

To all Members of the County Council

Members are hereby notified that the Chairman of the County Council has agreed that the following supplementary item(s) be added to the agenda for the meeting to be held at **10.30 am on Tuesday, 17 December 2019** at **County Hall, Chichester**.

Note: Item 6, Appointments, will be taken after item 9.

Supplementary Agenda

**5(a) Appointment of Chief Executive and Head of Paid Service
(Pages 3 - 6)**

The Council will receive a report from the Appointing Committee recommending an appointment to the post of Chief Executive of the Council, to act as the Council's head of paid service.

5(b) Children's Commissioner's Report

The Council will debate the content and recommendations of the report from John Coughlan CBE, Children's Commissioner appointed by the Department for Education, in relation to the capacity and capability of the County Council to secure sustainable improvement to its Children's Services. The Chairman will ask the Council to agree a timetable for the debate and for the management of scheduled business to follow.

Director of Law and Assurance
16 December 2019

This page is intentionally left blank

Report from the Appointing Committee of 13 December 2019: Appointment of Head of Paid Service

Arrangements for managing the proposal for support from East Sussex County Council, including the provision of a joint Chief Executive

Summary of recommendations

- 1** On 13 December an Appointing Committee chaired by the Chairman met to consider a proposal for the appointment to the post of Chief Executive of the County Council. The proposal is for the current Chief Executive of East Sussex County Council, Becky Shaw, to be appointed to the role, the two roles being carried out together. The arrangement has the support of East Sussex County Council. The proposal is for the services of the Chief Executive to form part of a package of support from East Sussex County Council through an agreement between the two Councils.
- 2** It is proposed that the appointment takes effect from 6 January and that the formal agreement setting out the terms for the provision of the services of the Chief Executive and such additional sharing of services considered necessary is settled as soon as practicable.

Background

- 3** The proposal for the appointment of the Chief Executive of East Sussex County Council to be also Chief Executive of West Sussex County Council is part of a broader proposal for support and assistance for corporate improvement in response to the recommendations of the Department for Education's Children's Commissioner's Report. Recommendation 10 of the report states:

'The wider Council will need to engage in a deep and wide-ranging review of its leadership, governance and culture. The exercise will probably require substantial external support.'

- 4** In addition to the support from Hampshire County Council as service improvement partner for Children's Services it is recognised that an improvement partner is needed to address this recommendation for action to improve corporate leadership, governance and culture. This will assist the challenges for improvement in Children's Services but also within other areas of the Council's core responsibilities. The proposal should provide assurance that the Council is addressing these matters quickly, thoroughly and with suitable support.
- 5** The first element of the solution is for the current Chief Executive of East Sussex County Council to become Chief Executive of West Sussex County Council, discharging the role for both Councils, leading the provision of external corporate support whilst also proving executive leadership to the County Council and acting as the Council's head of paid service.

Legal context

- 6** There will be an arrangement with East Sussex County Council to provide the necessary support and capacity to improve. This will be through an agreement between the two Councils using s.113 Local Government Act 1972.

- 7** This empowers one council to enter into an agreement with another council for the placing at the disposal of the latter the officers employed by the former on terms the two councils agree. The officers made available remain employed by the providing authority for the purpose of all employment rights and obligations.
- 8** Any such officer must, however, be treated, for the purposes of the discharge of the receiving council's functions as an officer of that council. The officer must act under the rules and policies and political direction of the receiving council and, when working for West Sussex the officer will act in all respects as if an officer of West Sussex – and in the interests of West Sussex.

The Agreement

- 9** The agreement will set out the aims of the proposal in tackling the County Council's corporate challenges to become more effective and efficient. It will describe the arrangement to settle the form that support should take. It will provide for mutual support and assistance for shared improvement activity. It will be for both councils to determine and agree these through a process of due diligence. The aim will be to ensure that the right support is available to enable the County Council to give assurance internally and externally that it has the capability and capacity properly and fully to meet the challenges it faces.
- 10** The two Councils will agree that the Chief Executive will act in that capacity for both Councils. The functions and responsibilities of the Chief Executive are described in the Council's scheme of delegation and in the job description and will not change. The agreement will provide for those responsibilities to be discharged by the officer following this appointment. The Chief Executive will remain in the joint role for as long as the s.113 agreement remains in place.
- 11** The agreement will include terms for review and termination on notice by either council. It is proposed that the arrangement should commence from 6 January 2020. The first review will be after the completion of the support plan and application of due diligence, after around three months. There will also be a specific provision for both Councils to review the arrangement following the County Council elections in May 2021 so that the new administrations in each Council can determine whether the arrangement should continue and, if so, whether its terms should be revised.
- 12** The agreement will provide for the full extent of mutual support and assistance to be determined through discussion between the two councils within three months of the start date. The two councils will, at that point, be in a position to agree what specific resources are required and how they may best be deployed and paid for. Either Council will be able at any point to terminate the arrangement by providing notice of six months.
- 13** The agreement will provide mechanisms for identifying and addressing potential areas of conflict, and to cover arrangements for funding and the sharing of resources and associated costs. The proposal is for the salary and on-costs of a full-time shared chief executive to be shared equally by the two Councils. The terms of the agreement in so far as they concern the payments to East Sussex County Council for the services of the Chief Executive were considered and approved by the Appointing Committee.

Political considerations

- 14** At all times the two Councils will remain separate political corporate entities. There is no proposal to move towards any form of political, structural or constitutional alignment. There is no plan to align policy, strategic aims or political ambitions. The proposed agreement is for a sharing of resources to address specified objectives. It will operate on mutually beneficial terms.
- 15** At all times the two sovereign Councils will have separate rights to serve notice to bring the arrangement to an end. At any time each Council will be able to call for a review of the arrangement.
- 16** The Cabinets of each Council will provide political leadership and oversight of the arrangements which will be subject to scrutiny as appropriate within each Council - in the case of West Sussex, by the Performance and Finance Select Committee.

Alternative options and risk management

- 17** The Cabinet considered the alternative options of seeking to recruit a permanent full time dedicated chief executive, starting the process immediately and the option of maintaining current acting up arrangements whilst longer term plans are settled but delaying recruitment. Both options were considered less than satisfactory by reference to the need to secure a stable and effective executive leadership within the Council within a reasonable time scale and to show that the County Council is acting quickly and responsibly to address identified challenges and the expectations of those government departments engaged with the Council on its improvement journey – both in relation to critical service delivery priorities and the corporate improvements identified. The Cabinet also considered the areas of common challenge and shared areas of responsibility and partnership working which already exist between the two Sussex County Councils and the benefits of closer working with East Sussex in such areas as NHS joint working, transport planning, economic development, climate change and response to government initiatives. These considerations and the conclusions reached in relation to the proposal as the preferred option were fully supported by the Appointing Committee.

Recommended

- (1) The Council is asked to approve the appointment of Becky Shaw as Chief Executive and head of paid service for the County Council; and
- (2) The Council is asked to confirm its agreement to the Council entering into an agreement with East Sussex County Council to facilitate the appointment and to delegate authority to the Director of Law and Assurance to complete an agreement under section 113 Local Government Act 1972.

Tony Kershaw

Director of Law and Assurance

Contact Officer: Tony Kershaw, 033 022 22662

Appointing Committee

Janet Duncton (Chairman)
Andrew Barrett-Miles
Joy Dennis
Paul Marshall
Deborah Urquhart
James Walsh

The Committee considered a report from the Director of Law and Assurance and made the above recommendations after a discussion with the Becky Shaw.

Background papers

None