

23 April 2012 – At a meeting of the Committee held at County Hall, Chichester.

Present:

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

Apologies for absence were received from Mr Barnard.

Also in attendance: Mr Stevens.

Declarations of Interest

149. In accordance with the code of conduct, members of the Committee declared personal interests in item 8, Members' Allowances Scheme. Mr Burrett declared a personal interest in item 6, Working Group (Property and Private Equity) - Pensions Panel, as a member of the Local Government Pension Scheme and of the Local Government Pensions Committee appointed by the Local Government Association.

Minutes of the Governance Committee

150. Resolved - that the minutes of the meeting held on 23 January 2012 be approved as a correct record and that they be signed by the Chairman.

151. In relation to minute 147(3), the Head of Legal and Democratic Services reported that membership of the member stakeholder group had been finalised and its first meeting would be held in May. In addition to the seven members on the group, other members would be brought in to assist on particular issues.

Standards Committee and the Code of Conduct

152. Members considered a report by the Head of Legal and Democratic Services on the Standards Committee and the Code of Conduct (copy appended to the signed minutes). The Committee was reminded that in January 2012 it had agreed to recommend to the County Council that a Standards Committee should be established with consequential governance changes to give effect to the new rules under the Localism Act. It had also agreed that the current code of conduct for members should be adopted in so far as it remained feasible to do so. The Government had subsequently postponed implementation of the regime from April to July 2012. This had given an opportunity to consider a full draft code of conduct and detailed governance arrangements which the Committee was recommended to endorse for submission to the County Council in May.

153. The Head of Legal and Democratic Services outlined the main outstanding issues for the Committee to consider which were:

- The style of the code to be adopted;
- Whether there should continue to be a duty to register and declare other interests taken from the previous code in addition to the new pecuniary interests yet to be prescribed in regulations by the Government;

- With whom the responsibility to refer a potential breach of the regulations relating to pecuniary interests to the police should rest;
- Whether the filtering of complaints should be left to the Monitoring Officer rather than the Assessment Sub-Committee; and
- The number of independent persons and whether the existing three independent members should be invited to serve as independent persons.

154. In relation to the form of the code, the Head of Legal and Democratic Services asked the Committee to consider whether it wished to adhere to its previous view (and that of the Standards Committee) of adopting a code similar to the current statutory code, as set out at Appendix C. The alternative, set out at Appendix D, was a more aspirational template code of conduct prepared by the Local Government Association. A similar style of code had also recently been issued by the Department for Communities and Local Government. The Head of Legal and Democratic Services commented that members might prefer to retain the current style of code which set out clearer boundaries of what was and was not permissible. He reported that should the Council adopt the a code similar to the current style, it would be in line with the expressed intentions of other authorities in Sussex.

155. On balance, although members saw some advantages in a shorter, simpler, aspirational code, the current style of code, as set out at Appendix C, was preferred as it was felt that it provided greater clarity to both members and the public. However, it was proposed that this should be reviewed after a year's operation to see how it had worked in practice.

156. The Head of Legal and Democratic Services referred to the provisions in the Localism Act which made it a criminal offence to fail to register or declare a pecuniary interest. Regulations to define these pecuniary interests were still awaited. However, councils were able to adopt rules on other personal interests and the Committee was asked to consider whether the duty to register and declare other personal interests and the provisions for prejudicial interests should be retained.

157. Members expressed a preference to maintain the highest possible standards but felt that it was very difficult to form a view on which rules should be retained until the regulations on pecuniary interests had been issued. It was therefore proposed that the Leader and the Leader of the Liberal Democrat Group should together consider what should be included once the regulations had been issued and, depending on the timing of the regulations, to inform the report to Council. Members requested that the opportunity should be taken to simplify both the nature of interests requiring registration and the procedure for their declaration as far as was possible.

158. The Committee supported the proposal in the report in Appendix B that it should be the Monitoring Officer who was responsible for referring any complaints to the police which constituted a potential breach of the regulations relating to pecuniary interests.

159. The Head of Legal and Democratic Services sought members' views on whether the Assessment Sub-Committee should continue to undertake the initial filtering of complaints or whether this should be left to the Monitoring Officer. The

Committee supported the continuation of the existing process but suggested that the position could be reconsidered as apart of the review after a year's operation.

160. It was requested that the process for the initial assessment decision set out on page 21 of the report should be amended to ensure that the assessment was completed as early as possible within the 20 working days' time scale, that the member as well as the person making the allegation should be notified if there were to be any substantial delay, and that a time scale should be added for the notification by the sub-committee of its decision. Members also requested that the Monitoring Officer should be given discretion to seek to resolve disputes informally at any stage wherever possible, including involving Group Leaders where appropriate, in an attempt to achieve conciliation. In relation to the withdrawal of allegations, it was proposed that the wording should be amended to give the Monitoring Officer more discretion to allow the withdrawal of allegations without prior consideration by the Assessment Sub-Committee if considered appropriate, except in the case of a serious allegation.

161. Members were supportive of asking the current independent members if they were prepared to serve as independent persons as required by the Act and noted that the appointment process would be via public advertisement which might also attract others willing to serve. It was noted that it would be helpful to define the 'Independent Person' in the description of pre-assessment activity and report of the Assessment Sub-Committee. The Head of Legal and Democratic Services confirmed that the Independent Persons would be available to advise the member who was subject to a complaint and hence the Council needed a minimum of two Independent Persons.

162. Resolved -

- (1)
 - (a) That the Committee recommends to the County Council that with effect from 1 July 2012, the attached Code of Member Conduct (Appendix C to the report), subject to the addition of the list of pecuniary interests as laid down by regulations and a decision on other interests to be retained (see paragraph (b) below), be adopted by the County Council;
 - (b) That the Leader and the Leader of the Liberal Democrat Group form a small sub-group to consider which rules on interests should be retained once the regulations on pecuniary interests are available;
 - (c) That the form and content of the code and its operation be reviewed after a year;
- (2) That the Committee recommends to the County Council that a Standards Committee be established as a non-Executive Committee of the County Council and that the Chairman of the County Council should be ex-officio Chairman of the Committee, as set out at Appendix B to the report, including the amendments to the proposed terms of reference for the Standards Committee and the Hearings Sub-Committee in relation to appeals (subject to the amendments set out in minute 160);

- (3) That the power to grant dispensations (to enable members otherwise with conflicting interests to take part in meetings) be delegated to the Head of Legal and Democratic Services in consultation with the Chairman of Standards Committee, as set out at Appendix B to the report;
- (4) The power to grant to officers exemptions from restriction of political activity (under Section 3A of the Local Government and Housing Act 1989) be delegated to the Chief Executive, in consultation with the Head of Legal and Democratic Services, as set out at Appendix B to the report; and
- (5) That the current independent members of the Standards Committee be invited to apply to serve as independent persons in relation to the work of the Standards Committee, subject to the requirements for public advertisement, and that future appointments to be delegated to the Standards Committee following public advertisements.

Proposals to replace the West Sussex Children's Trust with the Think Family Partnership

163. The Committee considered a report by the Head of Legal and Democratic Services and Interim Director Joint Commissioning which outlined proposals for the redesign of the West Sussex Children's Trust to become the Think Family Partnership in West Sussex, for recommendation to the County Council.

164. Members were supportive of the proposals subject to the following comments on Appendix B:

- The addition of the words 'members or officers, as determined by those authorities' after Borough and District Councils (7 representatives) in the constitution of the Board.
- The use of the phrase 'Chairman' rather than 'Chair' in the constitution of the Board and the Executive Group.
- The addition of the words 'cost effective' prior to 'services' in Key Principle 1 of the Board.
- The submission of the annual report on the delivery of Think Family priorities to the Cabinet as well as to the West Sussex Co-operative.

165. There was some discussion about the size of Board in particular and whether there should be a limit on numbers. The Leader said it was important that all those who were keen to be involved were able to participate but suggested that the position should be reviewed after a year's operation when the representation from NHS West Sussex could also be updated. It was however proposed that the numbers of representatives on the Executive Group from Sussex Police, Health, the voluntary sector and the Probation Trust should be limited to one each and that there should be one representative each from children and young people and from families and carers.

166. Resolved –

- (1) That the proposed changes to the County Council's Constitution needed to give effect to the new Think Family arrangements from June

2012 be recommended for approval to the County Council as set out at Appendix B to the report, subject to the comments set out in minutes 164 and 165;

- (2) That the operation of the arrangements be reviewed in a year's time.

Working Group (Property and Private Equity) - Pensions Panel

167. The Committee considered a report by the Executive Director Finance and Performance on the establishment of a Pensions working group (copy appended to the signed minutes). Members were reminded that in September 2011 the Governance Committee had agreed that a working group should be set up to consider some detailed work on the Pension Fund's Funding Strategy and what amendments might be considered. To assist further with the work of the Pensions Panel the Committee was now asked to consider the establishment of an additional working group to consider in detail the current property and private equity mandates. The working group would report its findings to the Pensions Panel to be incorporated into the Fund's investment Strategy.

168. The Cabinet Member for Finance and Resources informed members that it was proposed that there should be five members of the working group. Members also noted that it was likely to be necessary for external experts to advise the group given the specialist nature of its work.

169. Resolved - That a working group of five members be set up to consider the property and private equity mandates, subject to external advice where necessary, and make appropriate recommendations for consideration by the Pensions Panel.

Minor updates to the Constitution: Corporate Parenting Panel/Officer Delegations

170. The Committee considered a report by the Head of Legal and Democratic Services (copy appended to the signed minutes) on the addition to the Scheme of Delegation in the Constitution of the constitution and terms of reference of the Corporate Parenting Panel and minor changes to the delegations to the Executive Director Finance and Performance and the Director of Public Health.

171. In relation to the constitution of the Corporate Parenting Panel, the Head of Legal and Democratic Services informed the Committee that members of the existing Panel had been consulted on its proposed new terms of reference.

172. Members endorsed the proposal that appointments to the Panel should continue to be on the basis of those best qualified to serve, as set out in the report, rather than being on the basis of proportionality. In terms of reporting frequency to the Council, the Leader requested that there should continue to be at least twice-yearly reports for the current time, the position to be reviewed in due course if required.

173. Resolved –

- (1) That the proposed changes to the Scheme of Delegation, as set out at Appendix 1 to the report, subject to the amendment in minute 172, be

endorsed for recommendation to the County Council; and

- (2) That the changes in relation to the officer delegations in the Scheme of Delegation, as set out at Appendix 2 to the report, be approved.

Members' Allowances Scheme

174. The Committee considered a report by the Head of Legal and Democratic Services (copy appended to the signed minutes) requested by the Chairman on a proposed amendment to the current wording in the Members' Allowances Scheme to clarify that the basic allowance was intended to cover work within a member's division. The Head of Legal and Democratic Services referred to the regulations governing members' allowances and informed members that travel to a meeting with officers within a member's division was also covered by the Basic Allowance and did not fall within the approved duties for which travel expenses could be paid.

175. Members commented that the proposed amendment to the scheme as set out in paragraph 2.1 of the report could be read to imply that members did not need to attend meetings at County Hall or outside their division. Given the changing role of members and their work in the community under the localism agenda, it was proposed that the report should be withdrawn and that the issue should be referred to the member stakeholder group for further consideration.

176. The Executive Director Finance and Performance informed members that he was expecting to receive advice from HM Revenue & Customs (HMRC) that the negotiated tax allowance for members had been withdrawn with effect from 2012/13. This meant that from 1 April 2012 members would need to provide HMRC with receipts for all income, including Basic and Special Responsibility Allowances, in relation to their income tax statement. Urgent clarification was being sought and in the meantime all members will be informed of the position.

177. Members expressed concerns about the proposals which they felt would be much more expensive and time consuming to operate and urged the Executive Director Finance and Performance via his professional association and the Local Government Association to make urgent representations to the Government that the proposals should be reversed.

178. Resolved –

- (1) That the question of clarification of the duties covered by the Basic Allowance in the Members' Allowances Scheme be referred to the member stakeholder group for further consideration; and
- (2) That the Executive Director Finance and Performance make urgent representations via the Society of County Treasurers and the Local Government Association that the removal of the councillors' tax allowance should be reversed.

Appeals Panel Annual Report 2011/12

179. The Committee considered the annual report of the Appeals Panel 2011/12 in the light of a report by the Head of Human Resources and the Head of Legal and Democratic Services (copy appended to the signed minutes).

180. Mr Stevens attended the meeting with the consent of the Chairman and reiterated the importance of training for members chairing appeals, particularly in relation to their possible role in any future employment tribunal. The Committee was pleased to see that there was a comprehensive mechanism in place to take forward recommendations emerging from Boards of Appeal.

181. Resolved – That the report be noted.

Date of Next Meeting

182. Members noted that the next meeting of the Committee would be held at 2.15 p.m. on Monday, 2 July 2012.

The meeting ended at 3.56 p.m.

Chairman