

## **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