

# Public Document Pack

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26 June 2020

## Governance Committee

A virtual meeting of the Committee will be held at **10.30 am** on **Monday, 6 July 2020**.

**Note:** In accordance with regulations in response to the current public health emergency, this meeting will be held virtually with members in remote attendance. Public access is via webcasting.

**The meeting will be available to watch live via the Internet at this address:**

<http://www.westsussex.public-i.tv/core/portal/home>

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## 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 as 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 3 - 8)

The Committee is asked to agree the minutes of the meeting held on 22 June 2020 (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. **Joint leadership arrangement with East Sussex County Council** (Pages 9 - 12)

Report by Director of Law and Assurance.

The Council in December 2019 entered into an arrangement with East Sussex County Council for the joint appointment of a chief executive and for the provision of mutual support to address a range of corporate challenges. The Committee is asked to review the arrangement by reference to its original aims and in light of experience.

5. **Good Governance Review** (Pages 13 - 28)

Report by Director of Law and Assurance.

To consider the implications, for those areas for which the Committee is responsible, of the programme of work on aspects of Council governance and to endorse the revised whistleblowing policy as part of the good governance work related to organisational culture.

6. **Plans for Member Meetings during the Covid-19 Emergency** (Pages 29 - 32)

Report by the Director of Law and Assurance.

The Committee is asked to consider proposals for an additional meeting of full Council in September.

7. **Date of Next Meeting**

The next meeting of the Committee will be held at 2.15 p.m. on Monday, 7 September 2020.

**To all members of the Governance Committee**

## **Governance Committee**

22 June 2020 – At a virtual meeting of the Governance Committee held at 2.15 pm.

Present: Cllr Duncton (Chairman)

Cllr Patel, Cllr Bradbury, Cllr M Jones, Cllr A Jupp, Cllr Lanzer, Cllr Marshall, Cllr Mitchell and Cllr Walsh (left at 4.45 pm)

Apologies were received from Cllr Kennard

Also in attendance: Cllr Edwards

### **Part I**

#### **8. Declarations of Interest**

8.1 In accordance with the Code of Conduct Cllr Walsh declared a personal interest as Leader of Arun District in relation to the item on member meetings during the Covid-19 emergency and Cllr Lanzer declared a personal interest in the item on the Member Development Strategy, as a member peer of South East Employers.

#### **9. Minutes of the last meeting of the Committee**

9.1 Resolved – That the minutes of the meeting held on 20 May 2020 be approved as a correct record and that they be signed by the Chairman.

#### **10. Plans for Member Meetings during the Covid-19 Emergency**

10.1 The Committee considered proposals for the July County Council meeting as well as for meetings to the end of this calendar year as set out in a report by the Director of Law and Assurance (copy appended to the signed minutes).

10.2 Support was expressed for the new ways of working via virtual meetings and it was suggested the Committee should give consideration in future to how the benefits could provide more efficient ways of working once the current emergency was over, particularly for those members who lived some distance away from County Hall.

10.3 A question was asked about the plans for formal member meetings to the end of December. The Director of Law and Assurance said Appendix B was the current plan but it remained entirely flexible and would be updated based on government guidance.

10.4 Members were in general support of the plans for the meeting of the Council on 17 July. Some concern was expressed about the reduction in the length of the meeting, the time limits for individual items and the removal of the facility for notices of motion.

10.5 The Director of Law and Assurance commented that the proposed length of the meeting was a result of member feedback on the virtual meetings held so far. All members had been consulted on the proposals before the Committee and only four had favoured a longer meeting. Overall the meeting was only one and half hours shorter in length than the usual arrangements.

10.6 A query was also raised about the proposed rules for the meeting, as set out at Appendix A. The Director of Law and Assurance commented that it was to compensate for the constraints of virtual meetings. Also, Cabinet Members would not be able to seek advice from officers during the meeting. The proposal for officers to speak was purely to give Cabinet Members the option of asking officers to deal with technical questions.

10.7 On the plans for written questions the Director of Law and Assurance said that the removal of the usual limit would allow all members to submit a question should they so wish, leading potentially to 70 questions on each of the first two items. The suggested restriction to the length was to enable them to be responded to in the time available.

10.8 General support was expressed for hybrid meetings with some members in the Council Chamber and some joining the meeting virtually. The Leader commented that the Council was working towards making that possible when regulations allowed.

10.9 It was agreed by members that an additional meeting of the full Council should be held between the July meeting and the one scheduled for October, as mentioned in paragraph 2.5 of the report. The Leader asked that potential dates be brought to the next meeting of the Committee on 6 July for consideration. There was support for the meeting to follow the usual rules of debate and to be a whole day meeting with a lunch break.

10.10 In response to a question about Task and Finish Groups (TFGs), the Director of Law and Assurance reminded members that it is the normal arrangement for scrutiny committees as far as possible to keep to one TFG at any one time.

10.11 Resolved -

- (1) That the plans for the County Council meeting on 17 July 2020 (as set out at paragraph 2 of the report) be approved;
- (2) That the amendments to Standing Orders for Virtual Meetings (as set out in Appendix A to the report) be endorsed;
- (3) That an additional meeting of the County Council be held between the July and October meeting and that potential dates be brought to the next meeting of the Committee;
- (1) That the list of member meetings to the end of December 2020 (as set out at Appendix B to the report) and the principles for holding these meetings, to be updated in relation to government guidance, be approved;

- (5) That any consultation required on proposals for future member meetings (as set out at paragraph 4 of the report), be considered by the Committee at its next meeting; and
- (6) That plans for member meetings should be reviewed at each meeting of this Committee until further notice.

## **11. Senior Officer Settlements**

11.1 Further to the discussion at the meeting of the Committee on 20 January 2020, the Committee considered a report by the Interim Head of Human Resources and Organisational Change and the Director of Law and Assurance on the arrangements for decisions on severance payments for senior officers (copy appended to the signed minutes).

11.2 Cllr Walsh commented that the Council should follow the guidance in the Localism Act 2011 and refer such settlements to full Council for approval, rather than involving just the Cabinet Member for Finance. He therefore put forward the following proposal which was seconded by Cllr Jones:

'That the Governance Committee recommends to the County Council that the Council follows government guidance from the Localism Act 2011 that officer severance payments over £100,000 should be determined by the full Council.'

11.3 Cllr Jones commented in relation to the options put forward in paragraphs 2.2 and 2.3 of the report that neither option, as currently drafted, gave full Council or minority party involvement.

11.4 The Leader agreed that any significant settlement should have member involvement. However, in his view with full Council meetings being two months' apart and as any debate on a settlement would need to be held in Part II, such an option would be impractical. Either of the options put forward in the report would be acceptable to him and his understanding was that option A would include a minority party member.

11.5 Cllr Lanzer commented that he felt that the requirements in the 2011 Localism Act were ill conceived and was guidance only. He understood that none of the neighbouring upper tier councils took such decisions to their full council meeting. He therefore proposed that the Committee should adopt option A but that the Chairman of the Performance and Finance Scrutiny Committee should be included within the panel of members. The proposal was seconded by Cllr Bradbury. Cllr Lanzer accepted a suggestion by Cllr Walsh that the proposal should also include one minority party member to give a proposal as follows:

'Option A: In cases where the officer subject to a proposal for severance is a member of the Corporate Leadership Team and where the value of any severance is expected to exceed £100,000 it is suggested that the matter is considered (excluding any officer subject of the severance) by the Chief Executive, the Monitoring Officer and the Chief Finance Officer and that the proposal is then presented to a panel of three to five members of the

Governance Committee, to include the Chairman, the Chairman of the Performance and Finance Scrutiny Committee and at least one minority party member.'

11.6 On the broader issue of contractual terms, the Director of Law and Assurance said that contracts for senior officers were approved by the Appointing Committee. If the Appointing Committee felt the terms and conditions of contract were a matter of concern it could refer it to the Governance Committee whose role it was to oversee staff terms and conditions.

11.7 The proposal by Cllr Walsh seconded by Cllr Jones, as set out at minute 11.2, was put to the vote and lost.

11.8 The proposal by Cllr Lanzer seconded by Cllr Bradbury, as set out at minute 11.5, was put to the vote and carried.

11.9 Resolved – That Option A, as amended and set out at minute 11.5 above, be approved as a change to the current policy on officer severance payments for inclusion in the terms of reference of the Member Panel in the Scheme of Delegation.

## **12. Unison Recognition**

12.1 Following the deferral of the issue at the last meeting, the Committee considered a revised report by the Interim Director of Human Resources and Organisational Change on a proposal for a voluntary agreement to provide greater clarity on the relationship with Unison as representative body for staff (copy appended to the signed minutes).

12.2 Cllr Lanzer, Cabinet Member for Economy and Corporate Resources commented that there were two options for proceeding towards recognition for the group of staff for the purposes of collective bargaining on pay: a voluntary recognition agreement or a statutory recognition route. The statutory recognition route was an application to the Central Arbitration Committee (CAC) which was an independent body. If there was a majority of staff in the proposed group in the union the process would invoke statutory recognition without the need for a ballot. If not, a ballot would be required and, in his view, the statutory route was preferred.

12.3 Cllr Lanzer said he accepted that recognition via either route could be beneficial for staff relations. However, the report referred to membership of Unison being close to 50% of the proposed bargaining group. In order to operate a process which was truly independent and therefore be likely to meet the will of the staff involved, in his view the Committee should opt for the statutory recognition route by not approving voluntary recognition at this time.

12.4 The Leader thanked Cllr Lanzer for his comments and for the revised report. He commented that the Council valued good relationships between all stakeholders including staff who wanted to be represented by a union. He acknowledged that previously there had been some issues with the negotiation of pay settlements for the group of staff in question. However, there had been a change in management and, given the

response rate to the recent staff engagement, it was hard to see it as representative of the group and to give enough justification to pursue the voluntary recognition route.

12.5 The Director of Human Resources and Organisational Change commented that the recent exercise had asked staff to raise any comments or objections rather than seeking confirmation.

12.6 Some members supported the proposals in the report which they felt would build on and strengthen the previous good relationships with staff. The alternative was a process which was only followed when a voluntary agreement could not be achieved within an organisation. However, on balance the Committee did not accept the proposal for voluntary recognition in the report and voted to reject the recommendation.

12.7 Resolved – That the request for the Director of Human Resources and Organisational Change to enter into and maintain a recognition agreement with Unison to include recognition rights for employees on HAY; and Public Health/Agenda for Change grades for pay reviews be refused.

### **13. Notice of Motion on Abuse of Members and Staff**

13.1 The Committee was reminded that a motion on the abuse of members and staff to the County Council in December 2019 had been referred to the Cabinet Member for Economy and Corporate Resources for consideration. The Cabinet Member was broadly supportive of the motion and, as a result, some changes were being proposed to the policy on dealing with malicious communications. As this fell within the responsibility of the Committee members were asked to consider a report by the Director of Law and Assurance and the Interim Director of Human Resources and Organisational Change on the proposed revisions (copy appended to the signed minutes).

13.2 Cllr Edwards, who had proposed the motion at the Council meeting, had been invited to attend the Committee. He expressed his thanks to the Cabinet Member for his work on the aspects of the proposals put forward in the motion, including the policy before the Committee for consideration, and set out the background to the motion. He referred to his personal experience of abuse and threats connected to his role as a county councillor. In the light of this he believed the definition of hate crime should be broadened to include an individual's political beliefs or affiliation so that malicious communications aimed at councillors received the same level of response as other hate crimes. Otherwise such actions could stifle political opinion or debate or discourage people from standing for election.

13.3 In his view it was important that members should receive guidance on how to deal with malicious communications and he welcomed the inclusion of members in the policy before the Committee.

13.4 The Committee welcomed the proposals although a comment was made that it was not a widespread problem in the county. The Cabinet Member for Economy and Corporate Resources confirmed that members

as well as staff could access the Employee Assistance Programme referred to in Appendix A to the report.

13.5 Resolved –

- (1) That the revised Policy on Dealing with unreasonable complaints and unacceptable behaviour (attached at Appendix A to the report) be approved; and
- (2) That the action taken to date to address issues raised in the notice of motion be noted.

**14. Member Development Working Group: Phase 2 - Role of Councillor and updates on Phase 1 - Removing barriers to stand for election**

14.1 The Committee considered a report by the Director of Law and Assurance on the recommendations of the Member Development Working Group which has completed phase 2 of its work in preparation for the County Council elections in 2021 (copy appended to the signed minutes).

14.2 Resolved –

- (1) That the draft job description in Appendix A to the report and amendments to specific job descriptions in paragraph 2.2 be approved; and
- (2) That the 'Fulfilling the Member Role' document in Appendix C of the report and supporting documents in Appendices D to F to the report be approved.

**15. Proposed Member Development Strategy**

15.1 The Committee considered a report on the draft Member Development Strategy as part of the work towards applying for the South East Employers' 'Charter for Elected Member Development' (copy appended to the signed minutes).

15.2 Resolved – That the Member Development Strategy, as set out at Appendix A to the report, be approved.

**16. Date of Next Meeting**

17.1 The Committee noted that the next meeting will be held at 2.15 p.m. on Monday, 7 September 2020.

The meeting ended at 4.58 pm

Chairman



<b>Governance Committee</b>
<b>6 July 2020</b> <span style="float: right;"><b>Part I</b></span>
<b>Joint leadership arrangement with East Sussex County Council</b>
<b>Report by Director of Law and Assurance</b>

### **Summary**

The Council in December 2019 entered into an arrangement with East Sussex County Council for the joint appointment of a chief executive and for the provision of mutual support to address a range of corporate challenges.

The report provides an opportunity for the Committee to review the arrangement by reference to its original aims and in light of experience.

### **Recommendations**

- (1) That the Committee notes the report and confirms the continuation of the arrangement with East Sussex County Council; and
- (2) That the Committee identifies any additional sources of assurance or evidence of benefits which may support a further review of the arrangement and when such a review may be planned.

## **Proposal**

### **1. Background and Context**

- 1.1 In December 2019 the County Council approved the appointment of the Chief Executive of East Sussex County Council to be also Chief Executive of West Sussex County Council as 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 and in particular its recommendation for a deep and wide ranging review of leadership governance and culture.
- 1.2 The agreement started on 6 January 2019 and the aim was for a first review after around three months. There is also provision for both Councils to review the arrangement following the County Council elections in May 2021. Either Council will be able at any point to terminate the arrangement by providing notice of six months. The three month review has been delayed by the current public health emergency.
- 1.3 The arrangement met the County Council's need to secure stable and effective executive leadership within a reasonable time scale and to show that the County Council was acting quickly and responsibly to address identified challenges and the expectations of those government departments and external agencies engaged with the Council on its improvement journey

– both in relation to critical service delivery priorities and the corporate improvements identified.

- 1.4 The broader arrangement with East Sussex County Council to provide support and capacity to improve was supported through an agreement between the two Councils using s.113 Local Government Act 1972. This allows one council to enter into an agreement with another for the placing of officers at each other's disposal. The officers made available remain employed by the providing council but must act in the interests of the receiving council.
- 1.5 The agreement sets out the aims of the proposal in tackling the County Council's corporate challenges to become more effective and efficient and describes how mutual support and assistance will be available for shared improvement activity. These arrangements have been deployed in a number of ways during the six months of the agreement.
- 1.6 The arrangement was also proposed so as to make best use of areas of common challenge and shared areas of responsibility and partnership working which already existed between the two Sussex County Councils and the benefits of closer working in such areas as NHS joint working, transport planning, economic development, climate change and response to government initiatives.

## **2. Proposal – review of the arrangement**

- 2.1 The Committee is asked to consider whether the arrangement remains valuable and that it meets the needs of the County Council.
- 2.2 The Committee may be assisted by consideration of the effectiveness of the arrangement by reference to the original aims and objectives:
  - To achieve early and real stability in the Council's executive leadership
  - To provide the means of direct mutual support for areas of corporate challenge
  - To enable the Council to address broader governance challenges promptly and effectively
  - To provide assurance to Government and external agencies that the Council has the capability and capacity to improve
- 2.3 It is for members to consider whether that stability has been achieved and maintained. The joint appointment of chief executive has certainly been received positively by the executive leadership. The executive leadership team has held joint management events with colleagues in East Sussex and there has been valuable and continuing use of advice, support and the sharing of best practice in most areas of the Council's strategic service operations and support services. These have made use of the areas of common challenge referred to in 1.6 above.
- 2.4 The good governance review was commenced promptly in January but was diverted by the current public health emergency. The project is however back on track and is identifying a number of valuable work streams to bring real improvements to all areas of the Council's governance, culture and strategic

working. The current emergency has also reinforced the value of such close working in partnership. The Committee has a separate report on the work of the good governance review.

- 2.5 The current emergency activity has provided a real test both of the value and the effectiveness of the joint arrangement and the benefits of closer joint working. Part of the learning from the current events will further enable members to evaluate the overall benefits of the arrangement when the opportunity arises for members to take stock of the impact and of the Council's response to the emergency and the joint working which has been a feature of the activity.

### **3. Resources**

- 3.1 The arrangement for the joint appointment meant a saving on the previous costs associated with the post of chief executive. No additional costs arise from the operation of the mutual support agreement -all support and cross council working being undertaken without charging.

## **Factors taken into account**

### **4. Consultation**

- 4.1 The arrangement was considered by the Cabinet and by the appointing committee at the time of the appointment of the joint chief executive and was presented to full Council for approval.

### **5. Risk Implications and Mitigations**

<b>Risk</b>	<b>Mitigating Action</b>
Conflict of interest in relation to policy and strategic operations	The agreement contains conflict provisions
Failure to deliver the desired outcomes	The agreement provides for mutual and unilateral termination and review.
Shift of political priorities or aims	The agreement will be reviewed after the next Council elections in May 2021.

### **6. Other Options Considered**

- 6.1 Other options were addressed in the report considered by full Council in December 2019.

### **7. Equality Duty**

- 7.1 The report does not engage the public sector equality duty as it relates only to the internal governance of the Council.

### **8. Social Value, Crime and Disorder Act and Human Rights Implications**

None.

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**Appendices**

None

**Background Papers**

None

<b>Governance Committee</b>	
<b>6 July 2020</b>	<b>Part I</b>
<b>Good Governance Review</b>	
<b>Report by Director of Law and Assurance</b>	

### **Summary**

In January 2020 the County Council commissioned a programme of work on aspects of Council governance including the procedural and constitutional aspects of how the Council does business and which is the responsibility of this Committee.

Although diverted by the impact of the public health emergency the project has made significant progress and has engaged a wide range of staff and stakeholders. The wider member engagement is scheduled for 8 July.

The report provides an overview of the work of the project and current action being planned or taken forward and provides an opportunity for members to consider the implications for those areas for which the Committee is responsible.

The report also invites members to endorse the revised whistleblowing policy as part of the good governance work related to organisational culture.

### **Recommendations**

- (1) That the Committee notes the report and the plans for a further report on the output from the workstreams identified and considers the principles for guiding the work on streamlining and simplifying decision making (Appendix 1); and
- (2) That the Committee approves the revised Whistleblowing Policy (paragraph 2.5 and Appendix 2).

## **Proposal**

### **1. Background and Context**

- 1.1 In response to a number of external reviews and inspections in 2019 and in particular the recommendations of the Children's Commissioner's report published in December the County Council identified a need to tackle a range of issues affecting how the Council functions and manages its business.
- 1.2 External advice and expertise were secured to lead a project and facilitate work from a range of officers across services. The output of that work has led to a number of proposals for further work based on agreed principles and priorities this activity has identified.

- 1.3 There will be an opportunity for all members to engage in the output and planned actions from the whole good governance project. That was planned for earlier in the project but, due to the current situation this was delayed but will now be undertaken through an all member day on 8 July. That session will cover the full range of governance raised through the project.
- 1.4 The purpose of this report is to provide this Committee with an update on work affecting the constitutional, decision making and member meeting aspects of the Council's governance and also to capture improvements that have been made to date in those areas.

## **2. Update on the Good Governance Project**

- 2.1 In December 2019 the meeting of the County Council approved a number of significant changes to corporate governance largely aimed at improving the Council's democratic systems to achieve greater transparency, clarity of role and focus on purpose. Those changes included:
  - Monthly public Cabinet meetings
  - Collective decisions by Cabinet on all major policy areas
  - A reset of the Council's approach to its role as Fire & Rescue authority including a dedicated scrutiny committee
  - A revised set of governance arrangements for the scrutiny function
- 2.2 The good governance project was designed to cover a wide range of Council governance from how decisions are made and how it identifies and achieves strategic ambitions to the value of its corporate culture - a shared understanding of how things should work and how behaviours can influence good outcomes and effective working by and between officers and members.
- 2.3 Areas of governance identified in the project include, in terms only of those relevant to the functions of this Committee:
  - Ease and clarity of decision making – by officers and members
  - Greater accountability and trust through clear lines of delegation
  - Simpler and more easily navigated systems for the Council's decisions and management of risk and the assurance of compliance
  - Effectiveness of the scrutiny process through timely but focused influence on adding value to outcomes
- 2.4 The work on these areas will be aided by principles which have emerged from the work to date based on feedback from officers and members. Those are set out in Appendix 1. to this report which also provides further detail on the areas of work being undertaken. The output will be brought to a future meeting of the Committee and members will also have the opportunity to influence these at the member session on 8 July.

## Whistleblowing Policy

- 2.5 As part of the work to address some reset of the culture of the Council there are a number of workstreams which will consider how officers work, how officers and member relations can be better aligned to the Council's priorities and how all working arrangements serve the interests and priorities of the Council. As part of that work – and focusing on issues of openness to challenge and accountability there has been a refresh of the Council's whistleblowing policy. The revised text is attached as Appendix 2 for the Committee's endorsement.
- 2.6 It is proposed that, once endorsed, there is a simple plan for dissemination, awareness raising and promotion of the policy. The policy is not new although it has been made more accessible. Engagement with Unison and nominated service leads has helped the changes. It will also require work to ensure the officers who are expected to respond to and deal with issues raised under the policy's procedures have the tools skills and knowledge to deal with them appropriately.
- 2.7 The Standards Committee has responsibility for overseeing the effective use of the Whistleblowing policy and receives annual reports on issues of corporate concern which are raised by concerns raised under the policy. This role for the Standards Committee will continue.

## 3. Resources

- 3.1 There are no resource implications from the matters covered in this report. The costs associated with the good governance review overall will be addressed when Cabinet considers the further output and action plan implementation in due course.

## Factors taken into account

### 4. Consultation

- 4.1 The project has included a very wide ranging engagement with officers and planned engagement with members. Cabinet has contributed to the most recent examination of the output from the project and full member engagement is planned both for this month and for the further stages of the project's implementation.

### 5. Risk Implications and Mitigations

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
That the critical objectives – identified in significant external inspections are not realised.	Full member involvement in the project, the prioritisation of actions and their implementation and that measurable outcomes are agreed.

**6. Other Options Considered**

- 6.1 These form part of the first review of the project's output with choices on which work streams should be prioritised.

**7. Equality Duty**

- 7.1 The report does not engage the public sector equality duty as it deals mainly with internal council governance

**8. Social Value Crime and Disorder Act and Human Rights Implications**

None

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**Appendix 1** Principles to guide work on good governance

**Appendix 2** Whistleblowing Policy

**Background Papers**

None



## **Good Governance Review**

### **(a) Principles for approach to Good Governance - better decision making**

- Be clear about why each board or task and finish group exists and its membership and purpose and do not set up new boards without a compelling reason to do so.
- We are clear and consistent about when and how members should be involved in formal decision making or engagement.
- We review sign-off levels and the schemes of delegation ensuring officers at the right level are empowered to make decisions with accountability.
- We ensure simple forms for reports that meet the needs of members and reduce the need for duplication to serve different processes.
- We use refresher training to help bring governance – the Constitution - to life and ensure that members and officers are clear about their roles and relationships.
- We value and promote relationships of trust and challenge.
- We have a clear strategy and vision for the organisation, so we know how our day-to-day decisions fit into that.
- We are open and honest about how and where decisions get made.
- We comply with processes: no-one feels the need to circumvent the system and is challenged if they do.
- Members are involved in scoping ideas at an earlier stage.
- We build on the work already done to make the Council more open and challenging.
- Scrutiny helps us get the best decisions and plans through constructive, well-informed challenge.

### **(b) Areas of work for the decision-making workstream**

1. Capture a streamlined approach to formal member and officer governance in a single Place in a simple Code of Governance, which captures the purpose and role of all key bodies in a single place – and sets out where and how good decision and productive scrutiny is best carried out. The code should also be clear about expectations of ways of working and the role of members.
2. Extend use of flow charts that show who needs to be involved when. Produce clear guidance on when and how officers can most constructively engage members informally to help them better carry out their formal roles.
3. Strengthen content of member induction and training (tied closely to the Code of Governance). This should include periodic learning sessions with scrutiny and Cabinet to take stock of what is working, and what needs further improvement.
4. Explore coaching and learning options for Cabinet/committees to accelerate development of collective working.
5. Review of scheme of delegation, decision-making process and boards – co- led by a mix of functional and service directors. The aim will be to simplify,

streamline how we make good decisions – increasing delegation, transparency and accountability.

6. Map existing boards, terms of reference, delegations and processes; capture good and bad experiences of decision-making existing system; and, look outside at good practice elsewhere and see how that can inform our approach.

# **Whistleblowing Policy**

Raising concerns in confidence

June 2020

## Whistleblowing

### 1. The purpose of the whistleblowing policy

- 1.1 This policy explains how employees and others can raise concerns about things happening at the Council that worry them and without fear of any consequences from speaking out. All staff and those who work with the Council should feel able to call out when things don't look right. The policy supports them to do so. It is for times when other routes such as raising a grievance do not provide a way forward.
- 1.2 Employees are often the first to realise that there may be something wrong at work. They may not want to appear disloyal to colleagues or to the Council. They may fear recrimination or victimisation. It may seem easier to ignore a concern rather than report what may just be a suspicion.
- 1.3 The Council is committed to the highest possible standards of openness, fairness and accountability. We want employees and others working with us who have serious concerns to come forward and voice them. We want to make sure all staff feel safe and able to do so.

**You can voice your concern without fear of victimisation, discrimination or disadvantage. You are encouraged to raise concerns about the Council rather than ignoring them or waiting for others to speak up. The County Council wishes to show that it has a listening culture of improvement and openness.**

### 2. Who the policy applies to

- 2.1 The policy applies to all employees regardless of contract type, volunteers, interim staff, secondees and those contractors working for the County Council on Council premises, for example, agency staff, Capita staff, or drivers. It also covers those providing services under a contract with the Council in their own premises, for example, care homes or foster carers. Schools have a separate but identical policy suited to their workplace.
- 2.2 There will be others with a connection with the County Council who become aware of or experience something they feel needs to be reported about the County Council. They include:
  - employees of contractors or providers of council-related services where that organisation's own whistleblowing policy is not effective; or
  - those assisting or involved with services in the adult or childcare sector where avenues for complaint are not clear or not seen as reliable;
- 2.3 The County Council will expect all organisations with which it contracts and which provide a service on behalf of or in partnership with the Council to have in place a robust, clear and well-advertised whistleblowing policy so that the Council can be confident that persons employed by or connected with them have a fair and confidential process by which to raise concerns.

**Whatever your connection with Council's services you should feel able to raise a concern and have it looked into. We will help you find the right way to do that You should feel confident about doing so and be able to take advice in confidence about how best to speak out.**

### **3. How whistleblowing fits with other ways of raising concerns**

- 3.1 The whistleblowing policy is intended to cover concerns that may fall outside the scope of other procedures. These situations could include:
- conduct which is a criminal offence or a breach of the law;
  - falsification of records or the misuse of data;
  - health and safety risks, whether to the public or employees;
  - damage to the environment;
  - the improper use of public funds;
  - fraud and corruption;
  - sexual, physical or verbal abuse or bullying; and
  - any other unethical conduct.
- 3.2 Other procedures are available to raise concerns and these should be considered before assuming you need to use the whistleblowing policy:
- Grievance - where the concern affects your personal experience at work – you should contact your grievance officer or a trade union officer. You can find the Council's grievance policy on the HR Zone on The Point (the intranet) *[add link]*
  - Anti-Fraud and Corruption Strategy - for cases where the concern is about the misuse of public money (see paragraph 7.5 below)
  - Data Protection rules - for concerns about how the Council deals with personal information - contact the Council's Data Protection Team or use the breach notice process. You can find the breach report process on the HR Zone on The Point (the intranet) *[add link]*
  - Financial Regulations - for how the Council deals with its own finances - contact the Chief Accountant or Head of Internal Audit
  - Complaints Policy - for customers or users of services to complain about Council services - contact the Customer Relations Team
  - Member Code of Conduct – complaints about the conduct of county councillors or the elected members of other councils are dealt with by the Standards Committee of the relevant Council and should be referred to the Monitoring Officer (see paragraph 7.5 below).
- 3.3 You should speak to your line manager in the first instance about your concern and check which procedure is the right one. You may prefer to contact one of the officers listed in 7.3 for help. It may be better for you to use one of the procedures above as it may mean we can sort the problem more quickly. The contact officer can allay any worries you may have about the best way to voice your concern.
- 3.4 This whistleblowing policy is for when these other options do not feel right – perhaps because you are worried about the consequences for you or because you do not want to be identified as the complainant – something that:

- makes you feel uncomfortable in terms of the council's values;
- is against the Council's Standing Orders and policies;
- amounts to improper conduct; or
- threatens the reputation of the County Council.

#### **4. Safeguards: Feel safe from discrimination or victimisation**

- 4.1 The Council wants to be supportive of employees who speak out for what matters to them. It recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true, you have nothing to fear. You will be doing your duty to your employer and those for whom you are providing a service.
- 4.2 The Council will not tolerate any harassment, discrimination or victimisation and will take action to protect you when you raise a concern in good faith. There can be no adverse consequences for your employment at the Council from raising such concerns.

#### **5. Confidentiality**

- 5.1 All concerns raised in this way will be treated in confidence and every effort will be made not to reveal your identity to anyone else if you so wish. At the appropriate time, however, you may need to come forward as a witness if effective action is to be taken to tackle something which is wrong. That will be discussed with you to make sure you are content. It means you should not be afraid of giving your name to the contact officer when you want to make a complaint under this policy.
- 5.2 You are encouraged to put your name to your concern whenever possible, even when you prefer to keep it from others. Concerns expressed anonymously are much less powerful. They may still be looked into depending on their seriousness, the credibility of the information and the likelihood of the allegation being substantiated from attributable sources.

#### **6. False or malicious allegations**

- 6.1 If you raise a concern with a genuine and reasonable belief it is true, but it is not confirmed or cannot be proved by the investigation, no action will be taken against you. The outcome and the reasons for it will be explained to you.
- 6.2 If, however, you make an allegation maliciously or for personal gain, and the investigation confirms this, then disciplinary action may be taken against you.

#### **7. How to Raise a Concern**

- 7.1 As a first step, consider raising your concern with your immediate manager or another manager in your area. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the poor behaviour. It will then be for your manager to deal with it. If you do not feel able to

Speak to your manager you should contact one of the Contact Officers listed below to get advice about how to proceed.

- 7.2 Each Directorate has a Contact Officer as the person to contact if you do not feel able to speak to your line manager or another senior officer. The Contact Officer will be aware of the way this policy works and the protections it gives. They can give you advice on how to deal with your concerns and they can arrange an investigation if that is the right thing to do next. Any advice they give you will be strictly confidential. You do not have to use the Contact Officer for your own directorate. If you have a concern about your own manager or one which affects another service you may prefer to speak to a Contact Officer in another area of the Council or to the Lead Contact Officer. If it is about financial matters the Internal Auditor might be appropriate.
- 7.3 You may wish to make a call to a Contact Officer or arrange to speak to them privately. If you mention 'whistleblowing' they will understand the need to make time for you and to deal with the discussion in confidence.

**The Contact Officers are:**

<b>Service</b>	<b>Contact Officer</b>
Lead Contact Officer	Tony Kershaw Monitoring Officer Director of Law and Assurance (Contact no. 033 022 22662)
Chief Executive's Office	Dave Loveman (Contact no. 033 022 28804)
Adults' Operations	Alan Adams (Contact no. 033 022 28140) or Chief Social Worker
Children's Services	Lucy Butler (Contact no. 033 022 27643)
Communities	Emily King (Contact no. 033 022 23876)
Education and Skills	Paul Wagstaff (Contact no. 033 022 26591)
Environment	Steve Read (Contact no. 033 022 24037)
Finance and Support Services	Katharine Eberhart (Contact no. 033 022 22087)
Fire & Rescue	Neil Stocker (Contact no. 033 022 26486)

<b>Service</b>	<b>Contact Officer</b>
Highways and Transport	Matt Davey (Contact no. 033 022 25622)
Human Resources and Organisational Change	Jamie McGarry (Contact no. 033 022 25277)
Property and Assets	Andrew Edwards (Contact no. 033 022 24261)
Public Health	Anna Raleigh (Contact no. 033 022 24775)

- 7.4 The Contact Officer will ensure you are kept informed of the progress of your complaint and that you are aware as far as possible of the outcome and any action which results. If you are concerned about any aspect of your complaint once you have made it you should speak to the Contact Officer.
- 7.5 There are also officers in the Council who have particular responsibilities for the standards of conduct we seek to uphold. If you feel unable to use either your own management or a Contact Officer, you may contact one of the Responsible officers listed below.

#### **Responsible Officer**

Monitoring Officer (Director of Law and Assurance) - Tony Kershaw  
(Contact no: 033 022 22662)

Chief Financial Officer (Director of Finance and Support Services)  
– Katharine Eberhart  
(Contact no: 033 022 22087)

Chief Internal Auditor – Neil Pitman  
(Contact no: 07802 843562)

Head of Paid Service (Chief Executive) – Becky Shaw  
(Contact no: 033 022 24628)

- 7.6 If your concern is about a financial issue you can use the Anti-Fraud Hotline (Tel no: 0330 2228666, E-mail: [fraudhotline@westsussex.gov.uk](mailto:fraudhotline@westsussex.gov.uk)). The Anti-Fraud and Corruption Policy can be found on the HR Zone on The Point (the intranet). *[add link]*
- 7.7 The Monitoring Officer, who is the Director of Law and Assurance, has special responsibility for propriety and standards within the authority. If you feel that your complaint cannot be dealt with other than through the main person responsible for propriety you should contact the Monitoring Officer direct.
- 7.8 If you have a complaint about the Monitoring Officer or the Monitoring Officer's staff which you would otherwise have taken to the Monitoring Officer, you should go to the Chief Executive.



- 7.9 The County Council recognises the role of UNISON in its representative capacity on behalf of its members. For Fire and Rescue staff there are other unions representing you. Anyone wishing to raise a concern under this policy should feel free to contact the UNISON branch secretary or their fire union representative to obtain advice about how to pursue a concern or about the substance of their concern. They will liaise with the relevant responsible officer to ensure that the matter is dealt with in accordance with this policy.
- 7.10 Concerns may be raised orally initially but should be confirmed in writing. The Contact officer may create a record of the complaint for you to confirm. Staff who wish to make a written complaint are invited to use the following approach to setting out the concern:
- the background and history of the issue (giving relevant dates);
  - the reason why you are concerned;
  - Your connection to the matter and the names of other persons who could assist in giving information about it;
  - Your reasons for needing confidentiality – are there particular persons who should not be told?
  - The reason why the County Council should be concerned (where it is not directly connected to the matter).

The contact officer will help you in describing your concern.

- 7.11 The sooner you express the concern the easier it is to take action.
- 7.12 Although you are not expected to provide all of the evidence to support your complaint you try to suggest where other useful information could be found.
- 7.13 You may wish to consider discussing your concern with a colleague first and you might find it easier to raise the matter if there are two or more of you who have had the same experience or concerns.
- 7.14 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised. Anyone who helps you will need to respect the confidentiality of the investigation.

## **8. How the Council will respond**

- 8.1 The person you contact will either deal with the concern or nominate someone to do so who will not have been involved in the matter themselves and will know how to carry it forward. This may involve an interview to take a detailed account of your concerns and to identify any evidence available.
- 8.2 Where appropriate, the matters raised may:
- be investigated by a senior officer, internal audit, or through one of the Council's other processes (see 3.2 above);
  - be referred to the police;
  - be referred to the Council's external auditor; or

- be the subject of an independent inquiry, for example, through the Independent Safeguarding Board for Children or for Adults.
- 8.3 The person nominated to deal with the complaint will make initial enquiries to decide whether a fuller investigation is appropriate. He or she will also decide what form the investigation should take. Some concerns may be resolved by agreed action without the need for investigation.
- 8.4 If the concern is about vulnerable individuals, or a criminal activity, action will be taken promptly to protect the individual and prevent further offences. If urgent action is required (for example to protect someone from harm or to safeguard resources) this will be taken before any investigation is carried out
- 8.5 Within ten working days of a concern being raised with the contact officer the person dealing with your issue:
- (i) will write to you:
    - acknowledging that the concern has been received;
    - indicating how it will be dealt with;
    - giving an idea of how long it will take to deal with;
    - telling you whether any initial enquiries have been made;
    - supplying you with information on staff support; and
    - telling you whether further action will take place and if not, why not; and
  - (ii) will inform the Monitoring Officer or their Deputy that an issue has been raised under this policy and providing a summary of the complaint.
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the concern, the difficulties in getting evidence or in verifying the information. If necessary, the officer will speak to you again.
- 8.7 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure and where appropriate financial or other support.
- 8.8 The Council accepts that you need to be assured that the matter has been properly addressed. Subject to legal constraints, we will inform you of the outcome of any investigation or explain why this is not possible.

## **9. The Monitoring Officer**

- 9.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not compromise your confidentiality) and will report as necessary to the Council, including regular anonymised reports to the Standards Committee on the number and general

nature of reports received. They will also be responsible for ensuring that proper and timely progress is made in dealing with any complaint and that the principles and requirements of this policy are met.

## **10. How the Matter can be Taken Further**

10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. We hope you will be satisfied with any action taken. If you are not and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- the external auditor;
- your trade union (but see above);
- relevant professional bodies or regulatory organisations;
- a relevant voluntary organisation;
- the local government and social care ombudsman
- the police
- [other appropriate authorities](#)

## **11. Contacts for Independent External Advice**

11.1 You may at any stage want to obtain help or advice from outside the County Council and this can be obtained from a charitable organisation called Protect at Work. They can be contacted through their web site [www.pcaw.co.uk](http://www.pcaw.co.uk). Also at [business@protect-advice.org.uk](mailto:business@protect-advice.org.uk). They have a help line at [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk) and can provide advice through: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk). Their telephone number is 020 3117 2520. They operate Monday to Friday, 9.00 a.m. to 5.00 p.m.

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<b>Governance Committee</b>
<b>6 July 2020</b> <span style="float: right;"><b>Part I</b></span>
<b>Plans for Member Meetings during the Covid-19 Emergency</b>
<b>Report by the Director of Law and Assurance</b>

### **Summary**

This Committee agreed to review at each of its meetings the plans for member meetings during the current public health emergency. This report focuses on arrangements for an additional County Council meeting proposed for the early autumn.

### **Recommendations**

The Committee is asked to:

- (1) Agree the plans for a County Council meeting in September 2020 (paragraphs 2.1 to 2.3);
- (2) Agree that the organisation's capacity and resources to support member meetings should continue to be monitored in liaison with members (paragraph 2.4); and
- (3) Identify any consultation required on arrangements for future member meetings in advance of its September meeting (paragraph 2.5).

## **Proposal**

### **1. Background and Context**

- 1.1 This Committee has been reviewing plans for member meetings during the Covid-19 public health emergency. It agreed at its meeting on 22 June that an additional County Council meeting should be arranged between the meetings on 17 July and 16 October 2020. This was to compensate for the cancellation of the Council meetings in April and May due to the public health emergency and to provide opportunity for the discussion of important Council business and issues affecting West Sussex.
- 1.2 During the emergency, all formal council/committee meetings have been held virtually, but a flexible approach will be taken to future arrangements pending any changes in government guidance relating to public meetings. As at 24 June the position is that meetings must continue as virtual but advice from the Local Government Association (LGA) is that it is raising with Government whether meetings can be resumed in any physical form. The Prime Minister's statement of 23 June, announcing some easing of the lockdown, did not refer to council meetings. It did however confirm that "courts, probation services, police stations and other public services will increasingly resume face-to-face proceedings" from 4 July. The LGA is

enquiring if this could similarly apply to council meetings. The legal advice states that the current Regulations in place (Health Protection (Coronavirus, Restrictions) (England) Regulations 2020) would need to be amended, or guidance issued, to allow for councillors to meet face to face if they wish to. The LGA is pushing for these changes to be made so councils can decide on the best local solution - whether to continue virtual arrangements or move to a 'hybrid' model.

- 1.3 It is therefore possible that hybrid meetings may be held in future (with some councillors attending in person and others joining virtually). The technical solutions to support such meetings are being explored, but the Committee is asked to note that all hybrid member meetings will need to be held in the Council Chamber due to IT and webcasting requirements. As a result, the calendar of meetings may need to be revised to avoid any meeting clashes. Alternative video-conferencing solutions to Skype are currently being trialled and the Committee will be kept updated on progress with all these developments.

## **2. Proposals**

- 2.1 The Committee is asked to agree the date and format of an additional Council meeting. It is proposed that this be held in September rather than August, to maximise attendance and ensure members with school-age children are able to attend. The date options are:
- Friday 4 September (week of the summer bank holiday)
  - Friday 11 September (member meetings in the diary)
  - Friday 18 September
- 2.2 Whilst any of these dates can be supported, it is recommended that 18 September would be the best option. This avoids lead-in and report and group preparation time during August as well as being during a week with relatively few other formal member meetings. The next meeting would remain as 16 October.
- 2.3 It is proposed that the agenda and timetable of this meeting should follow normal County Council meeting procedures, allowing the submission of Notices of Motion, Cabinet Member Question Time and written questions, with application of the usual time limits on speeches. The agenda may change should there be a need to include business currently not planned. Breaks and some time limits to items may be advisable depending on the final arrangements for the meeting.
- 2.4 At its meeting in May 2020, the Committee recognised that the organisation's capacity to support some member meetings might be limited during the emergency period and agreed to minimise activity to focus on priority and essential business. As the emergency eases, it is proposed that this should be reviewed on a case-by-case basis and in liaison with the Chairman, Group Leaders, Committee Chairmen and Scrutiny Committee Business Planning Groups as appropriate. It remains important to monitor capacity and resources.
- 2.5 The calendar of meetings to the end of 2020 will be reviewed at the next meeting of this Committee in September, to include whether or not to

resume County Local Committee meetings and what format these might take. The Committee is asked to identify any consultation required in advance of this meeting. This may include county councillors, committee chairmen, Executive Directors/Directors and partners (e.g. NHS organisations that have seats on the Health and Wellbeing Board; co-optee members of committees; Arun District Council on plans for the Arun CLCs).

### **3. Resources**

- 3.1 There are no significant resource implications relating to the proposals contained in this report. Council staff, both within Democratic Services and across the organisation, have been involved in supporting the corporate response to Covid-19. This has been easing, but it will be important to monitor capacity to support member meetings. Virtual meetings require more support from Democratic Services staff, so there are increased resource implications for such meetings.

### **Factors taken into account**

#### **4. Consultation**

- 4.1 There has not been opportunity to consult members prior to the publication of this report. The Chairman and Group Leaders have been consulted on the proposed arrangements for the July County Council meeting. The Committee is asked to consider any wider consultation required relating to future meeting plans.

#### **5. Risk Implications and Mitigations**

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
Lack of democratic debate on issues	Plans will be led by members following consultation within groups
Insufficient capacity to support meetings	Decisions will be informed by advice on resources and impact on critical services

#### **6. Other Options Considered**

- 6.1 Options will be considered within the Committee's debate.

#### **7. Equality Duty**

- 7.1 There is no equality duty impact arising from this report. The needs of individuals who may wish to participate in member meetings will need to be considered in planning the technology and methods of communication for all council business.

#### **8. Social Value, Crime and Disorder Act and Human Rights Implications**

- 8.1 None

**Tony Kershaw**

Director of Law and Assurance

**Contact:** Helen Kenny, Head of Democratic Services, 033 022 22532 or  
email: [helen.kenny@westsussex.gov.uk](mailto:helen.kenny@westsussex.gov.uk)

**Appendices**

None

**Background Papers**

None