

Public Document Pack

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10 January 2020

Governance Committee

A meeting of the Committee will be held at **2.15 pm on Monday, 20 January 2020 at County Hall, Chichester.**

Tony Kershaw
Director of Law and Assurance

Agenda

1. Declarations of Interest

Members and officers must declare any pecuniary or personal interest in any business on the agenda. They should also make declarations at any stage such an interest becomes apparent during the meeting. Consideration should be given to leaving the meeting if the nature of the interest warrants it. If in doubt please contact Democratic Services before the meeting.

2. Minutes of the last meeting of the Committee (Pages 5 - 14)

The Committee is asked to agree the minutes of the meeting held on 2 December 2019 (cream paper).

3. Urgent Matters

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances.

4. Planning and Rights of Way Committees - options for cost savings

(Pages 15 - 18)

Report by the Director of Law and Assurance.

As requested at the last meeting, to consider possible options for the future of the Planning and Rights of Way Committees, to find ways of offsetting some of the costs of establishing the Fire & Rescue Service Scrutiny Committee agreed by Council in December 2019.

5. Proposed Minor Changes to Council Procedures (Pages 19 - 22)

Report by the Director of Law and Assurance.

The Committee is asked to consider two minor changes to Council procedures, namely the method by which a Cabinet Member provides his or her response to

a motion to the public and the deadline for the submission of written questions for reply at County Council meetings.

6. **Pensions Delegations** (Pages 23 - 26)

Report by Director of Finance and Support Services and Director of Law and Assurance.

Following a minor technical review of the Constitution around the County Council's pensions responsibilities, the Committee is asked to consider proposed changes for recommendation to the County Council. Minor changes to the terms of reference of two committees and the Pensions Panel are proposed to help clarify their roles and responsibilities on pensions matters.

7. **Pay Policy Statement 2020/21** (Pages 27 - 40)

Report by the Director of Human Resources and Organisational Change.

The Committee is invited to consider proposed revisions to the Pay Policy Statement, as set out in the report, for recommendation to the County Council.

8. **Constitutional changes arising from withdrawal from the EU - authority to effect changes** (Pages 41 - 42)

Report by the Director of Law and Assurance.

To consider a recommendation to the County Council that the authority be delegated to the Director of Law and Assurance to update the constitution to take account of the provisions of primary legislation connected with the UK's withdrawal from the EU.

9. **Officer Delegations - Constitutional Provisions** (Pages 43 - 48)

Report by Director of Law and Assurance.

A request has been made to set out the arrangements within the Constitution for the delegation of functions to officers and more specifically the recent change made to the allocation of responsibilities in connection with staff disciplinary matters. The report summarises the position and members are asked to indicate whether a more thorough review of the arrangements is required.

10. **Date of Next Meeting**

The next meeting of the Committee will be held at 2.15 p.m. on Monday, 9 March 2020 at County Hall, Chichester.

To all members of the Governance Committee

Governance Committee

2 December 2019 – At a meeting of the Governance Committee held at 2.00 pm at County Hall, Chichester.

Present: Mrs Duncton (Chairman)

Mr Bradbury, Mr Jones, Mrs Jupp, Mr Lanzer, Mr Marshall, Mr Mitchell, Mr Patel and Dr Walsh (left at 4.10 pm)

Also in attendance: Ms Kennard, Mr High and Mrs Purnell

Part I

29. Declarations of Interest

29.1 In accordance with the code of conduct, Mr Lanzer declared a personal interest in the item on the Pension Advisory Board – Chairman Appointment Process, as a deferred member of the Local Government Pension Scheme and in the item on appointments, as a councillor member of South East Employers and a South East Employer member peer. Dr Walsh declared a personal interest in the item on the Review of County Local Committees as a member and the Leader of Arun District Council.

30. Minutes of the last meeting of the Committee

30.1 Resolved – That the minutes of the meeting held on 9 September 2019 be approved as a correct record and that they be signed by the Chairman.

31. Proposals for change - Improving Council Governance

31.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes) which provided a context for proposals to change governance arrangements for both executive and scrutiny functions. The Committee was asked to consider a number of changes to how decisions are taken by Cabinet and how the Forward Plan of key decisions will be used. Changes were also proposed to meet the need for more effective scrutiny (these included the recommendations of the Scrutiny Review Panel).

31.2 The Director of Law and Assurance introduced the report and explained that the proposals for change were as a result of concerns expressed about corporate governance in the Commissioner's findings following the Ofsted inspection into Children's Services plus the HMI report into the Fire & Rescue Service. The proposals also took into account the Government's refreshed guidance on scrutiny which had been examined by the Scrutiny Review Panel whose report was attached at Appendix 2 to the report. There had also been a health check by the Centre for Public Scrutiny which had been carried out following the Ofsted inspection.

31.3 The Director of Law and Assurance commented that there was one matter in which the recommendations differed and that was in relation to scrutiny of the Fire & Rescue Service. In his view, the Panel's

recommendation that a separate committee should be established would not achieve the stated objectives and would not be in the interests of effective scrutiny.

31.4 Mrs Purnell, as Chairman of the Scrutiny Review Panel, introduced the Panel's report and ran through the recommendations. In relation to scrutiny of the Fire & Rescue Service she said the Panel was of the view that a separate committee would achieve better scrutiny by giving members an increased knowledge of the service. In the Panel's view this would be harder to achieve with a large committee dealing with a wider portfolio.

31.5 Members considered the recommendations in relation to the executive as set out in Appendix 1 to the report. The proposals were broadly welcomed but there were requests for the time limits in paragraphs 9 and 10, in relation to contributions by Select Committee chairmen and minority group leaders, to be increased to five minutes.

31.6 The Leader commented that having a time limit was important in order to be able to manage the business on the agenda. He reminded the Committee that members had other opportunities to seek clarity about or raise an issue on matters to be discussed at Cabinet (advance notice of which would be via the Forward Plan) including speaking directly to Cabinet Members. The changes proposed were about Cabinet individually and collectively making decisions in a transparent way.

31.7 After discussion it was agreed that the time limits should be recommended for increase to five minutes in each instance.

31.8 It was requested that any member should be able to make a request to the Leader, as chairman of the meeting, to attend and speak at the meeting, as was the case with other committees under Standing Order 3.20. It was also requested that consideration was given to whether the words 'other members' in paragraph 11 needed to be clarified.

31.1 The Committee discussed the Scrutiny Review Panel recommendations set out in Section A of Appendix 3 and made the following comments and resolutions.

Recommendation 1 – members supported the renaming of select committees as scrutiny committees so that their role was clear.

Recommendation 2 – views were expressed for and against the suggestion that there should be a separate Fire & Rescue Select Committee.

Some members supported the view that it was the responsibility of the executive to give an identity to the F&RS and that scrutiny of the service would be better served by enhancing the role of the current select committee. This could be done by increasing capacity by moving the Economy portfolio to the Performance and Finance Select Committee, having meetings dedicated to the F&RS and better management of business. It was felt that there was a danger that creating a separate select committee could cause confusion in comparison to those areas,

unlike the County Council, which have a joint fire committee acting as fire authority.

Other members felt the proposal for a separate committee would ensure there was enough select committee time to scrutinise the F&RS properly. Concerns were expressed about how meetings dedicated to the F&RS would be achieved in practice. The Leader said he was in favour of a separate select committee to increase transparency and ensure members have an increased understanding and greater sense of ownership of the F&RS. He supported the proposal that the position should be reviewed after two years.

The Leader proposed that the recommendation should be put to the vote and this was seconded by Mr Jones. The recommendation was carried.

Recommendation 3 – the Committee supported scrutiny of the Economy portfolio being transferred to the Performance and Finance Select Committee.

Recommendation 4 – there was a suggestion that the Performance and Finance Select Committee should be renamed to include 'economy' but it was agreed that no change was necessary.

Recommendation 5 – members were supportive of the suggestion that it should be for the Monitoring Officer (or Deputy), rather than the select committee business planning group, to decide whether to accept a request for a call-in.

Recommendation 6 – members supported the responses to the Centre for Public Scrutiny set out at Appendix 2, Annex A.

Recommendation 7 – in relation to pre-meetings for select committees, some members expressed concern that such meetings may give the impression that views had been formed in private in advance of the meeting. The Committee endorsed the wording of recommendation 6 in Section B which describes the purpose of pre-meetings as ensuring the best use of time and agreeing the aims for items.

Recommendation 8 – some members felt it would be better to keep meetings at County Hall as the facilities were better and all select committee meetings were now webcast. However, on balance, the Committee supported the suggestion that one meeting of each select committee should be held at County Hall North in 2020/21 by way of a trial so that the public had the option of attending meetings in the north of the county. All meetings should continue to be webcast.

Recommendation 9 – members supported the enforcing of the rules on substitutes, namely that substitution was for the whole of a meeting and not part of it.

Recommendation 10 – some members expressed support for the appointment of chairmen and vice-chairmen by select committees using a secret ballot as put forward as an option by the Panel. One member suggested that voting should be by a show of hands rather than a secret

ballot but with one person being able to request a secret ballot. The Leader said he would prefer the appointment to be by the Council on the recommendation of the Leader.

It was proposed by Dr Walsh and seconded by Mrs Jupp that the appointment of the chairman and vice-chairman should be by the select committee on a secret ballot and this was carried.

Recommendation 11 – the Committee felt that any proposal to merge the two committees should be considered on its own merits and not as a way of offsetting the cost of an additional select committee. Members therefore requested that a report be brought to the next meeting for them to consider the whether the proposal should be taken forward.

Recommendation 12 – agreed

31.2 The recommendations set out at Section B of Appendix 3, with the exception of recommendation 9, were supported.

31.3 Resolved –

- (1) That the County Council be recommended that the proposals for changes to executive arrangements, as set out in Appendix 1 to the report, be approved, subject to the adjustment of the time limit for contributions by select committee chairmen and minority group leaders being set at a maximum of five minutes, the addition of the ability of other members to request to speak at the meeting and clarification of the wording in relation to 'other members' in paragraph 11;
- (2) That the County Council be recommended that Select committees be renamed scrutiny committees;
- (3) That the County Council be recommended that a separate select committee for the Fire & Rescue Service be established with effect from April 2020, to be reviewed in March 2022;
- (4) That the County Council be recommended that responsibility for scrutinising the Economy portfolio be transferred from the Environment, Communities and Fire Select Committee to the Performance and Finance Select Committee without any change to the name of the Committee;
- (5) That the County Council be recommended that the decision to accept or reject call-in requests be transferred from Business Planning Groups to the Monitoring Officer (or Deputy), using the criteria in the Constitution, the Monitoring Officer to report to the relevant select committee on reasons for rejecting/accepting any call-in requests;
- (6) That the Panel's response to the Centre for Public Scrutiny recommendations (at Appendix 2, Annex A to the report) be

taken forward and monitored by the Performance and Finance Select Committee;

- (7) That one meeting of each Select Committee during 2020/21 be held at County Hall North, Horsham to inform a review by the Performance and Finance Select Committee as to whether Select Committee meetings should alternate between County Hall Chichester and County Hall North, Horsham from May 2021;
- (8) That the Standing Order 8.02 on attendance of substitutes at Select Committees be enforced, namely that when notice is given that a substitute will attend a meeting the substitution is for the whole of the meeting, not part of it;
- (9) That the County Council be recommended that the process for the appointment of select committee chairmen and vice-chairmen should be by annual appointment by each select committee through a secret ballot;
- (10) That whether planning and rights of way matters should continue to be considered by separate committees should be reviewed and that a report be brought to the next meeting of the Committee;
- (11) That the Performance and Finance Select Committee identify, through the implementation of the Centre for Public Scrutiny recommendations, any other aspects of the Constitution that may need revision, such as relating to the value and profile of the scrutiny function;
- (12) That the guide to business planning and pre-agenda meetings, as set out at Appendix 2 to the report, be approved for use by Business Planning Groups and Select Committees;
- (13) That key lines of enquiry are used in the preparation of scrutiny reports and that reports provides advice to the committee by reference to those lines of enquiry;
- (14) That the agenda for pre-agenda meetings includes a checklist of issues for scrutiny and key lines of enquiry for inclusion in the report on each agenda item;
- (15) That Committees and their Business Planning Groups give particular attention to the need to identify additional sources of evidence and expert witnesses;
- (16) That the principal respondent to scrutiny shall be the Cabinet Member for the relevant portfolio of the matter subject to scrutiny;
- (17) That short pre-meetings be used to ensure the best use of time by the Committee and to agree the aims of the Committee for each item;

- (18) That members be invited to submit questions of detail on reports to the report author in advance of the relevant meeting rather than at a meeting of the committee;
- (19) That the Chairman be responsible for collating and summarising the output of a committee's consideration of any matter, including those from any minority of members, for approval by the committee; and
- (20) That there be a schedule of skills and development for members of scrutiny committees to focus on:
 - Assessing key lines of enquiry and scrutiny impact
 - Performance management and the effective use of data
 - Questioning skills
 - Chairmanship skills

32. Corporate Parenting Panel Terms of Reference

32.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes) on changes to the terms of reference of the Corporate Parenting Panel for recommendation to the County Council.

32.2 Mrs Jupp expressed disappointment that part of the consultation process was still to be completed.

32.3 Resolved –

- (1) That the revised terms of reference and constitution of the Corporate Parenting Panel, as set out at Appendix A to the report, be endorsed for recommendation to the County Council; and
- (2) That the revised terms of reference be reviewed in six months when further changes may be proposed following engagement with the Children in Care Council.

33. Review of County Local Committees

33.1 The Committee considered report by the Chairman of the Working Group set up by the Committee to carry out a full review of all County Local Committees on its conclusions and recommendations (copy appended to the signed minutes).

33.2 Mr High, as Chairman of the Working Group, introduced the report and outlined the recommendations.

33.3 Members welcomed the report and were generally supportive of the proposals. Mr Bradbury commented how difficult it was to manage the business of the Central and South Mid Sussex County Local Committee but acknowledged the need to avoid additional costs in terms of resources.

33.4 There was some discussion about the merits of Spacehive and whether the process involved deterred organisations from applying. Members supported the review of the contract, given the recent reduction in funding and the introduction of the new Micro-fund.

33.5 Resolved –

- (1) That a flexible approach should be taken to CLCs, reflecting differences in the communities they represent: there should not be a one-size fits all approach, and each CLC should be able to run meetings how they wish, including the potential for meetings to be informal or themed around a specific issue. Work programmes should not be rigid and should be adaptable to be able to deal with issues arising during the year. The priority should be on effectiveness not consistency.

Structure

- (2) That the current configuration of CLCs should be retained, with 11 CLCs covering the same geographical area as at present;
- (3) That the County Council divisions of Lindfield & High Weald and Bourne should each continue to cut across two CLCs (so the two members for these divisions should each continue to sit on two CLCs);
- (4) That there should continue to be three CLC meetings per year, with the potential to hold extraordinary meetings to respond to significant local issues, supported by the relevant service area (and not requiring Democratic Services' support);
- (5) That the Cabinet Member should liaise with Arun District Council to consider potential improvements to the Joint Area Committees model; whether this is still appropriate and effective and whether any different approaches should be considered;

Functions

- (6) That as there is no statutory requirement for the nomination of school governors to be approved by members, it is proposed that the Cabinet Member be asked to delegate to the Director for Education and Skills the authority to approve nominations in liaison with the relevant local member and that this change to the CLCs' terms of reference be forwarded to County Council for approval on 17 December 2019;

Meeting arrangements

- (7) That Talk with Us sessions should take priority, be early on the agenda and be given as long as possible, with time limitations set at the chairman's discretion. Where questions

are raised in these sessions that there is not an officer present to answer, it will be for local member to take up and get back to the resident;

- (8) That there should be an annual Highways-themed meeting which considers Traffic Regulation Orders and at which Highways Officers will be present. Officer attendance at other meetings (including Highways Officers) should only be required where there is a relevant agenda item (to be decided at the pre-agenda meeting);
- (9) That Communities Officers should continue to attend all CLC meetings and in future should provide a report on activities carried out, underway and planned at each meeting;

Crowdfunding

- (10) That the review of contract with Spacehive, the provider of the crowdfunding platform that is used for the allocation of the Community Initiative Fund, should include the implications of the new Micro-fund on the viability of the contract;

Other

- (11) That area profile data should be provided to all members annually, use of which will include informing CIF allocations;
- (12) That hints and tips/guidance should be produced by Democratic Services capturing different ways of working as a toolkit for CLC members and chairmen. This should include options for carrying out work planning, ways of engaging public, meeting format and engagement with town/parish councils as appropriate; and
- (13) That CLC Chairmen's meetings should become an annual meeting to review the work of CLCs over the year and share best practice. All members should be invited to attend.

34. Pension Advisory Board - Chairman Appointment Process

34.1 The Committee considered a report by the Director of Finance and Support Services and the Director of Law and Assurance (copy appended to the signed minutes) on the appointment process for members of the Pension Advisory Board and the independent Chairman of the Board.

34.2 Members noted that the paragraph reference in recommendation (1) should read 'paragraphs 2.3, 2.4 and 3.2'.

34.3 Resolved –

- (1) That the changes set out in paragraphs 2.3, 2.4 and 3.2 be endorsed for submission to the Council on 17 December 2019 for approval; and

- (2) That, following approval of the changes, the Director of Finance and Support Services and the Director of Law and Assurance be asked to advertise the role of Independent Chairman to the West Sussex Pension Advisory Board and create a shortlist of nominees from which an appointment can be made.

35. Report of the Member Development Group

35.1 The Committee received a report from Chairman on the work of the Group, member development activities and member training and development priorities and plans (copy appended to the signed minutes).

35.2 Ms Kennard, as Chairman of the Group, introduced the report.

35.3 In relation to future Member Days, the Head of Democratic Services informed the Committee that it was hoped to have Adults' Services and Children's Services safeguarding training on 29 January 2020 and that on 26 February 2020 the session would be on the Fire & Rescue Service.

35.4 A request was made for online training to be used where ever possible, particularly for mandatory. The Head of Democratic Services commented that take up had been poor when such training had been arranged in the past. It was suggested that a reminder could be put in The Bulletin.

35.5 A plea was made for consideration to be given to video-conferencing Member Days so members who could not get to County Hall could participate. It was noted that the current video-conferencing room at County Hall was not large enough to accommodate part of a Member Day. However, Mr Lanzer commented that consideration was being given to extending the functionality of video conferencing so this might be something that the Member Development Group could look at in future.

35.6 Resolved – That the report be noted.

36. Appointments to Committees, Panels and Outside Bodies

36.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes) which, in accordance with the expressed wishes of the political groups, asked it to make changes to appointments on committees, panels and outside bodies.

36.2 Resolved – That the changes set out in the report be approved.

37. Date of Next Meeting

37.1 The Committee noted that the next meeting will be held at 2.15 p.m. on Monday, 20 January 2020.

The meeting ended at 4.50 pm

Agenda Item 2

Chairman

Governance Committee	
20 January 2020	Part I
Planning and Rights of Way Committees – options for cost savings	
Report by Director of Law and Assurance	
Electoral Division(s): Not applicable.	

Summary

The Committee has been asked to consider possible options for the future of the Planning and Rights of Way Committees, to find ways of offsetting some of the costs of establishing the Fire & Rescue Service Scrutiny Committee agreed by Council in December 2019. In many county councils across the country, planning and rights of way functions are determined by a single committee.

Recommendation

The Committee is asked to consider the options set out for the future of the Planning and Rights of Way Committees in the light of the need to make savings as a result of establishing a Fire & Rescue Service Scrutiny Committee.

Proposal

1. Background and Context

- 1.1 At its last meeting, the Committee agreed to recommend the establishment of a new Fire & Rescue Service Scrutiny Committee to the County Council. This was agreed by the Council on 17 December 2019.
- 1.2 The Committee was mindful of the financial impact of this decision on the Democratic Services budget, as a new chairmanship would lead to an additional special responsibility of £9,296 for the new Chairman. The new Committee has also had a financial implication of £48,500 to cover additional staffing costs to support the committee and its associated governance.
- 1.3 Because of the financial impact of its proposal the Committee asked that consideration be given to whether any savings can be achieved and cited one option as the merger of the Planning and Rights of Way Committees. The Democratic Services budget covers the staffing costs associated with servicing the committees, but also the costs of member expenses and the budget for member allowances, including the special responsibility allowance for committee chairmanship.
- 1.4 The Planning Committee is responsible for considering matters which need to be determined by the County Council as the planning authority. These include waste and minerals planning. It also determines applications which

the County Council is allowed to make for the development on its own land and advises the Cabinet on Minerals and Waste local plans.

- 1.5 The Rights of Way Committee is responsible for the County Council's 'non-executive' functions in relation to public rights of way and the registration of common land and village greens.
- 1.6 While the roles are distinct, both follow a similar quasi-judicial process, with reports prepared by officers presented to a Committee, rights of public speaking both for and against an officer recommendation on applications and decision-making following careful consideration of all material matters raised. Site visits are usually made ahead of Committee meetings.
- 1.7 The Committee has considered a merger twice before, firstly in 2011 and then again in 2016, both times being driven by the need to identify savings from the Democratic functions of the County Council. On both occasions, the Committee had some sympathy for the proposal as these functions are delivered by a single committee in several other county councils, but was persuaded that the current arrangements worked well for West Sussex.

2. Proposal

- 2.1 The Committee is asked to consider options for the future of the Planning and Rights of Way Committees.
- 2.2 **Option 1:** Merge the Planning and Rights of Way Committees. The Committee members would need to be aware of the distinctions in decision-making, but this can be managed through member training and officer advice. There would be a saving in the chairmanship allowance of one committee and in the member expenses of attendance at perhaps two or three meetings per year. There would be a negligible saving in costs in servicing the same number of meetings in terms of minuting and attendance.
- 2.3 These functions are delivered by the same committee in several nearby county councils including East Sussex, Hampshire and Surrey. Looking at other two-tier county councils, it has been found that Gloucestershire, Hertfordshire Oxfordshire, Somerset, Suffolk, Norfolk, Warwickshire and Worcestershire county councils also have a single committee to perform these functions, so there is a strong precedent for this.
- 2.4 **Option 2:** Merge the Chairmanship of the Planning and Rights of Way Committees. A single Chairman for the two committees would help to achieve a saving of £9,296 to offset the special responsibility allowance cost of a Chairman of the Fire & Rescue Service Scrutiny Committee. This would make for a heavier workload for an individual but has been achieved in other local authorities. There would be no saving in the work of Democratic services nor in the expenses associated with member attendance at committees.
- 2.5 **Option 3:** Make no changes and consider other savings options for the Democratic Services budget. The proposal to establish a new Fire and Rescue Scrutiny Committee will bring additional work to Democratic Services which the service will endeavour to manage whilst minimising the impact on the service budget. Overall workload from the scrutiny committees has been

increasing. There is currently little prospect of being able to find savings whilst needing to meet the additional demands of the new committee.

3. Resources

- 3.1 There is a desire to make savings in this area of member governance to offset the costs of setting up the new Scrutiny Committee. Following options 1 or 2 would enable the Democratic Services budget to reduce the risk of overspends through delivering a saving of £9,296 through the deletion of one special responsibility allowance to accommodate the new allowance required for the new scrutiny committee.
- 3.2 As Rights of Way Committee only meets about twice a year on average, this Committee is supported by the same Democratic Services Officer who supports the Planning Committee, which can meet up to 10 times. On average, the combined number of meetings of the two committees is around 8 times per year (2017/18 saw 8 meetings, 2018/19 saw 9 meetings and 2019/20 will have a maximum of 7 meetings). A merger is unlikely to affect this average as both Planning and Rights of Way matters would still be taken through officer consideration at a similar rate. There is therefore no expected officer saving to be realised, while a small reduction in member travel expenses claims may be achieved if business can be combined two or three times a year. These possible savings are all more than offset by the additional costs associated with servicing the additional scrutiny committee.

Factors taken into account

4. Consultation

- 4.1 The Committee is asked to consider whether all members or other stakeholders should be consulted about any proposals.

5. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
If the two committees are merged, this would create a risk of unsound planning or rights of way decisions being taken if members are not sufficiently trained on the two functions.	Training can be provided for all members of a new merged committee. Officers would continue to prepare reports on the distinct items, containing relevant advice to help the committee to make sound decisions.

6. Other Options Considered

- 6.1 If no changes are to be made to the Planning and Rights of Way Committees, other options for savings should be considered in a review of Democratic Services.

7. Equality Duty

7.1 Not applicable as this report deals with an internal decision-making matter.

8. Social Value

8.1 Not applicable.

9. Crime and Disorder Act Implications

9.1 Not applicable.

10. Human Rights Implications

10.1 Not applicable.

Tony Kershaw

Director of Law and Assurance

Contact: Charles Gauntlett 033022 22524

Background Papers: None.

Governance Committee	
20 January 2020	Part I
Proposed Minor Changes to Council Procedures	
Report by Director of Law and Assurance	
Electoral Division(s): Not applicable	

Summary

Two minor changes to Council procedures are being proposed arising from consideration by the Director of Law and Assurance based on recent experience in managing business, namely the method by which a Cabinet Member provides his or her response to a motion to the public and the deadline for the submission of written questions for reply at County Council meetings.

Recommendation

That the proposed changes to the Constitution in section 2 be endorsed for submission to the County Council on 14 February 2020 for approval.

Proposal

1. Background and Context

- 1.1 Two minor changes are proposed to Council procedures arising from a review of the recent experience of managing Council business and their impact on officer resources and in relation to publicity and transparency.
- 1.2 Notices of motion submitted to the County Council can either be debated at the meeting or can be referred to a Cabinet Member or non-executive committee for discussion. Following the discussion, the Cabinet Member or non-executive committee will agree a response, which is made available to the County Council to inform its debate, usually at the next meeting. The Cabinet Member responses are currently published as an executive decision. This practice has been reviewed and the conclusion is that this process is not required. A simpler process is recommended: that the response be published as a short report in The Bulletin instead of as a decision report.
- 1.3 The other matter is the current deadline for receiving written questions from members, that receive a response from the relevant Cabinet Member or Committee Chairman by noon on the day prior to the Council meeting. The current deadline is 9.00 a.m. on the fourth working day before Council (usually a Monday morning). This deadline has been in place since 2016 and the rationale is two-fold – first to enable questions to be topical and second because a previous policy meant that written questions on topics covered in the Cabinet Member report were not accepted. The latter of these is no longer applicable, as members can submit any written question on matters

relevant to the County Council or county in general and can do this up to four weeks before Council, long before the cabinet member report is available. As there is a limit of 10 questions that will be answered in time for Council, this has in practice meant ever earlier submission of questions - most being submitted well ahead of the Monday morning deadline.

- 1.4 Increased pressures on staffing throughout the organisation in recent years have made the ability to answer questions within three working days more challenging. It is therefore proposed that the deadline for written questions be moved earlier, to the start of the fifth day prior to Council (usually the previous Friday). This should allow questions to be answered in a more timely manner, while not affecting the ability to ask topical questions.

2. Proposal

- 2.1 To allow a Cabinet Member response to a motion referral to be published in The Bulletin, rather than as a decision report, as shown below:

'Standing Order 2.53(b) - That the Chairman may, if he or she considers it convenient and conducive to the dispatch of business, allow such motion to stand referred to the relevant cabinet member ... In such instances motions relating to an executive matter shall, upon being formally moved and seconded without speeches, stand referred to the relevant cabinet member for consideration. The response of the Cabinet Member shall be published **in The Bulletin** ~~Executive Decision Database (EDD) and may (if necessary) be called in~~; it shall be reported to the next ordinary meeting of the County Council. The Cabinet Member's response will not be final until it has been reported to the next ordinary meeting of the County Council for debate in relation to the original motion.'

- 2.2 To change the deadline for written questions to five working days, as shown below:

'Standing Order 2.39 - The notice of a question to be asked in pursuance of Standing Order 2.38 shall be in writing and shall be given to the Director of Law and Assurance no earlier than four weeks before the meeting and at the latest by 9.00 a.m. on the **fifth** ~~fourth~~ working day before the meeting of the County Council at which the question is to be asked; the Chairman may allow this provision to be relaxed if, in his or her opinion, it would be an advantage to the County Council's business to do so.

*(N.B. This will be by 9.00 a.m. on the **Friday** ~~Monday~~ prior to the meeting when the County Council meets on a Friday.)'*

3. Resources

- 3.1 Not applicable.

Factors taken into account

4. Consultation

- 4.1 Consultation could be undertaken with members prior to making a decision on these matters.

5. Risk Implications and Mitigations

5.1 None.

6. Other Options Considered

6.1 None.

7. Equality Duty

7.1 Not applicable.

8. Social Value

8.1 Not applicable.

9. Crime and Disorder Act Implications

9.1 Not applicable.

10. Human Rights Implications

10.1 Not applicable.

Tony Kershaw

Director of Law and Assurance

Contact: Charles Gauntlett, 033022 22524

Background Papers: None.

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Governance Committee
20 January 2020
Part I
Pensions Delegations
Report by Director of Finance and Support Services and Director of Law and Assurance

Summary

Officers have undertaken a minor technical review of the Constitution around the County Council's pensions responsibilities. Minor changes to the terms of reference of two committees and the pensions panel are proposed to help clarify their roles and responsibilities on pensions matters.

Recommendation

- (1) That the changes to Part 3 of the Constitution, as set out in the report, be endorsed for submission to the Council on 14 February 2020 for approval; and
- (2) That the Director of Law and Assurance be authorised to revise the scheme of officer delegation to reflect the most up to date and accurate list of employer responsibilities.

1. Background and Context

- 1.1 West Sussex County Council is the Administering Authority for the West Sussex Local Government Pension Scheme (LGPS). As Administering Authority it is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The Administering Authority is responsible for maintaining and investing its own Fund within the LGPS. How an Administering Authority delegates its LGPS administrative function is largely a matter for each Administering Authority.
- 1.2 In addition, West Sussex County Council is an employer whose employees, and former employees, are members of the LGPS. The Council therefore has responsibilities to discharge as a scheme employer which are separate from its function as scheme administrator
- 1.3 The term 'Scheme Manager' is also used to set out statutory functions. It is defined in Section 4 of the Public Service Pensions Act 2013 as the individual scheme administering authorities in England and Wales. It is therefore simply another term for that function. For the purpose of the West Sussex Pension Scheme this is the West Sussex County Council. Its functions are discharged in accordance with the Council's scheme of delegation by:

- The Governance Committee (further delegated to the Pensions Panel)
- Officers (Director of Finance and Support Services and the Director of Law and Assurance) as described in the scheme of officer delegation.

1.4 Officers have undertaken a review of delegations to ensure that the wording of the terms of reference remain appropriate. Some minor clarifications are proposed as a result of this. There is no proposal to change the scope or content of officer delegations in relation to the scheme manager function.

2. Proposal

Governance Committee

2.1 The current wording of the Governance Committee's terms of reference around pensions responsibilities is:

'9. To exercise the powers and duties of the County Council in relation to the Local Government Superannuation Acts and Regulations made thereunder including decisions on investment under The Local Authority (Discretionary Payments) Regulations 1996 and the Local Authority Pension Scheme Regulations 2013.'

2.2 It is proposed that this is updated to reflect the current practice and terminology and, in particular the role of the Pensions Panel.

'9. **To make arrangements for the discharge of the County Council's function as Scheme Manager and the exercising of the powers and duties of the County Council in its capacity as Administering Authority in relation to the Local Government Superannuation Acts and Regulations made thereunder and in particular to arrange for the discharge of those responsibilities through a formally constituted panel to be named the Pensions Panel.'**

2.3 For consistency with other delegated functions from the Governance Committee it is proposed that the terms of reference for the Pension Panel are amended to ensure that it is clear that the functions are fully delegated to a sub-committee and which can make decisions in its own right.

2.4 It is therefore proposed that the following wording is added to the Pension Panel's terms of reference to refer to the Scheme Manager responsibilities and provide examples of what this entails, rather than an exclusive list:

'Terms of Reference

To exercise the powers and duties of the County Council in its capacity as Administering Authority in relation to the Local Government Superannuation Acts and Regulations made thereunder including to be responsible ~~to the Governance Committee~~ for:

- (1) Appointment of professional and specialist investment advisers and managers on a consultancy basis.

- (2) Consideration of the recommendations of the advisers and managers including the Fund's investment strategy.
- (3) Determination of the Pension Fund's investment strategy and oversight of the delivery of the strategy by the Local Government Pension Scheme (LGPS) ACCESS Joint Committee and directly appointed investment managers.
- (4) Consideration of and response to the recommendations of the LGPS ACCESS Joint Committee.
- ~~(5) Determination of and overseeing the County Council's investment policy.~~
- (6) Consideration of and response to key scheme governance, funding and administration issues, including responses to statutory consultations.
- ~~(7) Overseeing the management of the Pension Fund investments.~~
- (8) Monitoring the Fund's performance.
- (9) Ensuring that arrangements are in place for consultation and communication with stakeholders as necessary.
- (10) Establishing member groups to review aspects of investment strategy or to undertake work on key themes and to report back to the Panel.
- (11) Consideration of the work of the Regulation, Audit and Accounts Committee with regards to the Pension Fund accounts, internal and external auditors' reports, development and operation of risk management and approval of changes to anti-fraud and corruption strategy.'**

Performance and Finance Select Committee

The current wording of the Performance and Finance Select Committee's (PFSC) terms of reference includes the following:

'12. To consider the annual report of the West Sussex Pension Fund on its management and performance.'

- 2.5 As there is no part of the function of the Council as Scheme Manager which falls or can fall within the responsibilities of the Executive (the Cabinet) it is not appropriate for any of the Select Committee's to provide a scrutiny function. It is therefore proposed that this reference is removed as the consideration of pension matters is not consistent with PFSC's Area of Responsibility.
- 2.6 The responsibility for the County Council's participation in the Scheme as an active employer is fulfilled by officers. It is a non-executive function. The current scheme of officer delegations requires updating to reflect the most up to date set of employer responsibilities and to ensure the inclusion of all relevant Directors for specific actions. It is not proposed that the substance or scope of officer delegations be altered. It will remain the responsibility of the Governance Committee to act as the member forum for addressing officer terms and conditions of service and associated employer pension responsibilities and for officers to report to that Committee to seek specific authority as required.

3. Resources

3.1 Not applicable as these changes will better clarify existing roles and responsibilities.

Factors taken into account

4. Consultation

4.1 Not applicable as these changes will better clarify existing roles and responsibilities.

5. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
Risk of poor governance if responsibilities are not clear.	Improved clarification by making the proposed amendments.

6. Other Options Considered

6.1 None.

7. Equality Duty

7.1 Not applicable as these changes will better clarify existing roles and responsibilities.

8. Social Value

8.1 Not applicable as these changes will better clarify existing roles and responsibilities.

9. Crime and Disorder Act Implications

9.1 Not applicable as these changes will better clarify existing roles and responsibilities.

10. Human Rights Implications

10.1 Not applicable as these changes will better clarify existing roles and responsibilities.

Katharine Eberhart

Director of Finance and Support Services

Tony Kershaw

Director of Law and Assurance

Contact: Vickie Hampshire, 033 022 23386

Background Papers: None

Governance Committee
20 January 2020
Pay Policy Statement 2020/21
Report by Director of Human Resources and Organisational Development

Recommendation
That the proposed revisions to the Pay Policy Statement, as set out in Appendix 1, be endorsed for recommendation to the County Council.

1. Background

- 1.1 The Localism Act requires each local authority to produce a Pay Policy Statement (the 'statement') explaining its approach to the pay of its 'chief officers' and its 'lowest paid' employees and the relationship between the two. The statement has to be published and accessible to the public. The statement must be approved annually before 31 March each year prior to the financial year to which it relates.

2. Pay Policy Statement from 1 April 2020

Legislative changes

- 2.1 As in previous years, legislative changes have been expected in relation to public sector exit payments and as a consequence wording of the Pay Policy Statement may need to change. At the time of updating the Pay Policy the timeline for the proposed changes remains uncertain. Authority has been given to the Director of Human Resources and Organisational Change and the Director of Law and Assurance to approve any changes to the wording of the Pay Policy Statement relating to changes in legislation.

Amendments

- 2.2 Appendix 1 to this report, the Pay Policy Statement 2020/21, sets out the pay determination arrangements for staff. Only minor changes to the Pay Policy Statement have been made since it was last updated in February 2020 and these are summarised below. They include the consequences of the arrangement for the joint appointment of the Chief Executive through an agreement with East Sussex County Council. The changes are highlighted in italic and strike-through text in the Appendix:

- (a) Paragraph 4.1: Reference to the Senior Management Group (SMG) job assessment method is not applicable to the most senior role in the organisation and has been removed, correcting an oversight in the previous year's Pay Policy Statement. Text has been inserted to clarify

that the arrangements apply only where the Head of Paid Service (Chief Executive) is an employee of West Sussex County Council.

- (b) Paragraph 4.2 has been inserted to explain the arrangements with East Sussex County Council for the determination of salary and the payment of salary costs where the Head of Paid Service (Chief Executive) is an employee of that authority.
- (c) Paragraph 6.2: Removal of superfluous text and provision of clarity for the Head of Paid Service (Chief Executive) being an employee of East Sussex County Council.
- (d) Paragraph 6.3: Text updated to reflect the next date a pay review is due for employees on SMG grades at tiers 2 and 3.
- (e) Paragraph 6.6: Text amended to clarify that total sum available for pay increases is a decision of the Cabinet Member for Finance on the recommendation of the Chief Executive rather than being a decision of the Chief Executive.
- (f) Paragraph 6.7 amended to incorporate approval arrangements with East Sussex County Council should an additional payment be considered for the Head of Paid Service (Chief Executive) for exceptional performance.

Notes

- 2.3 The County Council publishes information relating to the remuneration of staff over a level defined by government guidance in the Annual Report and Accounts and on the West Sussex Data Store (Finance section) on the County Council's website.
- 2.4 Paragraph 14.2 highlights that in addition to the above information, the County Council is due to publish its next Gender Pay report by 31 March 2020.
- 2.5 The pay multiples between the highest paid salary and the median earnings and between the highest paid salary and the lowest paid staff are shown in Appendix 2. The reference figure used is that of the chief executive prior to the current arrangement with East Sussex County Council. The new arrangement means a significantly lower figure for the remuneration paid to this post.

3. Consultation

The Leader and Cabinet Member for Finance have been consulted and are supportive of the proposals.

4. Resource Implications and Value for Money

The pay policy will enable members and residents to understand the County Council's approach to pay and reward and the value for money this provides. The resources required to maintain the information have been taken into account in determining the content of the pay policy.

5. Risk Management Implications

The County Council has a statutory responsibility to maintain and publish the Pay Policy Statement.

6. Other Considerations

An Equality Impact Report is not required. However action has been taken to ensure that the Pay Policy statement is fully compliant with the Public Sector Equality Duty.

Colin Chadwick

On behalf of Director of Human Resources and Organisational Change

Contact: Colin Chadwick 033 022 23283

Background Papers

None

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West Sussex County Council Pay Policy Statement

For financial year 1 April 2020 - 31 March 2021
As approved by the County Council on TBC

1. Aim of the Pay Policy

- 1.1 The County Council's pay policy aims to ensure value for money whilst enabling the County Council to deliver high quality services to the residents of West Sussex.
- 1.2 The County Council seeks to set pay rates that are competitive but will determine pay at an appropriate level in accordance with relevant legislation, overall affordability, and other relevant factors in recruiting and retaining its workforce.

2. Governance Arrangements

- 2.1 The Governance Committee determines the terms and conditions of employment for all staff.
- 2.2 The Scheme of Delegation provides for the Director of Human Resources and Organisational Change to manage, review and apply the County Council's Human Resources strategy and policies and to apply, with the Chief Executive, the appropriate pay and conditions for the appointment of staff. The responsibilities of members are as described in this Statement.
- 2.3 The Chief Executive is required to keep the Governance Committee informed of any matters of significance relating to staff terms and conditions.

3. Scope of the Pay Policy Statement

- 3.1 This pay policy statement meets the statutory duty to provide the County Council with a description of the policy on staff remuneration for annual approval. It provides information on remuneration arrangements for staff directly employed by the County Council, excluding staff in schools.
- 3.2 The County Council defines its lowest paid employees as those staff paid on the first spinal column point of the County Council's pay grades for National Joint Council (NJC) for Local Government Services staff.
- 3.3 The relationship between the remuneration of the lowest paid employees and that of the Council's senior officers is as described in this statement and by reference to published data requirements.

4. Grading, or Fixed Pay Point, Structure

- 4.1 For ~~staff~~the officer on Strategic Management Grade (SMG) Tier 1 (i.e. the Chief Executive/Head of Paid Service) a single fixed pay point and grading is determined by the Leader **and** Cabinet Member for Finance ~~and Resources~~, **with advice from the** ~~and~~ Director of Human Resources and Organisational Change, **with** using ~~(a) the local SMG job assessment method and (b) reference to benchmarking remuneration arrangements, including Hay evaluation scores, of relevant comparator organisations.~~
This arrangement applies where the post holder is an employee of the County Council.
- 4.2 ***For the period covered by this Statement the payment for the services of the Head of Paid Service (the Chief Executive) will be by way of a payment to East Sussex County Council, which will be the employer of the person appointed to the post and who also holds the equivalent post at East Sussex. That Council will determine the salary in consultation with this Council's Leader and Cabinet Member for Finance. This Council will be responsible for paying half of the salary and associated on-costs of the post.***
- 4.3 For staff on Strategic Management Grades (SMG), Tiers 2 and 3 (i.e. Executive Directors and Directors), a single fixed pay point and grading is determined by the Chief Executive and the Director of Human Resources and Organisational Change (other than in the case of the Director of Human Resources and Organisational Change – in which case it will be the Chief Executive alone), using (a) the local SMG job assessment method and (b) reference to benchmarking remuneration arrangements, including Hay evaluation scores, of relevant comparators where available. This method applies a number of weighted criteria and internal and external benchmarking.
- 4.4 For staff on Strategic Management Grade (SMG) Tier 4 (i.e. Heads of Service or equivalent posts that report in to a SMG Tier 1, 2 or 3 post) a single fixed pay point within SMG Tier 4 Hay pay range is determined using (a) the HAY job evaluation scheme (b) reference to benchmarking remuneration arrangements of relevant comparators (c) the levels of skills and experience of the role holder.
- 4.5 For staff on Hay Grades the County Council uses the Hay job evaluation scheme to allocate jobs to the appropriate Hay pay grade.
- 4.6 For staff on NJC pay grades the County Council uses the NJC formal job evaluation procedures to allocate roles to the appropriate council pay grade.
- 4.7 For staff appointed on Uniformed Fire Fighters, Teachers (Centrally Employed), Soulbury and Youth Worker terms and conditions, grading is established using a national framework.
- 4.8 Salaries for staff who have transferred into the authority under Transfer of Undertakings (Protection of Employment) Regulations (TUPE) or Cabinet

Office Statement of Practice (COSOP) arrangements are those applicable at time of transfer and, by agreement, may also be determined in accordance with the local pay framework described above.

- 4.9 NJC and Hay pay grades are published on the County Council's website.

5. Pay Progression

- 5.1 Staff on NJC and Hay grades are eligible for annual incremental increases to base pay until they reach the top of the grade for their role. There is no further base pay progression once the employee reaches the maximum of the grade, with the exception of a small number of staff who retain an entitlement to an additional long service increment, in accordance with the rules of a scheme which is no longer current.
- 5.2 Incremental progression is subject to 'satisfactory' performance and this will be defined within the Council's Performance Management Policy/Procedure.
- 5.3 Pay progression for Uniformed Fire and Rescue Service, Teachers (Centrally Employed), Soulbury and Youth and Community Worker roles is based on assessment against national standards and/or terms and conditions of service.
- 5.4 Pay progression for newly qualified social workers is determined by the Continuous Professional Development (CPD) and Pay Progression Policy. Progression is subject to satisfactory completion of an Assessed and Supported Year in Employment (ASYE).
- 5.5 Pay progression can also be achieved where an agreed career grade scheme is in place. Employees must satisfy specified criteria.
- 5.6 In exceptional circumstances staff increments may be accelerated within an employee's grade at the discretion of the Director in consultation with the Director of Human Resources and Organisational Change on the grounds of special merit or ability.
- 5.7 The pay progression arrangements for staff who have transferred into the authority with protected terms and conditions are those applicable at time of transfer.

6. Local Pay Awards

- 6.1 There is no automatic annual cost of living increase for staff on SMG or Hay grading arrangements.
- 6.2 Pay awards for Strategic Management Grade, Tier 1 are determined locally through an agreement with **East Sussex County Council**. Any pay increase ~~will be effective from April 2018;~~ and will be subject to reference to benchmarking remuneration arrangements of relevant comparators. Any pay award will follow consultation with the officer concerned.

- 6.3 Pay awards for staff on Strategic Management Grades, Tiers 2 and 3 are determined locally by the Chief Executive and Director of Human Resources and Organisational Change (other than in the case of the Director of Human Resources and Organisational Change – in which case it will be the Chief Executive alone). ~~Any pay increase will be effective from January 2019; thereafter from April 2020; and thereafter every 2 years.~~ **Pay reviews are undertaken every 2 years with the next review due April 2020.** Any pay increase will be subject to (a) good or exceptional performance in an appraisal and performance based on delivery of corporate objectives and/or (b) reference to benchmarking remuneration arrangements of relevant comparators. Any pay award will follow consultation with the staff concerned.
- 6.4 The pay awards for staff on Strategic Management Grades, Tier 4, are determined locally and are approved by the Chief Executive in consultation with the Director of Human Resources and Organisational Change. Any pay award will follow consultation with the staff concerned.
- 6.5 The pay awards for staff on Hay pay grades are determined locally and are approved by the Chief Executive in consultation with the Director of Human Resources and Organisational Change; and following consultation with the staff concerned and UNISON.
- 6.6 The total sum available for any pay increase for staff ~~on SMG or Hay grading arrangements~~ is decided annually by the **Cabinet Member for Finance on the recommendation of the** Chief Executive, in consultation with the Director of Finance **and Support Services, Performance and Procurement** (S151 Officer) and Director of Human Resources and Organisational Change. This is based on consideration of appropriate market and other relevant information, including the performance of the County Council and affordability.
- 6.7 In exceptional circumstances; and as approved by the Leaders **of East Sussex and West Sussex County Councils in the case of SMG Tier 1**; and as approved by the Chief Executive in the case of SMG Tier 2 to 4 and Hay grades - an unconsolidated additional payment may be made to recognise exceptional performance.

7. Market Supplements

- 7.1 The County Council may pay a market supplement, in addition to base salary, in order to recruit or retain staff with special skills, experience or knowledge.
- 7.2 Market supplements are applied, reviewed and withdrawn in accordance with the County Council's market supplement policy which is published on the County Council's website.

8. Remuneration on Appointment and Promotion

- 8.1 It is the County Council's policy to appoint at the minimum of the relevant pay range – where a pay range as opposed to a single spot pay point exists, unless:
- the individual is deemed to be immediately capable of performing the role at the optimum level required for the post;
 - the market value for the individual's experience and/or skills demands a higher entry point;
 - appointment above the minimum of the grade is required to ensure pay parity with other employees performing the role, with similar skills and experience; or
 - nationally determined arrangements apply to remuneration on recruitment and promotion.
- 8.2 The Governance Committee has delegated the authority to determine standard terms and conditions for staff and to delegate to appropriate roles the determinations of salaries on appointments as set out in this Statement.

9. Other elements of the Remuneration Package

9.1 Allowances and Enhancements

The County Council pays allowances to staff for additional responsibilities and duties as required to deliver services. The Allowances and Enhancements Policy is published on the County Council's website.

Allowances for Uniformed Firefighters, Teachers (centrally employed by the County Council), Soulbury and Youth and Community Workers are determined in accordance with national arrangements, and as amended locally.

Staff who have transferred into the authority are covered by the applicable terms in place at time of transfer and as amended locally.

The Director of Law and Assurance is the Returning Officer for County Council elections and is eligible to receive election fees for carrying out these duties.

9.2 Annual Leave

Annual leave entitlements vary according to the terms and conditions of employment. Annual Leave entitlements are published on the County Council's website.

9.3 Pension Scheme

Membership is determined by the relevant conditions of service and is subject to the rules of the scheme. The County Council operates the

following pension schemes: Local Government Pension Scheme (LGPS), the Teachers' Pension Scheme (TPS) the Teachers' Pension Scheme 2015, the Fire Fighters Pension Scheme (now closed to new entrants) (FPS), the New Fire Fighters Pension Scheme (NFPS) (now closed to new entrants), the Firefighters' Pension Scheme 2015, the NHS Pension Scheme and the 2015 NHS Pension Scheme.

9.4 **Abatement of Pension**

Staff who are employed or re-employed by the County Council and who are in receipt of pension either under the Local Government Pension Scheme (LGPS), or the Fire Fighters Pension Scheme (FPS and NFPS) are subject to the rules on abatement of pension for the relevant scheme. The Abatement of Pension Policy is published on the County Council's website.

- 9.5 Staff in receipt of an NHS or Teachers' pension are subject to the relevant Pension Scheme Regulations on abatement.

10. Termination of Employment

- 10.1 The County Council has determined that a vote by the Council on severance payments above a defined threshold is not required. This is due to the fact that the Governance Committee determines all pay policies including those affecting severance payments.

10.2 **Redundancy**

The County Council's policy on redundancy, redundancy payments and re-employment is determined by the Governance Committee and is available on the County Council's website.

Staff who have transferred into the authority are covered by the applicable terms in place at time of transfer.

10.3 **Settlements of employment-related claims**

In exceptional circumstances, and specifically so as to settle a claim or potential dispute, the Director of Law and Assurance can agree payment of a termination settlement sum in consultation with the Director of Human Resources and Organisational Change.

11. Pay Protection

- 11.1 The County Council's pay protection policy is approved by the Governance Committee. The policy provides a mechanism for assisting employees to adjust to a reduction in pay as a result of organisational change, job evaluation or redeployment as a result of ill health or disability.
- 11.2 Staff who have transferred into the authority with protected terms and conditions are covered by the applicable terms in place at time of transfer.

12. Remuneration of staff on a Contract for Services, or engaged via a third-party Agency

- 12.1 The County Council intends that individuals engaged via a Contract for Services are remunerated at a rate consistent with pay of directly employed staff performing a comparable role. However the County Council may reflect market factors in remuneration levels, whilst ensuring value for money.

13. Employment Tax

- 13.1 The Council encourages the direct employment of staff and pays them via the payroll system in order to ensure that appropriate deductions for income tax and national insurance contributions are made. However in exceptional circumstances individuals may be engaged through a Contract for Services in accordance with the relevant legislation.

14. Publication of information on the remuneration of staff; or individuals engaged via Contracts for Service

- 14.1 The County Council publishes information relating to the remuneration of staff over a level defined by Government guidance in the Annual Report and Accounts and on the West Sussex Data Store on the County Council's website. In addition the County Council publishes the pay ratio between the highest paid salary and the lowest salary and this information is available on the County Council's website. ***For the purposes of the period covered by this Statement the reference salary will be the payment made to the Chief Executive during the period in which the post holder was directly employed by the County Council.***
- 14.2 Gender pay reporting will be published annually in accordance with legislative requirements.
- 14.3 The County Council will ensure that all of its arrangements for managing personal data in relation to staff contractual, payment and performance arrangements are managed in accordance with all Data Protection legislation and the County Council's current Data Protection Policies. The County Council is committed to ensuring the security and maintaining the confidentiality of all personal staff data.

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Pay Multiples

Date	Highest Paid	Median Pay	Median Pay: Pay Ratio (to highest paid)	Lowest Pay	Lowest Pay: Pay Ratio (to highest paid)
31/03/19	£190,000	£24,750	1:7.68	£16,394	1:11.59
31/03/18	£190,000	£23,850	1:7.97	£15,014	1:12.65
31/03/17	£190,000	£24,095	1:7.89	£14,514	1:13.09
31/03/16	£153,717	£23,763	1:6.46	£13,614	1:11.29
31/03/15	£152,666	£23,580	1:6.47	Not reported	Not reported
31/03/14	£119,366	£19,696	1:6.06	Not reported	Not reported

* Excludes staff based in schools

Notes:

(1) Pay multiples:

- (a) As specified in the Local Government Transparency Code 2015, the 'pay multiple' compares the taxable earnings of the highest paid member of staff to the median full time equivalent taxable earnings of all staff (excluding staff based in schools) at the specified date.
- (b) 'Lowest pay' is the Full-time equivalent lowest taxable earnings of all staff (excluding schools) at the specified date.

(2) The variation in the median pay level for all other staff between 2014 and 2015 is due to the way the median has been calculated. The calculation has taken into account guidance available at the time of publishing.

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Governance Committee
20 January 2020
Part I
Constitutional changes arising from withdrawal from the EU - authority to effect changes
Report by Director of Law and Assurance

1. Background and Context

- 1.1 The County Council's constitution contains a number of provisions which arise from legislation from the EU or which refer to Directives or Regulations linked to EU legislation. It will be necessary for these constitutional references to be amended to take account of the departure of the United Kingdom from the EU on 31 January and to make any further changes needed to accommodate the transition arrangements as provided in UK primary legislation.
- 1.2 On the 31 January 2020 the European Union (Withdrawal) Act (EUWA) 2018 will mean that EU law will cease to have direct legal effect within the UK. All of the directly applicable EU legislation will become UK domestic law. This will mean that the provisions will continue to have the same effect but that the source of authority will no longer be the EU.
- 1.3 Transitional provisions are set out in the EUWA which means that anything done or in force before exit day and which relates to any element of retained EU law is preserved.
- 1.4 It is necessary for all references to EU legislation, obligations and directives within the Council's Constitution and in any policies and internal guidance to be amended to take account of these changes. As a precaution authority is also sought to amend any legal instrument or agreement to which the County Council is a party which may be required to ensure continued effect and to preserve the rights and interests of the Council.

Recommendation

It is recommended that authority be delegated to the Director of Law and Assurance to make any changes to the Council's Constitution, policies and guidance documents to reflect changes in legislation arising from the UK's withdrawal from the EU and to agree and settle changes to any other affected legal instrument or agreement to which the County Council is or will become a party and that it is recommended that the County Council be asked to confirm this delegation of authority.

Tony Kershaw

Director of Law and Assurance Director

Contact: Tony Kershaw, 033 022 22662

Background Papers - None

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Governance Committee
20 January 2020
Part I
Officer Delegations – Constitutional Provisions
Report by Director of Law and Assurance

Summary

A request has been made to set out the arrangements within the Constitution for the delegation of functions to officers and more specifically the recent change made to the allocation of responsibilities in connection with staff disciplinary matters. Separately the Chairman received a letter from the Chairman of Regulation, Audit and Accounts Committee asking whether the Governance Committee should look at the arrangements for staff grievances. A copy of the letter is attached at Appendix 1.

The report summarises the position and members are asked to indicate whether a review of any of the arrangements described is required.

Recommendation

That the report is noted and that members advise whether any further work should be undertaken.

1. Background and Context

- 1.1 All local authorities operate with the assistance of a scheme of delegation which explains where authority sits for the exercise of the powers and responsibilities of the Council. Most day-to-day decisions will be taken by officers but those must be taken within a scheme which identifies the source of authority for such decisions.
- 1.2 All local authority decisions may be categorised as executive or non-executive. This has significance for elected members as only executive decisions may be taken by a single member (cabinet member). Non-executive decisions must be taken by a committee or by full Council. Officers can have authority to take both executive and non-executive decisions.
- 1.3 The County Council sets out the scope of all delegated authority through its scheme of delegation – Part 3 of the constitution. It describes the authority given to the various non-executive committees and the authority given to cabinet and cabinet members. Appendix 4 to the scheme sets out the officer scheme of delegation. It describes the specific functions allocated to officers identified by their post. The responsibilities of the statutory officers – those whose responsibilities are defined in law rather than by the Council - are also described in the scheme. The scheme is laid out in a table using functional headings for ease of reference.

- 1.4 Defining the scope of the functions delegated to officers, with the exception of the prescribed statutory responsibilities, is the responsibility of the Governance Committee. The Committee can vary, add to or remove specific delegations. No officer can change the scope of the scheme of delegation. Any officer to whom a function is delegated can delegate that function further and can provide for further onward delegation so that every officer can trace their authority to take decisions back to the scheme over which the Governance Committee has control.

2. Arrangements for officer structure and role allocation

- 2.1 At its meeting in November 2016 the Committee approved changes to the structure of the senior officer leadership team. This was accompanied by a full revision of the scheme of delegation – allocating most operational decisions to Directors. Authority was given to the Chief Executive to make any further changes he, as head of the paid service, determined. The Chief Executive was also authorised to make any changes to the scheme of officer delegation as he advised, provided there was no change to the scope of officer delegations or any changes to member functions – which remain with the Governance Committee.
- 2.2 Since that time there have been some changes made to the make-up and structure of the senior officer teams. Consequential changes have been made to the scheme of officer delegation. These are reported to members through the Member Bulletin. The most important issue for members is likely to be to know who is responsible for which areas of the Council's business at any one time. The current version of the scheme of officer delegation provides this. A simplified chart setting out the main areas of officer responsibility is also available and is regularly updated.

3. Staff appeals

- 3.1 The Governance Committee also has responsibility for the oversight of staffing matters, including terms and conditions of service and arrangements for the appointment of senior officers. It also has responsibility for the arrangements for staff appeals. This is discharged through the Appeals Panel – a pool of 18 members from whom boards of appeal are drawn to hear individual appeals from members of staff. The Council's disciplinary policy provides staff with the right to appeal to such a Board against their dismissal. The Council's grievance policy provides a similar right where it is shown that the process of grievance was flawed or new information has come to light since the grievance outcome or for some other substantive reason.
- 3.2 At its meeting in June 2018 the Committee considered a number of options to change the arrangements for staff appeals – aimed at clarifying the responsibility in the process of the Chief Executive as head of the paid service. The report to the Committee showed that no comparator authorities have such extensive involvement of elected members in staff disciplinary or grievance processes.
- 3.3 The Committee agreed to a small change to the arrangements – to provide for the Chief Executive to sit on Boards of Appeal to advise and assist the members who retain the authority to take the decision.

- 3.4 For the sake of clarification there is no requirement for the Chief Executive or nominee to sit on the Board of Appeal and the current proposal is that, save in exceptional cases, the Chief Executive will not sit on Boards of Appeal but will ensure that the Board is fully and properly advised.
- 3.5 Referring to the letter attached at Appendix 1 from the Chairman of the Regulation, Audit and Accounts Committee it should be explained that there have been no concerns raised identifying any inadequacy in relation to the staff grievance policy. A review of the effectiveness of the procedures will however be identified as part of the overall review of internal practice and governance as part of the response to the recommendations in the Children's Commissioner's report. Any proposals for change will be brought to this Committee. Responsibility for oversight of the Council's whistleblowing policy falls to the Standards Committee. The Director of Law and Assurance is currently reviewing and revising the policy and will bring a report to the next meeting of the Standards Committee.

4. Conclusion

- 4.1 The report is provided for information to the Committee to aid any discussion about the constitutional arrangements and to seek advice about whether any aspect of the arrangements require further work or review.

Tony Kershaw

Director of Law and Assurance

Contact: Tony Kershaw, 033 022 22662

Appendix 1 – letter from the Chairman of the Regulation, Audit and Accounts Committee

Background Papers

None

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Nigel Dennis
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Janet Duncton
Chairman of the
Standards and Governance Committees

17 December 2019

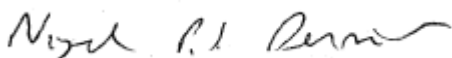
Dear Janet

At the 4 November 2019 meeting of the Regulation, Audit and Accounts Committee members were considering the Annual Governance Statement.

Part of the discussion focussed on the whistleblowing policy and the recent reports of bullying within the authority. The Committee queried if the current whistleblowing policy was fit for purpose and also the processes in place for staff to raise grievances with managers.

The Committee therefore would like to request that the Standards Committee considers the current whistleblowing policy to ensure it is fit for purpose. Additionally, the Committee would like to request that the Governance Committee considers a review of the grievance process to ensure that it gives staff a genuine ability to raise concerns.

Yours sincerely,



A handwritten signature in blue ink that reads "Nigel P. Dennis".

Nigel Dennis
Chairman
Regulation, Audit and Accounts Committee

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