

4 March 2013 – At a meeting of the Committee held at County Hall, Chichester.

Present:

Mr Barnard, Mr Brown, Mr Burrett, Mr Coleman (Chairman), Mr Hodgson, Mrs Millson, Mr Smith and Dr Walsh.

Apologies were received from Ms Goldsmith.

Also in attendance: Mrs Urquhart.

### **Declarations of Interest**

152. Mr Burrett declared a personal interest in item 9, Local Government Pension Scheme Administration Authority and Employer Discretions including Industrial Injury Allowance, and item 11, West Sussex Pension Fund, as a member of the Local Government Pension Scheme and of the Local Government Pensions Committee appointed by the Local Government Association. Mr Burrett also declared a personal interest in item 12, Joint Scrutiny Arrangements, as a member of Crawley Borough Council. Mr Brown and Mr Hodgson declared personal interests in item 11, West Sussex Pension Fund, as members of the Pensions Panel. Dr Walsh declared an interest in item 12, Joint Scrutiny Arrangements, as a member of Arun District Council.

### **Minutes of the Governance Committee**

153. Resolved - that the minutes of the meeting held on 21 January 2013 be approved as a correct record and that they be signed by the Chairman.

### **Future Council: Members' Roles**

154. The Committee considered a report by the Head of Law and Governance on the future role of members (copy appended to the signed minutes). The Committee was advised that the proposals would mean changes to the constitutional framework within which decisions and policies are developed and determined and outcomes monitored as well as how members could influence or challenge these. These would need to come for debate and decision at the County Council. The Committee was therefore invited to agree to the preparation of those detailed proposals by officers for consideration at the Council meeting on 22 March 2013. Recognising that this would have a direct effect on the scrutiny function, options to reconfigure and/or reduce the size of Select Committees were also included. There were also proposals to amend the existing job description for members and review the Member Development Group.

155. The Head of Law and Governance introduced the report and explained the rationale behind the proposals. In relation to the future of Select Committees he explained that one option would be to reduce the number of members on Select Committees from 14 to 12 with members only sitting on one Select Committee. Another option would be to retain four Select Committees but redefine the role of the Policy and Resources Select Committee to oversee the performance management system.

156. Mrs Urquhart attended the Committee as the chairman of the Policy and Resources Select Committee Task Force which had been considering the commissioning process and member involvement. Mrs Urquhart commented that the Policy and Resources Select Committee had been concerned about the adequacy of contract management within the County Council. The Task Force's research had indicated that there was a lack of skills in the public sector commissioning process which could lead to cost over-runs. In its view there was a need to ensure an adequate skills base, possibly using external expertise to supplement the skills within the County Council. The Task Force would also be recommending the establishment of a member panel to build up expertise in commissioning and options for service delivery, a standard set of key performance indicators for Select Committees and for the Policy and Resources Select Committee to take an over-arching, strategic view of systems for performance management.

157. Points raised by members included the risk of blurring the division of responsibility between members and officers and that setting down commissioning principles could curtail the Cabinet's freedom to pursue the best option for the County Council. Mrs Urquhart reassured the Committee that the intention was to set guiding principles as to the commissioning approach, for example based on price, quality, local employment etc. The Head of Law and Governance commented that the proposals would describe only the Cabinet's role in determining the principles and ability to change them when required in an open and transparent way. He said that the role of the sourcing standing panel would be to advise the Cabinet, informed by consultancy advice where necessary.

158. There were conflicting opinions about the proposed 'partnership boards' with some members expressing concerns that such arrangements could blur the roles of commissioner and provider leading to the potential for reduced scrutiny. Other members felt that the existing partnership board with Capita showed the arrangement could work well as a mechanism of performance management. The benefit of using Select Committee Business Planning Groups (BPGs) as a filtering mechanism for the scrutiny of performance management was raised. Mrs Urquhart informed the Committee that the Task Force's report did include the option of using BPGs to look at performance indicators.

159. The Committee reiterated its view that it was opposed to fundamental changes to scrutiny before the arrangements from the last review had chance to bed down. It was acknowledged that the focus of service provision within the Council was changing and that member roles might therefore need to be different in future but there was concern that to change too much at once was unwise. Members were also concerned that the proposals could create a two-tier system of scrutiny with the loss of valuable expertise held in the current Select Committees. The Committee could see pros and cons of a thematic approach to scrutiny rather than one which was service orientated and agreed the need to see details of how it would work in practice and how topics such as transport or community safety that could affect all three areas suggested in the report would be dealt with.

160. Members noted the rationale behind the proposals for the future of scrutiny namely that members would be able to make contributions to all areas of the Council, not just as a member of a Select Committee. Members did not object to the proposal to reduce the size of Select Committees from 14 to 12 members but they were not in favour of the suggestion that members should, as a rule, be

limited to sitting on only one Select Committee. The Committee was happy with the existing guidance on members usually serving on one committee only.

161. Members were supportive of the proposals for the future of the Member Development Group (MDG) including the retention of the current name and agreed that it should include representatives from all political groups.

162. The Committee supported the proposed revisions to the members' job description in the Constitution.

163. The Head of Law and Governance thanked members for their comments and said that more detailed proposals would be formulated for County Council taking into account the Committee's comments.

164. Resolved -

- (1) That the Head of Law and Governance and the Chief Executive be invited to prepare detailed proposals for changes to the Constitution to accommodate new roles for members within the principles set out in this report, subject to the Committee's comments, for consideration by the County Council in March for implementation when the new Council comes into effect after the May 2013 election;
- (2) That the proposed revisions to the members' job description be endorsed for approval by the County Council subject to the correction of two minor typographical errors; and
- (3) That the future role of the Member Development Group and the future arrangements for member development be approved, subject to the requirement for the MDG to include representatives from all political groups.

### **Revisions to the Community Initiative Funding Scheme**

165. The Committee considered a report by the Director of Finance and Assurance and the Head of Law and Governance on revisions to the Community Initiative Funding Scheme for recommendation to the County Council (copy appended to the signed minutes).

166. Members were generally supportive of the proposals. There was some discussion about the proposal to amend the guidance about the maximum amount a County Local Committee (CLC) would normally award. On balance it was felt preferable to leave it to each CLC to determine an appropriate guidance limit. Members were also reminded that larger bids could be made to the Big Society Fund and the Social Enterprise Fund.

167. Resolved – That the proposed amendments to the Community Initiative Funding Scheme, as set out in section 2 of the report, subject to each CLC setting its own guidance limit on application amounts, be endorsed for recommendation to the County Council.

## **Adult Safeguarding Panel**

168. Members considered a report by the Head of Law and Governance on the establishment of the Adult Safeguarding Panel, with effect from May 2013 for recommendation to the County Council, (copy appended to the signed minutes).

169. Resolved - That the establishment of the Adult Safeguarding Panel, with effect from May 2013, as set out in the terms of reference attached at the Appendix to the report, be endorsed for recommendation to the County Council.

## **Member Induction Arrangements**

170. The Committee considered a report by the Director of Finance and Assurance and the Head of Law and Governance on member induction arrangements (copy appended to the signed minutes). The Committee had, at its meeting on 21 January, been very supportive of the proposed programme for member induction after May 2013 and had suggested some points for further consideration and requested that an up-date be brought to this meeting. The MDG met in February to further develop the induction programme and took into account the comments made by the Governance Committee. The Committee was therefore requested to support the final proposals.

171. The Chairman commented that the Standards Committee at its meeting on 25 February 2013 had recommended that training on the Code of Conduct following the elections should be mandatory for all members and that the number of training sessions should be increased.

172. Members welcomed the proposals in the report and stressed the importance of members having opportunities both to have informal discussions with senior officers, where new members might be more likely to ask questions, and also to visit Council facilities as part of their induction arrangements.

173. Resolved – That the induction programme be supported and finalised following County Council in March 2013 to take account of any developments relating to Future Council.

## **Pay Policy Statement 2013/14**

174. The Committee considered a report by the Head of Human Resources and the Head of Law and Governance which contained proposed revisions to the Pay Policy with effect from 1 April 2013 for recommendation to the County Council. The Committee also had before it a supplementary report which had been circulated on additional changes following the issue of new guidance including a replacement Appendix (copies appended to the signed minutes). The Committee was asked to consider the changes and to delegate authority to endorse any subsequent revisions to the pay policy, with regard to the terms and conditions of NHS staff, prior to consideration of the policy by the County Council to the Head of Law and Governance, in consultation with the Chairman of the Governance Committee. The Committee was supportive of the changes and the proposed response within the revised policy to the recent guidance.

175. The Cabinet Member for Finance and Resources questioned whether,

although the decision was for the Governance Committee as a non-Executive function, he should have been consulted as part of the process. The Head of Human Resources confirmed that this was so and said he would ensure that the Cabinet Member was fully briefed in future. The Head of Law and Governance reassured the Committee that, whilst it was for the Council, on the advice of the Governance Committee, to approve the Pay Policy, it was the Cabinet Member for Finance and Resources who would be consulted by the Chief Executive on matters relating to annual pay awards.

176. Resolved -

- (1) That the proposed reasons for not adopting a policy for a County Council vote on salary packages or individual severance payments above a prescribed threshold be endorsed for recommendation to the County Council;
- (2) That the wording of the pay policy set out at the Appendix to the supplementary report be endorsed to reflect this decision and the issues as set out in paragraph 2.13 of the supplementary report for approval by the County Council; and
- (3) That authority to make any subsequent revisions to the pay policy, with regard to the terms and conditions of the Public Health staff, be delegated to the Head of Human Resources and the Head of Law and Governance, in consultation with the Chairman of the Governance Committee, prior to consideration by the Council.

### **Local Government Pension Scheme Administration Authority and Employer Discretions including Industrial Injury Allowance**

177. The Committee considered a report by the Director of Finance and Assurance and the Head of Human Resources which set out the discretions available to the West Sussex Pension Fund Administering Authority and to the County Council as an employer, under the relevant Local Government Pension Scheme Regulations (copy appended to the signed minutes). The report also considered the use of the discretions currently exercised and those available and made a number of recommendations.

178. Members noted that there should be a fourth bullet point at the end of page 76 of Appendix C to read as follows: 'In exceptional circumstances a lump sum may be paid in addition to release of pension benefits.'

179. Resolved -

- (1) That the Administration Authority discretions currently exercised with a minor amendment in relation to transferred in pensions rights, as set out at Appendix A to the report, be approved;
- (2) That the Employer Authority discretions already exercised, as set out at Appendix B to the report, be approved;
- (3) That the proposed change to the discretion on assessment of contribution bandings be approved;

- (4) That the exercise of the discretion to pay a lump sum compensation payment for the termination of employment in the "interests of efficiency" of the service be approved;
- (5) That the current discretion to the release of pension and the ability to waive the actuarial reduction, for exceptional "or" compassionate grounds be extended;
- (6) That the exercise of the discretion to pay an industrial injury allowance where the relevant conditions are met be approved; and
- (7) That the changes to the Scheme of Delegation, as set out at Appendix F to the report, be approved.

### **The Transfer of Public Health Functions into the County Council - Proposed Annual Pay Award Arrangements**

180. The Committee considered a report by the Head of Human Resources and the Head of Law and Governance on the transfer on 1 April 2013 of 36 Public Health staff employed by the Primary Care Trust to the County Council (copy appended to the signed minutes).

181. Resolved -

- (1) That the County Council applies the nationally negotiated pay awards for the transferring staff, as would have applied on 1 April 2013 had they remained employed in the PCT, whether or not this agreement is made before the staff transfer; and
- (2) That this arrangement is implemented for this year only and that for future years, authority is delegated to the Chief Executive, in consultation with the Cabinet Member for Finance and Resources, to determine the annual pay adjustment for staff who transferred from the PCT.

### **West Sussex Pension Fund**

182. The Committee considered a report by the Director of Finance and Assurance which provided feedback on the deliberations of a working group set up with the agreement of the Governance Committee to review the property and private equity investment mandates of the West Sussex pension Fund (copy appended to the signed minutes). The Cabinet Member for Finance and Resources introduced the findings of the working group which had been reported to the Pensions Panel on 28 January.

183. The Committee noted that the members of the working group were Mr Brown, Mr Hodgson, Mr Marples, Mrs Mockridge, Dr Walsh and Mrs Urquhart.

184. Resolved - That the report be noted.

## Joint Scrutiny Arrangements

185. The Committee considered a report by the Head of Law and Governance on joint scrutiny arrangements (copy appended to the signed minutes). Members were informed that the Policy and Resources Select Committee had reviewed the trial joint scrutiny arrangements, set up in 2011 between the County Council and district and borough councils. It had concluded that the joint scrutiny arrangements provided a useful, flexible mechanism for carrying out joint scrutiny where required, and that they should now be formalised. The Governance Committee was therefore asked to agree endorse a number of recommendations for consideration by the County Council.

186. Resolved -

- (1) That the trial joint scrutiny arrangements should become a permanent arrangement;
- (2) That the terms of reference and protocol for the joint scrutiny arrangements should be revised, as set out at the Appendix to the report, subject to the correction of minor typographical errors; and
- (3) That the County Council and all district and borough councils should be invited to take part in the joint scrutiny arrangements as they are taken forward, and a copy of this report and recommendations (and revised protocol) be submitted to the County Council meeting on 22 March 2013 and all district and borough councils for formal consideration and approval.

## Arrangements for making Appointments to External Organisations

187. The Committee considered a report by the Head of Law and Governance on arrangements for making appointments to external organisations (copy appended to the signed minutes). Members were reminded that the County Council's Constitution made provision for the appointment of members or officers to represent the interests of the County Council on external bodies. The arrangements did not include any mechanism for monitoring the work done by the appointees, nor were there any criteria or rules to govern the appointments or to review them. Greater transparency for the process was also required. The Committee was therefore asked to consider a number of recommendations.

188. The Head of Law and Governance proposed two minor amendments to the proposals in the report. Firstly, that the end of the final sentence of paragraph 2.2 should be amended to read 'and where there is no **reasonable** objection to the appointment of any member **that has not been addressed by the appointing body**. Secondly, that the end of the third bullet point of paragraph 2.3 be amended to read 'with **or close to** that area.

189. Whilst the Committee welcomed clarity of the appointment process and the opportunity to request information from members appointed to external bodies, it was not in favour of a time limit for appointments. Members were of the view that there were some posts where the local member was the most logical appointee irrespective of the time they had served and others where it made sense for appointments to be linked to a particular position on the Council. In other

instances the possibility of appointment to national chairmanships might be precluded if the length of appointment locally were curtailed. It was therefore proposed that there should be no time limit but that appointments should be reviewed regularly based on the length of appointment set by the body concerned or, should there be no limit, on the four-year Council term.

190. Mrs Millson left at 4.00 p.m.

191. Members did not support the third bullet point of the criteria in paragraph 2.3 as drafted as they were concerned that there were sometimes good reasons for appointing members from outside a particular area due to experience or expertise. It was therefore proposed that this should be a matter to be taken into consideration rather than an absolute requirement.

192. A number of queries on the list of current appointments attached as an Appendix were raised and the Head of Law and Governance assured members that the list would be reviewed, including who was best placed to make the appointment.

193. Resolved -

- (1) That the list of bodies to which the County Council makes appointments and the names and terms of office of the appointees be reviewed and published for all members, with links to details explaining the role of the organisation;
- (2) That the rules governing such appointments shall be as set out at paragraph 2 to the report, subject to the comments in minutes 189 and 191 above;
- (3) That appointments be reviewed regularly, based on the length of appointment set by the body concerned, or should there be no limit, on the four-year Council term; and
- (4) That there will be criteria for the appointments to all external bodies, as set out in the report at paragraph 2.3 of the report, subject to the comments in minute 194 above.

### **Changes to Health Scrutiny Functions and Powers**

194. The Committee considered a report by the Head of Law and Governance on changes to health scrutiny functions and powers (copy appended to the signed minutes). Members were informed that the Health and Social Care Act 2012 included a number of changes to the local authority health scrutiny function and powers, due to come into effect from April 2013. Local authorities would have greater discretion over how to exercise these powers, with the function of health scrutiny conferred directly on the local authority; and health scrutiny powers would be extended to facilitate effective scrutiny of any provider of any NHS funded service, as well as any NHS commissioner. The Governance Committee was asked to consider the implications and to agree some proposed changes to the Constitution of the County Council.

195. Resolved -

- (1) That the changes to how the health scrutiny function will be exercised from 1 April 2013 (as set out in paragraph 2 of the report) be noted;
- (2) That as a result of implications of these changes to West Sussex County Council (as set out in paragraph 3 of the report) the County Council be recommended that:
  - (a) The County Council should discharge its health scrutiny functions through the Health and Adult Social Care Select Committee
  - (b) The County Council should delegate the health scrutiny power of referral to the Health and Adult Social Care Select Committee
  - (c) The Health and Adult Social Care Select Committee should notify the County Council where it is likely to refer a matter to the Secretary of State
  - (d) The changes set out in Appendix B to the report should be made to the Constitution of the County Council;
- (3) That the changes to the membership of the Health and Adult Social Care Select Committee, relating to the new Local HealthWatch organisation, as set out in Appendix C of the report, be endorsed for recommendation to the County Council.

### **West Sussex Health and Wellbeing Board: Terms of Reference**

196. The Committee considered a report by the Head of Law and Governance on the terms of reference of the West Sussex Health and Wellbeing Board (copy appended to the signed minutes) due to commence its statutory role in April 2013. The terms of reference for the Board had been considered by the Shadow Board at its meeting on 31 January 2013. The Committee was asked to endorse the terms of reference for recommendation to the County Council for inclusion in the Scheme of Delegation in the Constitution.

197. In relation to paragraph 7 of the revised terms of reference of the Board it was proposed that the business planning group should report quarterly to the Board on the rolling work programme.

198. Resolved - That the terms of reference for the West Sussex Health and Wellbeing Board, as set out in the Appendix to the report, subject to the proposal in minute 197, be endorsed for recommendation to the County Council for inclusion in the Scheme of Delegation in the Constitution.

### **Arrangements for Joint Commissioning with the NHS – Abolition of the West Sussex Joint Commissioning Board**

199. The Committee considered a report by the Head of Law and Governance on arrangements for joint commissioning with the NHS (copy appended to the signed minutes). Members were informed that the Primary Care Trust would be abolished from 1 April 2013. Most of its commissioning responsibilities would transfer to three Care Commissioning Groups. Discussions with them had suggested a

preference for a more flexible mechanism for planning and monitoring joint commissioning with the County Council. At the same time the Health and Wellbeing Board would acquire its substantive powers from 1 April and much of its work would otherwise overlap with the current work of the Joint Commissioning Board (JCB). The Committee was asked to consider proposals to cease operating the JCB and to manage the planning of joint commissioning more flexibly.

200. Members supported the proposals and welcomed the new arrangements.

201. Resolved -

- (1) That the County Council be invited to abolish the West Sussex Joint Commissioning Board; and
- (2) That the arrangements for joint commissioning with the NHS set out in paragraph 2.1 of the report be incorporated into the County Council's Constitution within the sections that describe the executive (as set out in the appendix to the report) and the terms of reference of the Health and Wellbeing Board.

202. Dr Walsh left at 4.25 p.m.

### **Other minor changes to the Constitution**

203. The Committee considered a report by the Head of Law and Governance on a number of changes to the Constitution including the designation of the Monitoring Officer and the Section 151 Officer, amendments to the terms of reference of the Regulation, Audit and Accounts Committee as a result of the changes to the Audit Commission and minor changes to officer delegations in the Scheme of Delegation as a result of changes in legislation and to correct an inaccuracy (copy appended to the signed minutes). Members also had before them a supplementary paper which was tabled on minor changes to the Scheme of Delegation in relation to fire service delegations and the responsibilities of the Director of Public Health and the County Returning Officer (copy appended to the signed minutes).

204. Resolved -

- (1) That the changes to Standing Orders, as set out in paragraph 1.4 to the report, be endorsed for recommendation to the County Council;
- (2) That the changes to the terms of reference of the Regulation, Audit and Accounts Committee, as set out in paragraph 2.2 to the report, be endorsed for recommendation to the County Council; and
- (3) That the changes to the delegations to officers in the Scheme of Delegation, as set out in paragraph 3.1 to the report and in the supplementary paper as tabled, be approved and that the changes to the terms of reference of the Governance Committee and the Staff Appeals Panel, as set out in paragraph 3.2 to the report, be endorsed for recommendation to the County Council.

**Date of Next Meeting**

205. Members noted that the next meeting of the Committee would be held at 2.15 p.m. on Monday, 3 June 2013 (note: this meeting will be cancelled if there is no substantive business to consider).

The meeting ended at 4.28 p.m.

Chairman