

Public Document Pack

Tony Kershaw
Director of Law and Assurance

If calling please ask for:

Clare Jones on 033022 22526
Email: clare.jones@westsussex.gov.uk

www.westsussex.gov.uk

County Hall
Chichester
West Sussex
PO19 1RQ
Switchboard
Tel no (01243) 777100



3 July 2018

Governance Committee

A meeting of the Committee will be held at **10.00 am** on **Wednesday, 11 July 2018** 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 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 25 June 2018 (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. **Staff Appeals Panel - Proposals for Change** (Pages 9 - 16)

Report by the Director of Law and Assurance and the Director of Human Resources and Organisational Change.

The Committee is asked consider options for changes to the constitutional arrangements for the Appeals Panel to deal with staff disciplinary or grievance appeals for recommendation to the County Council.

5. **Pay Policy Statement 2018/19** (Pages 17 - 28)

Report by the Director of Human Resources and Organisation Change.

The current Pay Policy Statement was approved by the County Council in February 2018. Recently it has been identified that elements of the statement which relate to certain pay review and pay award arrangements are not aligned to Human Resources policies and arrangements, including the scheme of officer delegation. The Committee is therefore asked to consider changes to the previously-published statement for recommendation to the County Council.

6. **Date of Next Meeting**

The next meeting of the Committee will be held at 2.15 p.m. on Monday, 10 September 2018 at County Hall, Chichester.

To all members of the Governance Committee

Governance Committee

25 June 2018 – At a meeting of the Committee held at 2.15 pm at County Hall, Chichester.

Present: Mr Barnard (Chairman)

Mr Acraman, Mr Burrett, Ms Goldsmith, Mrs Mullins, Mr R J Oakley, Mrs Sparkes and Dr Walsh (arrived at 2.45 pm)

Apologies were received from Mr Mitchell

Part I

22. Declarations of Interest

22.1 In accordance with the code of conduct, Mr Burrett declared a personal interest in the items on Pension Advisory Board Update and the change to the Pensions Panel Terms of Reference, as a deferred member of the West Sussex Local Government Pension Scheme.

23. Minutes of the last meeting of the Committee

23.1 Resolved – That the minutes of the meeting held on 14 May 2018 be approved as a correct record and that they be signed by the Chairman.

24. Independent Remuneration Panel Review of Member Allowances

24.1 The Committee was reminded that a new Members' Allowances Scheme had come into effect in May 2017, based on a Scheme recommended by the Independent Remuneration Panel (IRP) to Council in December 2016. At that time the Council had asked the IRP to review the Scheme after about a year of operation. The IRP had now completed that review and the Committee considered reports by Director of Law and Assurance and the IRP on proposals for onward recommendation to the County Council (copies appended to the signed minutes).

24.2 Three members of the IRP, Dr Beer, Mr Donaldson and Mr Scutt, attended the meeting. Dr Beer, on behalf of the members of the IRP, introduced their report which was welcomed by members.

24.3 The Leader welcomed and fully supported the proposals, particularly those relating to carer's allowances and commented they would be helpful in encouraging younger people to stand for election.

24.4 Mr Acraman referred to the Appendix to the report and the question asked of members as to whether the allowances scheme struck the right balance between public service and the reality of carrying out the role. He commented that he was increasingly of the view that the balance was no longer correct and that to attract younger people of working age the allowances for the average member should be increased, preferably before the next election.

24.5 Dr Beer responded on behalf of the IRP. He said that he IRP had received a number of comments that people of working page found it difficult to deal with a lower salary resulting from the time remaining after their work as a councillor and accepted that that might prevent some people from standing for election. However, the IRP felt it would be wrong to recommend wholesale changes to the basic allowance and that it would not send the right message to the electorate. The IRP was aware that in other councils where significant increases had been proposed the recommendations had not been well received. Allowances were not equivalent to salaries and any significant changes would need to come from government proposals on a national level rather than something the County Council could implement locally.

24.6 The Leader commented that, given the budget cuts which would need to be made over the next year, in her view it was not the time to consider significant increases to allowances. Other members agreed and were of the view that attracting younger people to stand for election was not just about the money they received. It was difficult to be a member and work full time and there were issues in terms of getting time off work for daytime meetings and encouraging employers to be flexible in allowing people time off for council business. The Chairman commented that the Member Development Group was already looking at ways of encouraging more people to stand for election.

24.7 In relation to the member survey in the appendix to the IRP's report, it was noted that the relatively low response rate may have been caused by the fact that an IT glitch had meant that when the survey was launched members' answers were not initially recorded and they had therefore been asked to complete the survey a second time.

24.8 Resolved - That the Independent Remuneration Panel's report and a recommendation from the Committee be submitted to the Council on 20 July 2018 for consideration.

25. Review of the Constitution

25.1 The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes) on a technical review of the County Council's Constitution which had been undertaken with an aim of making it a more accessible document, removing duplication and simplifying some of the more technical language. A further change in relation to the constitution of the Member Development Group arising from a recent change to Cabinet Member portfolios was circulated (copy appended to the signed minutes) and members noted that responsibility for the Coroner and mortuaries had recently moved portfolio and Part 3 of the proposed Constitution would be updated accordingly. The Committee was asked to endorse the proposed changes for recommendation to the County Council.

25.2 The Committee placed on record its thanks to Mr Burrett and Mr Mitchell for reviewing the proposed changes in detail and to Charles Gauntlett and the officer team for their work on rewriting the Constitution.

25.3 Mr Acraman asked whether it would be possible to add the makeup of the County Local Committees to Part 3, the Scheme of Delegation, and the Committee agreed it was a good idea to do so.

25.4 Resolved –

- (1) That, subject to the addition of the makeup of the County Local Committees to Part 3, the revised text of the Constitution be recommended for submission to the County Council on 20 July 2018 for approval; and
- (2) That the proposed changes to governance arrangements set out in paragraph 2.2 of the report, subject to the addition of the proposed change to the constitution of the Member Development Group, be recommended for submission to the County Council on 20 July 2018 for approval.

26. Change to County Local Committee Boundaries

26.1 The report by the Director of Law and Assurance (copy appended to the signed minutes) on whether to recommend to the County Council that the Lindfield & High Weald electoral division, currently part of both the Central and South Mid Sussex County Local Committee (CLC) and the North Mid Sussex CLC, should be entirely within the North Mid Sussex CLC was withdrawn.

26.2 The Committee was informed that when the changes had been approved in 2016 there had been a promise to consider whether any adjustment was required to the CLCs in Mid Sussex in the light of experience once the recommendations had been implemented. That review would now be undertaken before any proposals for boundary changes were put before the Committee. It was noted that the distances between towns set out in the Appendix to the report needed to be checked before the item was reconsidered.

26.3 The Leader said the offer to review the situation in Mid Sussex would be honoured but commented that the budget cuts which had led to the reduction in the number of CLCs had been implemented and staff resources had been reduced accordingly. She also commented that, in terms of amount of business at meetings, recent topical issues in Mid Sussex which had been of significant public interest would inevitably have increased pressure on agendas.

26.4 The Chairman said a Governance Committee working group would be set up to look at the issues raised in relation to Mid Sussex and report back to the Committee in due course.

26.5 Resolved – That a working group be set up to look at the issues raised in relation to Mid Sussex and report back to the Committee in due course.

27. Staff Appeals Panel - proposals for change

27.1 In view of the fact that the Director of Law and Assurance had had to give his apologies for the meeting due to unforeseen circumstances, the Committee decided to defer consideration of the report by the Director of Law and Assurance and the Director of Human Resources and Organisational Change (copy appended to the signed minutes) on options for changes to the constitutional arrangements for the Appeals Panel.

27.2 Resolved – That the report be deferred to the next meeting.

28. Staff Appeals Panel Annual Report 2017/18

28.1 The Committee considered the annual report of the Appeals Panel for 2017/18 by the Director of Human Resources and Organisational Change and the Director of Law and Assurance (copy appended to the signed minutes). Appendix 2 was available to members of the Committee only as it contained exempt information as defined in Part I, of Schedule 12A, of the Act by virtue of paragraph 2, identity of an individual.

28.2 Members were very supportive of the recommendations from the Boards of Appeal which it fully endorsed. The Committee was concerned to make sure there was adequate training for members of the Staff Appeals Panel and agreed there should be comprehensive training for members every two years with refresher training in the intervening years.

28.3 Resolved –

- (1) That the Appeals Panel Annual Report 2017/18, including the recommendations and actions taken, be endorsed; and
- (2) That there be comprehensive training for members of the Staff Appeals Panel every other year.

29. Review of Financial Regulations and Financial Procedures

29.1 The Committee considered a report by the Director of Finance, Performance and Procurement and the Director of Law and Assurance on a review of Financial Regulations and Procedures (copy appended to the signed minutes). Members were asked to endorse the revised Financial Regulations for approval by the Regulation, Audit and Accounts Committee (RAAC). The Committee was also asked to endorse a proposal to hold the Treasury Management Policy Statement and the Financial Procedures outside of the Council's Constitution in future. Members were told that the proposals would be submitted to the Council in July for approval before RAAC was asked to approve the changes at its meeting at the end of July.

29.2 Resolved –

- (1) That the revised Financial Regulations be endorsed for onward approval by the Regulation, Audit and Accounts Committee;
- (2) That the proposal to hold the Treasury Management Policy Statement and the Financial Procedures outside of the Council's Constitution be endorsed for onward approval by the County Council

on 20 July 2018, as part of the current review of the Constitution, subject to endorsement by the Regulation, Audit and Accounts Committee at its meeting on 23 July 2018; and

- (3) That the Financial Regulations and Financial Procedures are reviewed in 2021.

30. Pension Advisory Board Update

30.1 The Committee considered a report by the Director of Finance, Performance and Procurement (copy appended to the signed minutes) on the business plan and budget of the Pension Advisory Board for 2017/18. The Committee was also asked to endorse a recommendation that the number of members and number of meetings of the Board should be increased. It was noted that the report did not include the work programme for 2018/19 and that the reference to the budget in recommendation (1) should be to the 2018/19 budget.

30.2 Members queried paragraph 3.2.1 of the report and the fact that the independent Chairman of the Board did not have voting rights and asked what would happen if a vote by the Board was tied. The Director of Finance, Performance and Procurement said she would check the position.

Note: The guidance on the creation and operation of Local Pension Boards issued by the Scheme Advisory Board in 2015 sets out that an independent chairman is classified as an 'other member' i.e. not an employer or member representative, that voting rights must be split equally between employer and member representatives and that 'other members' do not have voting rights on the Board. The terms of reference for the Board state that the independent chairman should strive as far as possible to achieve a consensus as an outcome. The Board is not considered to be a decision-making body and has not had to call a vote to date. The risk of an impasse arising is therefore considered to be very low.

30.3 Resolved –

- (1) That the work of the Pension Advisory Board during 2017/18 be noted and the budget for 2018/19 be approved; and
- (2) That the proposed increase to the number of members and the number of meetings of the Board be approved and delegation given to make these changes to the Pension Advisory Board terms of reference be endorsed for recommendation to the County Council.

31. Change to Pensions Panel Terms of Reference

31.1 The Committee considered a report by the Director of Finance, Performance and Procurement (copy appended to the signed minutes) on changes to the terms of reference of the Pensions Panel to reflect the addition of the ACCESS Joint Committee in the governance structure of the Pension Fund.

- 31.2 Resolved - That the County Council be recommended that the Pensions Panel terms of reference be updated to reflect the addition of the ACCESS Joint Committee in the governance structure of the Pension Fund.

32. Date of Next Meeting

- 32.1 The Committee noted that the next meeting will be held at 2.15 p.m. on Monday, 10 September 2018.

The meeting ended at 3.25 pm

Chairman

Governance Committee

11 July 2018

Staff Appeals Panel – Proposals for Change

Report by Director of Law and Assurance and the Director of Human Resources and Organisational Change

Executive Summary

The Appeals Panel is a pool of members from which are drawn Boards of Appeal to hear and determine appeals in specific areas of Council business, including staff appeals against dismissal and against the outcomes of grievance claims.

In order to address certain constitutional anomalies in relation to the role and responsibilities of the head of the paid service and to better manage certain risks attaching to the roles of members in connection with staff appeals some options for changes to arrangements are presented for consideration by the Committee. No changes are proposed for school transport appeals.

Members of the Appeals Panel met recently to consider the options and the majority of those that attended arrived at a preferred approach. Changes would require the approval of the County Council and could be included in other recommendations for revisions to the Constitution at the July meeting.

The Committee will be receiving a separate report which acts as the Appeals Panel's annual report to the Committee and provides an account of its business.

Recommendations

- (1) That the Committee considers options for changes to the constitutional arrangements for the Appeals Panel to deal with staff disciplinary or grievance appeals and makes recommendations for approval by the County Council; and
- (2) That, in the event that changes are proposed and approved, the Discipline and Grievance policies, and other relevant procedures and guidance be amended accordingly.

1. Background

- 1.1 The arrangements for (a) grievances raised by staff and (b) managing dismissals arising from disciplinary action against staff and through other HR processes are covered in a comprehensive set of policies supported by procedures. These procedures include provision for appeals against decisions.

- 1.2 Currently Boards of Appeal, made up of members drawn from the Appeals Panel, hear all final appeals against dismissal (involving the County Council's Disciplinary, Capability, Redeployment and Redundancy Policies), and the final appeal in relation to the grievance procedure. The Appeals Panel is a sub-committee of the Governance Committee. Each Board of Appeal is made up of between three to five members, drawn from the Appeals Panel of 18 members. Members are appointed to the Panel by the Governance Committee.
- 1.3 The numbers of staff dismissals and the number of appeal hearings and their outcomes for the last few years are set out in the tables below (using financial years).

Appeal Panel outcomes (staff appeals)

Year	Number and type of appeal	Outcome
2013/14	6 dismissal appeals	All dismissals upheld
2014/15	2 dismissal appeals	1 overturned 1 upheld
2015/16	4 dismissal appeals 1 joint dismissal/grievance appeal	All dismissals upheld Dismissal upheld/grievance rejected
2016/17	1 dismissal appeal 1 grievance appeal	Dismissal Upheld Grievance Rejected
2017/18	3 dismissal appeals	2 Dismissals overturned 1 upheld

- 1.4 Outcomes and learning from individual cases are dealt with through reviews by senior officers responsible for the policies and any significant action would be reported to the Chief Executive as head of the paid service responsible for all staffing matters.
- 1.5 It is necessary for the members of the panel to receive training in order to keep up to date with developments in employment law and fair process, to cover internal policies and procedures, so as to ensure that hearings are conducted in a fair and proper manner.
- 1.6 As members currently provide the last internal forum for appeal, members of boards of appeal can be called to provide evidence at Employment Tribunals where dismissal decisions are challenged. This has, on occasion necessitated members' attendance at tribunals for significant amounts of time, and needing to set aside dates scheduled for tribunal hearings even where the hearing is later adjourned or abandoned.

2. Reasons for considering changes

- 2.1 The Constitutional position is that the Chief Executive is personally accountable to the County Council for all staff matters, including their disciplinary arrangements. This derives from the fact that, as a matter of law the Chief Executive discharges the role of head of paid service. Within

the County Council's current arrangements however the Chief Executive plays no part in the hearing or determining of appeals against dismissal or the final stage of staff grievances as these are dealt with through the Appeals Panel.

- 2.2 Within the context of staff appeals the Boards of Appeal which hear cases are acting as the employer and therefore discharging an executive function – effectively on behalf of the head of paid service. It is not a scrutiny function where members are holding the head of paid service to account for the effectiveness of staff disciplinary or other arrangements. This explains why members of a Board of Appeal may need to be available to act as witnesses should any case be appealed to an Employment Tribunal. This risk, and the fact that the function is an executive one, has also led to a number of members declining to chair a Board of Appeal.
- 2.3 The absence of a direct role for the head of paid service has also meant that concerns and issues connected with processes which have come before Boards of Appeal are addressed after the event – with Boards of Appeal making representations to the head of paid service following any hearing which has given rise to such concerns. The Chief Executive as head of the paid service is responsible for the effectiveness of and compliance with HR policies and procedures but also carries responsibility for developing the culture of the organisation and for ensuring the performance management discipline needed to support it.
- 2.4 In addition to the potential for having to account for an upheld dismissal (or for action relating, for example, to a TUPE claim or a matter relating to unlawful discrimination or other matter) before Tribunal the members of Board of Appeal may also face some challenges where, for example, a dismissal is overturned and a reinstatement ordered. The practical and service implications for this would be outside the control of the Board of Appeal taking such a decision, despite the members acting as the employer. The current arrangement has the potential to create tensions within those lines of accountability with no direct involvement for the head of paid service.
- 2.5 The role of elected members is to set the outcomes and direction for the Council, to define the policies (including HR policies) through which those outcomes are delivered and to oversee and monitor performance against those defined outcomes, calling out inconsistencies or poor practice when it is seen. These critical member roles can operate alongside operational decision making within the employment context but only if the tensions described above and the current anomalies are addressed.

3. Proposals for change

- 3.1 A number of options are available which could enable members to continue to fulfil the role of ensuring the Council's employment arrangements are fair reasonable and well managed. These options offer differing degrees of direct involvement in the decision making in individual cases whilst affording some involvement by the head of the paid service. These options are presented for consideration by the Committee. It is not proposed that any other changes are made to the Appeals Panel. In particular there is no change proposed for the handling of school transport appeals which the Appeals

Panel also handles. The other option for members to consider is that there is no change made to current arrangements. This would however not address the concerns set out above.

Option 1

That the Boards of Appeal comprise up to three elected members and the Chief Executive or his nominee who shall all have equal voting and decision-making rights. This would address all of the issues including direct accountability for the outcome jointly by members and the head of paid service, with the latter being able to be responsible for the implementation of decisions and to address any issues that arise from a matter, as well as being available to attend any Tribunal on behalf of the Council.

Option 2

That the Boards of Appeal comprise up to three elected members and the Chief Executive or his nominee who shall chair and take the decision as head of paid service, the members acting as advisers or observers. This also addresses all of the concerns set out above but does of course provide members with a consultative role rather than one of direct decision making. It does however emphasise the accountability of the head of paid service whilst allowing members direct oversight of individual cases.

Option 3

That Boards of Appeal comprise up to four elected members with the Chief Executive or his nominee acting as adviser or observer. This option would fall short in addressing all of the issues set out above as the head of paid service would not be accountable for the decision either in terms of implementation or before a Tribunal. It would also cause potential confusion or conflict with HR and legal advice to the panel.

- 3.2 Should the Committee decide that any of the change options should be pursued then a report setting out the proposal would be prepared for consideration and decision at the next County Council meeting. Any changes would take effect following the Council meeting, with any amendments needed to policies and procedures being made to give effect to the changes. This would include ensuring that changes keep or bring them in to line with ACAS minimum requirements.
- 3.3 The proposals do not affect school based staff as they currently do not have a right of appeal to the member appeal panel.

4. Consultation

- 4.1 The members of the Appeals Panel met on 15 May as their annual meeting to review the year's activity and to approve the annual report. The members received a short presentation on the subject of this report and then had a full and lively debate about the options (including the option of no change and an option to remove the role of the Appeals Panel in hearing individual staff appeals). The preference of the majority of the members present was for Option 1 set out above. Members agreed the need to change for the reasons set out in this paper but also rejected the option of removing members from individual cases and moving them to a monitoring role.

- 4.2 UNISON and FBU have made their views known to members who sit on Staff Appeals Panels. These are attached at Appendix 1.
- 4.3 Both unions believe that reinstatements are only recently increasing in number due to the inadequacies of HR processes, which are linked to the previous outsourcing of this key strategic function.
- 4.4 Both unions do not believe there is a case for any change to the existing arrangements. UNISON and FBU wish the Staff Appeals Panel to remain wholly member-led so it can remain principally an arena where natural justice considerations are given to a case. Both unions believe that the Head of Paid Service role will bring to the panel a desire to set natural justice considerations against other factors, and that natural justice will no longer be a primary consideration. This focus is what members bring to Staff Appeals Panel, is valuable and should be retained unfettered by the Head of Paid Service role.
- 4.5 It is the Head of Paid Service's duty to ensure there is an appeals panel, but there is not statutory direction or requirement for the Head or Paid Service or their nominee/s to sit on that panel. There is a mixed approach to appeals panels across the country and even within West Sussex. Despite the table shown at paragraph 4.9 there are many examples of councils with exclusively member-led appeals panels, including within districts and boroughs in our own county.
- 4.6 The Appeals Panel has historically performed a very effective service for the county. There is no reason for change other than a desire to extend officer control into this area of decision-making. Therefore, our unions support the retention of the status quo and would encourage members to reinstate this option. This is not currently an option within the papers, so the unions would view Option 3 as the most desirable of those options remaining.
- 4.7 It should be noted that separate arrangements apply in relation to disciplinary action concerning the Chief Executive and members of the Executive Leadership Team as these require member involvement as provided in Council Standing Orders and there is no plan to change those arrangements.
- 4.8 Arrangements would continue for a regular annual report to be presented to the Governance Committee in relation to its responsibility for overseeing the effectiveness of and compliance with disciplinary and grievance arrangements. This helps to enable the County Council to meet its objectives in terms of staff performance and in meeting corporate expectations in terms of standards of behaviour. It would remain the responsibility of the Committee to consider and approve any changes to policies that may arise from any learning or performance monitoring.
- 4.9 Enquiries have been made of similar authorities to identify whether the County Council's current and planned arrangements are out of line in terms of member involvement. The information is set out in the table below.

Authority	Member role	Type of HR process	Form of member role
Devon	Yes	Dismissal and grievance appeals for statutory chief officers only	To hear chief officer cases
Dorset	Yes	Dismissal and grievance appeals for chief officers only	To act as consultee in chief officer cases
East Sussex	No	N/A	N/A
Essex	Yes	Dismissal and grievance appeals for chief officers only	To hear chief officer cases
Hampshire	Some	Staff Dismissal appeals	Option to sit in on hearings as observer
Herts	Yes	Dismissal and grievance appeals for chief officers only	To hear chief officer cases
Kent	Yes	Dismissal and grievance appeals for chief officers only	To hear chief officer cases
Surrey	Yes	Dismissal and grievance appeals for chief officers only	To hear chief officer cases

This shows that no other comparator authorities have elected members hearing grievance or disciplinary matters other than those relating to the senior leadership team. In one authority members are able to observe appeal hearings conducted by the head of paid service or their nominated person.

5. Resource Implications

There are no financial resource implications of any of the options for change. The implementation of an option that would include a role for the Chief Executive or his nominee at all staff appeal hearings would mean additional time commitment and would require some planning but should not add to the overall senior staff resource.

6. Equality Impact, Crime and Disorder Act and Human Rights Act implications

None, save that the revised arrangements will maintain current policy assurance relating to fair and equal treatment and rights to a fair hearing.

Tony Kershaw
Director of Law and Assurance

Heather Daley
Director of Human Resources and Organisational Change

Contact: Tony Kershaw 22662

Background Papers

None



Dear Councillor

Staff Appeals Panel

We are taking the unusual step of writing to you jointly because we share concerns about the possibility for changes to be made to Staff Appeals Panel that would have undesirable consequences for both staff and West Sussex County Council.

We understand that you, in your role as a Councillor who serves on the Panel, are due to meet with WSCC management to discuss how the Staff Appeals Panel might change in the future, and what the role of Councillors should be within that process.

Both our trade unions believe that the Staff Appeals Panel provides a crucial and beneficial role to WSCC. We believe that the Panel should remain unchanged for the most part – with elected Councillors continuing to fulfil this essential function for staff. We believe the benefits of the current approach are these:

- A lay point of view is included, bringing to bear wider experiences and knowledge, which really helps to test the reasonableness of the case and process used under discussion;
- This helps protect the principle of voluntarism in public life, as councillors' input is unpaid;
- Any replacement of the councillors' role by the Executive Leadership Team would leave the ELT with less time in the working week to deal with the many challenges the authority faces and to manage high-class public services;
- Without councillors, the widespread staff perception is that the Executive Leadership Team would be able to use the Appeals Panel to keep 'dirty laundry' under wraps. There will be less staff faith in the process. Staff do have faith in councillors, your independence, and the responsibility you take in this regard;
- The Staff Appeals Panel as a councillor-led panel has existed in this way for a very long time at West Sussex. It plays a legitimate and useful role, and helps in a significant way to protect the organisation's reputation and purse by reinstating staff before matters are escalated to external tribunal or the press.

Our unions do not have any issue with proposals to reduce the number of councillors involved over time, for example from 18 to 14 or 12, and for a more detailed programme of training to be developed. We do however feel it is of the utmost importance that the Staff Appeals Panel continues to be wholly councillor-led.

We are happy to discuss this further if it will be of help.

Dan Sartin
Branch Secretary
UNISON West Sussex

Joe Weir
Regional Secretary
Fire Brigades Union

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Governance Committee

11 July 2018

Pay Policy Statement 2018/19

Report by Director of Human Resources and Organisational Change

Recommendation

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

1. Background

- 1.1 Each local authority must produce a Pay Policy Statement (the 'statement') explaining its approach to the pay of its staff and the relationship between the highest and lowest paid staff. 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.
- 1.2 The current statement was approved by the Committee at its meeting in January and subsequently by the Council at its meeting in February. Very recently it has been identified that elements of the statement which relate to certain pay review and pay award arrangements are not aligned to Human Resources policies and arrangements, including the scheme of officer delegations. The purpose of the report is to seek the Committee's approval to changes to the previously published statement so as to ensure pay review arrangements are so aligned. It is proposed that the changes take effect from 1 April 2018 when the policy took effect.

2. Changes required to the Pay Policy Statement

Grading Structure

- 2.1 The revisions proposed are set out in a copy of the pay policy statement attached as Appendix 1. The changes are evident from the text of the appendix and the summary in this report is therefore kept to a minimum.
- 2.2 Section 4 sets out the grading structure and explains the approach to setting and reviewing salaries of the more senior officers. The changes provide more explanation of how this system works for each of the levels covered.
- 2.3 Section 5 deals with pay progression and these changes are also intended to provide better clarification and explanation of the arrangements in place for the different staff groups. Superfluous text has been removed.
- 2.4 Section 6 covers local pay awards and corrects the current description of how this is managed for the more senior appointments so as to be line with the arrangements that have operated over the last year.

- 2.5 Sections 8 and 10 deal, respectively, with pay arrangements on appointment and promotion and on termination and the changes take account of some developments in these arrangements and the application of the associated redundancy policy. Some duplication is also removed.

3. Consultation

The changes proposed have not been subject to any consultation prior to submission to the Committee as they are intended to ensure alignment with other HR policies and procedures rather than to amend those.

4. Resource Implications and Value for Money

The pay policy will enable members and residents to see and 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. Actual decisions on pay awards are not part of this proposal.

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.

Heather Daley

Director of Human Resources and Organisational Change

Contact: Heather Daley 033022 22430

Background Papers

None

West Sussex County Council Pay Policy Statement

For financial year 1 April 2018 - 31 March 2019
As approved by the County Council on 16 February 2018

Proposed amendments July 2018 with additions shown in bold, italic text and deletions struck through.

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. ~~A summary of the arrangements for determining terms and conditions of service for staff can be found in Appendix A.~~
- 2.2 The Scheme of Delegation provides for the ***Director of Human Resources and Organisational Change*** ~~a senior officer~~ to manage, review and apply the County Council's Human Resources strategy and policies, and to determine, ***with the Chief Executive***, the appropriate pay and conditions for the appointment of staff. The responsibilities of specific members of the Cabinet 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 ~~the published data~~ ***requirements referred to.***

4. Grading, or Fixed Pay Point, Structure

- 4.1 For staff 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, Cabinet Member for Finance and Resources, and** Director of Human Resources **and Organisational Change using (a) the local** SMG job assessment method **and (b) reference to benchmarking remuneration arrangements, including Hay evaluation scores, of relevant comparator organisations.**
- 4.2 **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. ~~SMG pay is on a single fixed point.~~
- 4.3 **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.** ~~There is no pay range (minimum or maximum) associated with the roles of staff on the Strategic Management, Tier 4 Grades. The salary for each role is determined with reference to job evaluation and taking into account relevant factors, including market pay levels and the skills and experience of the role holder.~~
- 4.4 **For staff on Hay Grades** ~~NJC, Hay and Strategic Management, Tier 4 Grades,~~ the County Council uses **established the Hay formal** job evaluation **scheme to** allocate jobs to the appropriate **Hay** pay grade.
- 4.5 **For staff on NJC pay grades the County Council uses the NJC formal job evaluation procedures to identify the relative worth of roles within the council and to allocate roles to the appropriate council pay grade.**
- 4.6 For staff appointed on Uniformed Fire Fighters, ~~Chief Officer,~~ Teachers (Centrally Employed), Soulbury and Youth Worker terms and conditions, grading is established using a national framework.
- 4.7 Salaries for staff who have transferred into the authority under Transfer of Undertakings (Protection of Employment) Regulations 2006 (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.**

- 4.8 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**. ~~An increment may be withheld where an individual is on a formal stage of the disciplinary policy or performance improvement procedure.~~
- 5.3 Pay progression for Uniformed Fire and Rescue Service, Teachers (Centrally Employed), Soulbury and Youth and Community Worker roles are 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 (AYSE).
- 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 ~~For some~~ 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 by the Leader and Cabinet Portfolio Holder for Finance and Resources every two-years. Any pay increase will be effective from April 2018; and will be subject to (a) good or exceptional performance determined by the Leader 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 officer concerned.

~~Chief Executive~~

~~The Chief Executive's base salary is determined annually, by the Chairman, the Leader and the Cabinet Member for Finance and Resources~~

- 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. 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.***

~~Strategic Management Grades~~

~~Any individual pay award is determined annually by the Chief Executive based on delivery of corporate outcomes set by members and individual objectives set by the relevant line manager.~~

~~In cases of individual poor performance the Chief Executive may withhold an annual pay award (even if corporate outcomes have been met).~~

~~There is no automatic annual base pay increase for these staff. Pay awards are reviewed on a biannual basis.~~

- 6.4 The pay awards for staff on Strategic Management Grades, Tier 4, ~~and Hay pay grades~~ are determined locally and are approved by the Chief Executive in consultation ***with the Director of Human Resources and Organisational Change.*** ~~in consultation with the Director of Finance, Performance and Procurement (S151 Officer), Cabinet Member for Finance and Resources and the Leader. 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 Chief Executive, in consultation with the Director of Finance, Performance and Procurement (S151 Officer) ***and Director of Human Resources and Organisational Change*** ~~who will make a recommendation to the Cabinet Member for Finance and Resources.~~ This is based on consideration of appropriate market and other relevant information, including the performance of the

County Council and affordability. ~~and following consultation with the staff concerned and relevant Trade Unions.~~

- 6.7 In exceptional circumstances; ***and as approved by the Leader 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.
- 6.8 ~~The annual pay award for staff who transfer into the authority are those applicable at time of transfer and, by agreement, may also be determined locally in accordance with 6.2 above~~
- 6.9 ~~The County Council has determined that it will not operate an "Earn-back" scheme (a scheme whereby a proportion of base pay is put "at risk" subject to successful delivery of performance objectives).~~
- 6.10 ~~**Staff on Hay pay grades**~~
~~Any annual base pay award is applied as a percentage increase to each grade.~~
- 6.11 ~~**Staff transferred into the County Council under TUPE/COSP.**~~
~~Any annual base pay award is applied as a percentage increase to each grade.~~

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.*** ~~salaries on appointment for staff on Strategic Management grades Tier 1 and 2, to the Chief Executive, member Appointing Committee or Executive Director, as relevant. A number of relevant factors will be taken into account, including market pay levels, the skills and experience of the appointee and the specific requirements of the role.~~

~~8.3 The County Council has decided that the existing arrangements for determining senior salaries are robust and transparent. Therefore the County Council has decided that a vote on salary packages above a defined threshold prior to appointment would not add to democratic accountability, but would cause delay or place an appointment at risk.~~

~~8.4 In exceptional circumstances, and subject to the Pensions Discretions Policy, additional pension may be awarded in order to appoint or retain an employee. The decision to award additional pension is made by the Director of Finance, Performance and Procurement (S151 Officer), following consultation with the Cabinet Member for Finance and Resources. The Pensions Discretions Policy is published on the County Council's website.~~

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. ~~All severance payments are paid in accordance with those County Council policies and in compliance with employment legislation.~~

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.

~~The County Council's policies on severance payment are as approved by the Governance Committee and set out in the following: the Redundancy Policy, the Policy on Purchase of Award of Additional Pension Membership and the policy for Compensation for Early Termination of Employment which are published on the County Council's website. The Protocol for Mutual Terminations and Settlement Agreements is as approved by the Governance Committee.~~

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

~~10.2 Early Termination of employment (for reasons other than redundancy)~~

~~In exceptional circumstances, and subject to the Pensions Discretions Policy, a lump sum compensation payment may be awarded in cases of~~

~~early termination of employment. The decision to award additional pension is made by the Director of Finance, Performance and Procurement (S151 officer) following, in specific cases, consultation with the Cabinet Member for Finance and Resources or the Director of Human Resources and Organisational Change. The Pensions Discretions Policy is published on the County Council's website.~~

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** and the Cabinet Member for Finance and Resources, if above the limit set out in the Scheme of Delegation. ~~The reasons for the claim being settled and the sum being agreed will be set out in the report to the Cabinet Member.~~

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** ~~will pay individuals on~~ 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** ~~pay~~ 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** ~~staff~~ may be **engaged** ~~employed~~ 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 will publish the pay ratio between the highest paid salary and the lowest salary.

- 14.2 Gender pay reporting ***will be*** ~~is due to be~~ ***published annually in accordance with legislative requirements*** ~~for the first time by 30 March 2018.~~

- 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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