

23 January 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 A R H Smith and Dr Walsh.

Apologies for absence were received from Mr Barnard.

Also in attendance: Mrs Field.

### **Declarations of Interest**

111. No interests were declared.

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

112. Resolved - that the minutes of the meeting held on 28 November 2011 be approved as a correct record and that they be signed by the Chairman.

### **Pay Policy Statement**

113. Members were informed that the Localism Act required the County Council to produce a Pay Policy Statement which had to be approved by the full Council. The Committee considered a report by the Head of Human Resources and the Head of Legal and Democratic Services (copy appended to the signed minutes) which outlined the requirements of the pay policy and the requirement to publish salary information for employees as required by the Code of Recommended Practice for Local Authorities on Data Transparency. The Committee was asked to endorse the Pay Policy Statement for adoption and approval by full the Council at its meeting on 17 February 2012.

114. The Head of Human Resources commented that a number of the requirements of the Localism Act were obligatory, such as the publication of the Pay Policy Statement. However, the issue of whether to publish the names of staff with salaries of £58,200 and above was at the Council's discretion and the Committee's view was being sought. The Head of Human Resources commented that the option set out in paragraph 3 of the report as to whether the County Council should be offered the opportunity to vote before large salary packages were offered for a new appointment would need to be an additional recommendation (3) to the County Council meeting on 17 February 2012.

115. Members discussed whether it was appropriate to publish the names of senior employees with salaries above the prescribed level. The Head of Legal and Democratic Services clarified that the requirement to seek an employee's agreement before publishing their salary arose from data protection legislation. The Head of Human Resources explained that the proposal was to publish names only if 50% or more of the staff in that employee group were in agreement. If 50% or more agreed there would still be a requirement in relation to data protection to gain the agreement of individual employees before publishing their salary details.

116. Whilst noting the argument for openness and transparency and compliance with the guidance, on balance members had sympathy with the views put forward by Unison and felt that openness and public accountability would be met adequately by publishing post titles and salary bands without individual names.

117. In relation to the additional option set out in paragraph 3 of the report and whether full Council should vote on large salary packages over £100,000, members were of the view that the process would be excessively bureaucratic and unnecessary given the existing arrangements which involved the cross-party Chairman's Appointing Committee for most such appointments.

118. Members discussed whether the Pay Policy Statement should include more specific details on the relationship between the remuneration of the Council's chief officers and other officers. The Head of Human Resources explained that the Statement was drafted so as to avoid the need to update it whenever salaries changed. Members agreed that that was a sensible approach but asked for the information to be made available to members as part of the report to the County Council when the Statement was submitted for approval.

119. In response to members' queries the Head of Legal and Democratic Services reassured the Committee that the continued payment of additional long service increments to a small number of staff did not breach the requirements of the Equality Act.

120. Resolved -

- (1) That the proposed pay policy (attached at Appendix A to the report) be endorsed for recommendation to the County Council at its meeting on 17 February 2012;
- (2) That the County Council publish salary information relating to staff earning above £58,200 but not the names of such staff; and
- (3) That the County Council at its meeting on 17 February 2012 be recommended that large salary packages of over £100,000 should not be referred to the full Council for approval prior to an appointment being made.

### **Options for Future Forms of Governance**

121. The Committee considered a report by the Head of Legal and Democratic Services on options for future forms of governance (copy appended to the signed minutes). Members were informed that the Localism Act 2011 had introduced provisions which would enable each local authority to decide whether to apply a different form of governance with effect from the next full Council election. In the case of the County Council, which had adopted a Leader and Cabinet system, it meant that it could opt either for an elected Mayor (which it had previously elected not to do) or to revert to the committee system. It could also consider calling a local referendum on the issue. The Committee was asked to determine whether a fuller report on the options, timing, governance implications and transitional arrangements should be commissioned and presented to a future meeting of the Committee.

122. Issues in relation to the benefits of looking at the option of a return to the committee system were put forward by members. Whilst some members felt that it could be timely to review the current system which had been in operation for 10 years others felt that the public had just begun to get used to the Cabinet system which had a number of advantages over the previous system. With the difficult decisions currently facing the County Council it was considered beneficial to have an efficient, fast decision-making process with clear lines of accountability that could be easily understood. In addition, the ability through the Forward Plan to anticipate future decisions was seen as a benefit over the previous system. On balance on a vote the Committee agreed that, given the current financial constraints, it was not an appropriate time to embark on another process of change.

123. Resolved – That the Committee does not ask that work be undertaken or a further report be prepared in relation to any change to future governance arrangements under the Localism Act 2011.

### **The Future of Standards Committee and the Code of Conduct**

124. The Committee was asked to consider a report by the Head of Legal and Democratic Services on the future of the Standards Committee and the Code of Conduct (copy appended to the signed minutes). Members were reminded that the Localism Act 2011 had abolished much of the national Standards regime, but required councils to have a code of conduct and a register of members' interests. It also placed a duty on councils to promote and maintain high standards of public life and to have a mechanism in place to enforce the code of conduct. Members were informed that the Standards Committee had surveyed all members in June 2011. There had been general support for retaining the current Code of Conduct and a Standards Committee to oversee it as close to the current model as the Act permitted. The Committee was therefore asked to consider a number of proposals for recommendation to the County Council.

125. The Head of Legal and Democratic Services reported that since the committee papers had been published the Government had announced two changes. The first affected the time table for the introduction of the new requirements which would now be effective from 1 July rather than 1 April 2012. The second related to the requirement for 'independent persons' to replace the current provisions for co-opted, independent members. Initial legal advice suggested that the provisions of the Localism Act prohibited existing co-opted, independent members from being appointed as independent persons under the new arrangements. It was understood that this had not been the Government's intention and that the Government was currently taking legal advice to see how the situation could best be resolved.

126. The Head of Legal and Democratic Services therefore proposed that the consideration of the report by the County Council should be deferred until its meeting in May. This would allow for a further report to be brought to the Governance Committee in April to cover the current areas of uncertainty and to provide a complete set of recommendations to go forward to the full Council for approval in time for implementation from 1 July 2012.

127. Members sought confirmation that the appeal mechanism against the findings of a Hearing Sub-Committee mentioned in paragraph 2.5 of the report

should be reflected in the terms of reference of the Standards Committee and would exclude the members of the Sub-Committee from sitting on the Standards Committee when the appeal was heard. The Head of Legal and Democratic Services agreed that these would be picked up in the changes to the Committee's terms of reference. In relation to the requirements for the retention of papers set out on paragraph 35 of the procedure of the Hearing Sub-Committee on page 49, it was suggested and agreed that, as a member might be re-elected to an authority the within the six-year period referred to, the words ', or until the member against whom the allegation was made ceases to be a member of the County Council, whichever is earlier' should be deleted.

128. Resolved -

- (1) That the Committee recommends to the County Council in May 2012 that:
  - (a) A Standards Committee should be established as a non-Executive Committee of the County Council with effect from 1 July 2012, with the functions set out in Appendix A to the report (subject to the amendments set out at minute 127), to meet the requirements of the Localism Act 2011 to have a mechanism to promote high standards and enforce the code of conduct and that the other changes to the Constitution, set out at Appendix B be approved;
  - (b) The Chairman and Vice-Chairman of the County Council should become ex officio Chairman and Vice-Chairman of the Standards Committee respectively;
  - (c) 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;
  - (d) 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; and
  - (e) That arrangements be made for the appointment of independent persons.
- (2) That the Committee notes the Standards Committee's recommendation to the County Council that the current Code of Conduct be retained in full provided it complies with any regulations which may be made.

### **Review of Scrutiny (Phase 2)**

129. The Committee considered a report by the Chairman of the Scrutiny Review Group on the Review of Scrutiny (Phase 2) (copy appended to the signed minutes). Members were reminded that Phase 1 of the Scrutiny Review had changed some

ways of working, reduced the number of meetings and introduced a new approach to cross-cutting scrutiny and policy development. Members were reminded that it had always been planned that a further more fundamental phase of review should be undertaken to reflect the changing nature of the County Council's involvement in the provision of services, and ensure that the resource for scrutiny (officer and member) was used to best effect (the Democratic Services redesign reduced the budget for scrutiny by 40% with effect from 1 April 2011). A small cross-party member group had carried out the next phase of the scrutiny review and all members of the Council had the opportunity to inform and influence the development of the proposals. The Scrutiny Review Group had concluded that there was a need to change the current arrangements if members wished scrutiny to have a positive impact within the resources available and the Committee was asked to consider a number of proposals for recommendation to the County Council. The Chairman of the Review Group attended the meeting and introduced the Group's report.

130. Whilst broadly welcoming the report some Liberal Democrat members expressed concerns about one aspect of the proposals - whether there would be any minority group chairmen under the new arrangements. They expressed the view that, as advocated by the Centre for Public Scrutiny, it was best practice that chairmanships were shared between the political parties. Out of 26 county councils surveyed, 16 currently had at least one minor group chairman. They considered that the system had worked well at the County Council in the past and had, in their view, helped to ensure effective scrutiny.

131. However, other members were of the view that the duty to scrutinise effectively fell to all members of the County Council and that as the Conservative Group had a significant majority it would not be unreasonable were they to take the four chairmanships with the Liberal Democrat Group being offered the vice-chairmanships.

132. On behalf of the Conservative Group Mr Burrett requested two changes to the recommendations for consideration by the Governance Committee. Firstly, the Conservative Group's preference was for the Select Committees to maintain their current name rather than being renamed 'Scrutiny' committees. Secondly, the Group preferred to retain the title 'Policy and Resources' rather than the proposed title of 'Resources and Performance'. On a personal note, as Chairman of the current Children and Young People's Services Select Committee, Mr Burrett said he would prefer to retain the word 'Service' in the title rather than renaming the Committee the 'Children and Young People's Select Committee'.

133. Some members argued that the public did not understand the name 'Select Committees' and often thought that the committees had decision-making powers. It was suggested that having 'scrutiny' in the committees' titles would help understanding of their role. However, others felt that the matching the title of central government Select Committees was more beneficial and was generally understood by the public.

134. The Service Manager Non-Executive Support reported that, as set out in the report, the co-opted members on both the Children and Young People's Services Select Committee and the Health Overview and Scrutiny Committee had been consulted on the proposals. Whilst co-opted members in general had been supportive of proposals, the representative of the Church of England Diocese for

Chichester had expressed concerns about both the reduction in the number of parent governors from three to two and the removal of the facility for Diocesan substitutes at call-in meetings for the Children and Young People's Services Select Committee which he felt would be a detrimental step. With regard to the latter point, the Service Manager Non-Executive Support reminded members that it was proposed to mitigate the removal of substitutes by inviting additional witnesses to contribute to call-in meetings where appropriate.

135. On a vote the Committee agreed to recommend the revised changes to committee titles set out in minute 132. Members also requested that an alternative name be found for the proposed 'Member Activity Days'.

136. Resolved – That the County Council be recommended to approve, subject to the changes set out in minute 132 and the request for a new name for Member Activity Days in minute 135:

- (1) The proposed changes to the scrutiny structure and arrangements as set out in paragraphs 5 to 25 and Appendices B and C of the report for implementation on 1 April 2012;
- (2) The proposed new select committee protocol to replace the current version in the Constitution as set in Appendix D together with the other constitutional alterations set out in Appendix D of the report;
- (3) That the chairmanships and memberships of each of the new Select Committees be approved at the County Council meeting on 17 February 2012 to take effect on 1 April 2012; and
- (4) That the Scrutiny Review Group remains in existence to work with officers in enabling a smooth transition to the new arrangements.

### **Minor updates to the Constitution**

137. The Committee considered a report by the Head of Legal and Democratic Services on minor updates to the Constitution (copy appended to the signed minutes). These related to delegations to officers in relation to Children's Services and following the centralisation of the property function, the definition of 'chief officers' and delegations to officers in relation to attendance of members at external courses.

138. A query was raised in relation to the wording of the delegation to the Executive Director Finance and Performance in paragraph 2.2 on page 113 of the report and that of the Director of Children's Services in paragraph 2.5.5 on page 115 and whether they should be the same. The Head of Legal and Democratic Services said he would check the wording and make an amendment if necessary.

139. Resolved –

- (1) That the changes in relation to the officer delegations in the Scheme of Delegation, as set out at the Appendix to the report, be approved, subject to the query set out in minute 138; and

- (2) That the proposed changes to Standing Orders, as set out at the Appendix to the report, be endorsed for recommendation to the County Council.

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

140. The Committee considered a report by the Head of Legal and Democratic Services the terms of reference of the Shadow West Sussex Health and Wellbeing Board (copy appended to the signed minutes). 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.

141. Members queried whether the list of representatives from the County Council on the Shadow Board should include the newly appointed Executive Director Health and Social Care and the Chief Executive confirmed that it should. Members noted that the representation of clinical commissioning groups would be revisited when the changes to the configuration of the groups was complete. In addition, a further report would be considered by the Committee prior to the commencement of full statutory status in April 2013. The reference in the Appendix to the County Council's Health Overview and Scrutiny Committee would in due course be replaced by the Health and Adult Social Care Select Committee, subject to the approval of the proposals in relation to the review of scrutiny by the County Council.

142. Resolved – That the terms of reference for the shadow West Sussex Health and Wellbeing Board, as set out in the Appendix to the report, subject to the changes set out in minute 141, be endorsed for recommendation to the County Council for inclusion in the Scheme of Delegation in the Constitution.

### **Member Development**

143. The Committee considered a report by the Chairman of the Member Development Focus Group (MDFG) on Member Development (copy appended to the signed minutes). The Committee was asked to consider the key messages from the MDFG overview of the member development programme during the previous year and a summary of the approach now being taken with its role in the programme - including the proposed changes to allocation of member development days linked to the Scrutiny Review. The report also suggested some revisions to MDFG's terms of reference and offers some options around member involvement in the planning for the new Council.

144. The Chairman of the MDFG supported the change of name to the Member Development Group and said that it would be helpful for there to be more members on the Group in the run-up to the next elections. This would help with the workload required over the next year and, where possible, members should be chosen to try to ensure continuity of membership past the next election. He also said that it would be helpful if Group Leaders could try to give an indication where possible later in the year as to how many of their members were unlikely to stand for re-election in 2013 so that the induction programme could be planned based on an idea of the likely percentage of new members.

145. The Leader reported that Group Leaders had held a useful meeting to discuss the proposals including the best way to provide information to potential election

candidates where it was considered that the use of digital media would be preferable to holding information sessions. This might include the production of a DVD about the future role of councillors. She also felt it would be helpful to look at some form of mentoring for new members who could find the process of joining the Council intimidating.

146. In terms of member involvement in their future role, the Service Manager Non-Executive Support reported that Group Leaders had suggested there should be a member stakeholder group to take forward the proposed changes in relation to the role of members together with other issues such as member capacity, training and support, including both IT and officer support. It was proposed that the stakeholder group would report in due course to the Governance Committee following which the new Member Development Group would take forward any training needs and induction requirements for 2013.

147. Resolved –

- (1) That the feedback from the annual programme to date be noted;
- (2) That the enhanced working arrangements for the renamed Member Development Group be supported;
- (3) That a member stakeholder group be established to ensure member involvement in planning for the new council and to report to the Governance Committee in due course; and
- (4) That the revised terms of reference for the current MDFG at the Appendix to the report be agreed.

### **Date of Next Meeting**

148. Members noted that the next meeting of the Committee would be held at 2.15 p.m. on Monday, 23 April 2012.

The meeting ended at 4.12 p.m.

Chairman