Team and Staff Relations

A number of amendments have been made to the Delegation of Responsibilities, mainly with respect to new SMT roles over the last three years to reflect taking on housing options, advice, accountancy and homelessness during that period, and an update to the core values.

The main proposed change relates to an increase in the amount above which a grant is deemed a major decision reserved to the Board which it is proposed to increase to £100,000 from £5,000. It has also been clarified that homelessness provision services are not included as many of these are delivered by third parties using the grant funding received from the Council. In all cases, grants and loans remain to be approved by the Council in addition.

The Committee was advised that all grants payments have to be approved by the Council and all, except for homelessness, have to be approved by the Operational Board and the Council.

Safeguards are in place for high level grants. Those to the Operational Board have also to be approved by the Council and any main Board Member on the Operational Board can refer a decision of concern back up to the Board. The Council's approval is the final safeguard.

Jsan Shepherd assured the Board of her responsibility as a Board Member on the Operational Board and reminded the Board of the feedback from meetings provided to the Board by Operational Board Chair, and the Board also receives the minutes of every meeting.

Queries raised by Alan Graves and responses (shown in italics)

2 Part A 2.1 (h) Can board members discuss how they feel if a service is provided under £250k that they disagree with? This reserved matter does not give the board any recourse to oppose such a decision.

*Any new services provided to other organisations would be discussed at Chair's meetings. Officers do not do this in isolation and would be dealt with under disciplinary procedures if they did.*

Query for the board to consider

2.2.1 a and 2.2.1 c.a – are these two statements contradictory and open to subjectivity?

*The meaning of section 2.2.1 c.a is that implementation of a previous decision of the Board does not require a further decision of the Board.*

2.2.1 c The board should be nervous about increasing non approval of this committee of grant loans from £5,000 to £100,000. This change is huge and in my view a concern. Had the recommendation said £5000 to £10,000 I would have seen this as more acceptable. Please note £5k to £10k is a 100% increase. This increase of £5k to £100,000k is 1900%.

*Covered above.*

2.2.2 & 2.2.3 Again the wording of this is concerning. I agree with the sentiments however, I would not like to see this as the norm. In the wrong hands it can be used for the wrong reasons. The wording should include phrases such as 'in the unlikely event' and 'will not be used extensively'. The statement says there is likely to be.... On this basis has the number of meetings reduced or remained the same? If they are the same why is it likely to need to make urgent decisions?

***It was agreed to amend the wording accordingly.***

5.3.4 In a world of openness and transparency how do we deal with the conflict of interest between the managing director and the director of property?

The Managing Director declared an interest in this question.

There is a protocol in place where there would not be sign-offs between them but rather from another senior officer – usually the Director of Finance. A copy of the protocol will be shared with all Board Members.

In Appendix 3 6.1 and 6.2 can you advise which documents are deemed unreasonably necessary to be inspected by board members of Derby Homes? As company directors I am trying to understand how employees can restrict our access to any Derby Homes document (subject to 6.3). The position of a director of a limited company has far reaching legal responsibilities and employees wishing to restrict access to our documents makes one feel very suspicious.

The documents would relate to personal data under GDPR, this will be clarified in the document.

### **Agreed**

The Committee recommended that the Board adopts subject to the above changes:

Part VI Delegation of Responsibilities

Part XI Standing Orders for the Appointment of Staff

Part XII Protocol on Board Member, Executive Team and Staff Relations

## **20/17 Board Effectiveness Review – Draft NHF Code of Governance 2020**

The Board requested the Governance Committee considers the Draft National Housing Federation's Code of Governance 2020 (Appendix 1) and makes recommendations to the Board at its next meeting in November.

The new code is mostly consistent with the current one but with some areas considerably strengthened – notably:

- Equality, diversity and inclusion.
- Accountability to residents.
- Changes in the sector risk landscape.

The other major change proposed is to shorten the expected maximum period for a Non-Executive Director from 9 years (3 periods of 3 years) to 6 years (2 periods of 3 years) with the caveat that former Directors can return after one period off the Board.

The areas expanded in the new Code include Equality, Diversity and Inclusion, Accountability to Residents and Risk and are already addressed by the Board and Audit Committee.

There was agreement that a maximum term of office of 6 years was not long enough and support given for continuing as present, that of 9 years with annual non-compliance statements made.

Jsan Shepherd said there are checks and balances in place to ensure Board Members competency including an interview process at the end of their 3 year term

The Finance Director and Company Secretary reminded that a report is issued every year to explain where we are – a self-assessment within which there is provision to comply or explain. Derby Homes M&As overrides the Code and allows the Board to do something differently.

The Code had not yet been published, although the consultation period had ended. Board Members requested the Finance Director & Company Secretary to find out the response to the consultation and in particular where others were unhappy with change to 6 years.

### **Agreed**

The Committee noted the draft NHF Code of Governance 2020.

## **20/18 Change to Standing Orders**

At the Extraordinary Board meeting (EBM) on 27 October, the Board referred back to the Governance Committee the wording of a possible change to Standing Orders to ensure that there is always a casting vote for the election of Chair.

Alan Graves queried the need for the word 'reaffirm' regarding the Chair of Derby Homes' appointment and it was agreed to remove this word.

### **Agreed**

The Committee agreed to recommend to the Board the following changes to Standing Order 1.

#### **1. FIRST MEETING**

At the first meeting following each Annual General Meeting of Derby Homes, the Board shall

(a) elect a person to preside for the election of the Chair



Should the Board be unable to agree on such a person the following precedence would be applied:

- 1 Longer continuous serving Vice Chair
- 2 Other Vice Chair
- 3 Chair of Governance
- 4 Chair of Audit
- 5 Longest continuous serving other Board Member

In all cases, this person needs to be someone not standing for election as Chair.

(b) elect the Chair for the ensuing year

(c) receive apologies

(d) consider late items to be added to the agenda by the Chair

(e) receive any declarations of interest from Board Members

(f) elect the Vice Chairs for the ensuing year

(g) approve the minutes of the last meeting

(h) receive any announcements from the Chair

(i) decide which committees, to establish for the next year

(j) decide the size and terms of reference for those committees

(k) appoint to those committees, and outside bodies except where appointment to those bodies has been delegated to the Managing Director

(l) agree a scheme of delegation or such part of it as it sees fit

(m) approve a programme of ordinary meetings of the Board for the year; to ensure that Derby Homes meets deadlines in respect of its AGM and reporting to Derby City Council, and

(n) consider any business set out in the notice convening the meeting.

## **20/19 Rule of 85 Application**

On 4 November 2020 the Managing Director deliberated an appeal against a decision not to turn on the 85 year rule.



A long serving employee requested early retirement at the age of 59 in December and requested turning on the 85 year rule; the criteria to do that has to be a cost saving, recovered with 18 months of the cost being incurred.

The issue with this case was that Derby Homes does intend to replace that individual so there is no saving. The post has been slightly revised and a new job description has been put through the job evaluation process resulting in the same grade.

The Managing Director has responded to the employee and explained the situation, demonstrating how that was different to a case that had recently gone to this Committee. The employee has accepted that rationale.

### **Date of next meeting**

The next meeting will be held on Thursday 29 April 2021 at 5.30 pm

The meeting ended at 7.20 pm

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CHAIR

Signed as true and accurate record of the meeting held on 12 November 2020