

# Public Document Pack

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15 June 2018

## **Governance Committee**

A meeting of the Committee will be held at **2.15 pm on Monday, 25 June 2018** at **County Hall, Chichester**.

Tony Kershaw  
Director of Law and Assurance

## **Agenda**

### **Part I**

#### **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 5 - 8)**

The Committee is asked to agree the minutes of the meeting held on 14 May 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. Part II Matters**

Members are asked to indicate at this stage if they wish the meeting to consider bringing into Part I any items on the Part II agenda.

#### **5. Independent Remuneration Panel Review of Member Allowances (Pages 9 - 16)**

Report by Director of Law and Assurance.

A new Members' Allowances Scheme came into effect in May 2017, based on a Scheme recommended by the Independent Remuneration Panel (IRP) to Council

in December 2016. The Council asked the IRP to review the Scheme after about a year of operation and the IRP review has now completed that review. The Committee is asked to consider the IRP's proposals for recommendation to the County Council.

6. **Review of the Constitution** (Pages 17 - 124)

Report by the Director of Law and Assurance.

A technical review has been undertaken of the County Council's Constitution, with an aim of making it a more accessible document, removing duplication and simplifying some of the more technical language. The Committee is asked to endorse the proposed changes for recommendation to the County Council.

7. **Change to County Local Committee Boundaries** (Pages 125 - 130)

Report by the Director of Law and Assurance.

The Committee is asked to consider 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.

8. **Staff Appeals Panel - proposals for change** (Pages 131 - 136)

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

The Committee is asked to 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.

9. **Staff Appeals Panel Annual Report 2017/18** (Pages 137 - 146)

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

The Committee is asked to consider the annual report of the Appeals Panel for 2017/18.

10. **Review of Financial Regulations and Financial Procedures** (Pages 147 - 168)

Report by the Director of Finance, Performance and Procurement and the Director of Law and Assurance.

The Committee is asked to consider and endorse revised Financial Regulations for approval by the Regulation, Audit and Accounts Committee (RAAC). The Committee is 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. This will be submitted to the Council in July for approval before RAAC considers the changes to Financial Regulations.

11. **Pension Advisory Board Update** (Pages 169 - 182)

Report by the Director of Finance, Performance and Procurement.

The Committee is asked to consider and approve the business plan and budget of the Pension Advisory Board for 2017/18. The Committee is also asked to endorse a recommendation that the number of members and number of meetings of the Board should be increased.

12. **Change to Pensions Panel Terms of Reference** (Pages 183 - 186)

Report by the Director of Finance, Performance and Procurement.

The Committee is asked to consider 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.

13. **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.

**Part II**

14. **Exclusion of Press and Public**

The Committee is asked to consider in respect of the following item whether the public, including the press, should be excluded from the meeting on the grounds of exemption under Part I of Schedule 12A of the Local Government Act 1972, as indicated below and because, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information.

Exempt: paragraph 2, Identity of an individual

15. **Staff Appeals Panel Annual Report 2017/18**

Appendix 2 is included for members of the Committee only.

**To all members of the Governance Committee**

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## **Governance Committee**

14 May 2018 – At a meeting of the Committee held at 2.15 p.m. at County Hall, Chichester.

Present: Mr Barnard (Chairman), Mr Acraman, Mr Burrett, Ms Goldsmith, Mr Mitchell, Mrs Mullins, Mr R J Oakley, Mrs Sparkes and Dr Walsh.

### **Declarations of Interest**

1. None declared.

### **Minutes of the Previous Meeting**

2. Resolved – That the minutes of the meeting held on 22 January 2018 be approved as a correct record and that they be signed by the Chairman.

### **Notice of Motion: Women in Politics**

3. The Committee considered a report by the Member Development Group (copy appended to the signed minutes) which set out the Group's consideration of the motion from Ms Lord that had been referred by the County Council on 16 February 2018 for consideration by the Governance Committee via the Group. The motion called for a project to investigate ways of encouraging more women to stand for election in 2021.
4. The report was introduced by Ms Kennard, Chairman of the Group, who reported that the Group had agreed that broadening diversity of the Council's membership should be a focus for the Group, including increasing the number of women councillors, as mentioned in the motion.
5. At the Chairman's invitation, Ms Lord addressed the Committee on the subject of the motion. She highlighted that women were generally underrepresented in all levels of government. Although West Sussex demonstrated some good practice, including a gender balanced Cabinet, women only accounted for a third of members. She recognised that there were some limits to what the Council could do to encourage women to stand for election, but hoped that the motion would stimulate work to be done ahead of the 2021 County Council election. Options such as improving the carer's allowance and the timings and scheduling of meetings could be explored.
6. The Committee agreed that broadening diversity of the Council's membership was something to be aspired to, although it was recognised that a lack of salary for the role made it difficult for working age people to stand. The Committee also noted the broader aspiration for tackling diversity rather than to focus on the gender balance. The 'Be a Councillor' work undertaken by Democratic Services to promote the role in 2017 was welcomed and it was hoped that this could be built on well ahead of the 2021 election.
7. Resolved – That the principles of the motion be supported, but with a

recommendation that the Member Development Group undertakes project work rather than a separate project group.

### **Adult and Children's Safeguarding Training for Elected Members**

8. The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes) which asked the Committee to consider whether safeguarding training should be seen as mandatory for elected members and, if so, how this would best be achieved.

9. The Committee highlighted the importance of safeguarding training for members as something relevant to all members because of their local community role, the primary responsibilities of the Council of which they are members, as well as the issue being of particular relevance to members involved with adults and children's services as part of their roles. It was acknowledged, however, that anything made mandatory could not ultimately be enforced.

10. The Committee discussed how best to highlight the importance of such training and agreed that members should be required to attend safeguarding training within six months of this decision and that failure to undertake training should be reported to group leaders, who could take action they consider appropriate such as to not make such members available for or to remove members from any adults or children's services roles.

11. Mr Acraman asked that it be recorded that he voted against the proposal to use the term 'required'.

12. Resolved –

- (1) That safeguarding training relating to both adults and children be required for all West Sussex County Council elected members; and
- (2) That the relevant political group leader be informed of any member who does not complete the training within six months.

### **Report of the Member Development Group**

13. The Committee considered a report by the Director of Law and Assurance (copy appended to the signed minutes), which advised of the recent work of the Group.

14. The Committee welcomed the current programme but highlighted the need for officers to strike the right balance between presentation and member questions, avoiding overloading member development sessions. The Chairman of the Group agreed to investigate these issues at the next meeting of the Group.

15. Resolved – That the report be noted.

### **Report of Member Attendance May 2017-March 2018**

16. The Committee was reminded that, as part of its terms of reference, it is

required to monitor attendance of members at meetings of the County Council and its committees annually. The Committee was asked to note a report by the Director of Law and Assurance on members' attendance for the period 1 May 2017 to 30 March 2018 (copy appended to the signed minutes). A suggestion was made that would make the document easier to read across.

17. Resolved – That members' attendance at Council, Committee and other meetings for the period 1 May 2017 to 30 March 2018 be noted.

### **Appointments to Committees, Panels and Outside Bodies**

18. In accordance with the provisions of the Local Government and Housing Act 1989, the Committee was asked to appoint members to serve on the committees, panels and outside bodies as set out in the report by the Director of Law and Assurance (copy appended to the signed minutes) in line with the expressed wishes of the political groups.

19. Resolved – That appointments to committees, panels and South East Employers be approved as set out in the note.

### **Report of Urgent Action**

20. The Committee noted action taken by the Director of Law and Assurance, in consultation with the Chairman, as follows:

#### **Response to Consultation on Crawley Borough Council's Electoral Boundary Review**

Approval to the County Council's response to a consultation document from the Local Government Boundary Commission for England on its electoral boundary review of Crawley Borough Council, as recommended by the Electoral Review Panel.

### **Date of Next Meeting**

21. The Committee noted that the next meeting would be held at 2.15 p.m. on Monday, 25 June 2018.

The meeting ended at 3.31 p.m.

Chairman

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**Governance Committee****25 June 2018****Part I****Independent Remuneration Panel Review of Member Allowances****Report by Director of Law and Assurance****Electoral Division(s): Not applicable****Recommendation**

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

**Proposal****1. Background and Context**

- 1.1 Members of local authorities have been able to receive certain allowances and expenses for many years, as a way of acknowledging the time and responsibility they invest in serving as members.
- 1.2 The Member Allowances Regulations 2003 requires all local authorities to have a Members' Allowance Scheme published as part of their Constitution. It also established that authorities must establish Independent Remuneration Panels (IRPs) which should review schemes from time to time and make recommendations to the local authority about its scheme. An IRP must consider the scheme around every four years.
- 1.3 A new Members' Allowances Scheme came into effect in May 2017, based on a Scheme recommended by the IRP to Council in December 2016. The Council asked the IRP to review the Scheme after about a year of operation.

**2. Proposal**

- 2.1 The IRP have prepared the report attached at the Appendix that sets out its recent review of the Scheme following about a year of its operation. This includes details of consultation undertaken with a range of elected members.
- 2.2 In summary, the IRP recommends amending the Carer's Allowance to more explicitly highlight that it can be used to claim for childcare costs or the care of dependant adults and recommends setting separate hourly rates and annual limits, based on the differing costs of these types of care. It also recommends a small amendment to the travel expenses scheme, to allow members to claim travel expenses for observing a committee meeting for development purposes.

### **3. Resources**

- 3.1 If the IRP's recommendations are agreed by Council, it is expected that any additional claims for carer's allowance and for travel expenses can be met from within the current Members' Allowance Budget.

#### **Factors taken into account**

### **4. Consultation**

- 4.1 The IRP interviewed a range of elected members and also undertook a member survey which all 70 members were able to respond to. It has consulted the County Chairman and group leaders, who were supportive in principle of the IRP's draft report.

### **5. Risk Management Implications**

- 5.1 The County Council is obliged to consider the recommendations of the IRP, which gives assurance that the Members' Allowance Scheme is fit for purpose. The independent nature of the IRP mitigates against any reputational risk.

### **6. Other Options Considered**

- 6.1 The IRP considered a range of options, as set out in its report.

### **7. Equality Duty**

- 7.1 If Council chooses to make the changes to the carer's allowance as recommended by the IRP, this should make it easier for people with a range of caring responsibilities to stand for election to the County Council in future.

### **8. Social Value**

- 8.1 Not applicable.

### **9. Crime and Disorder Act Implications**

- 9.1 Not applicable.

### **10. Human Rights Implications**

- 10.1 Not applicable.

#### **Tony Kershaw**

Director of Law and Assurance

**Contact:** Charles Gauntlett 033022 22524

**Appendix:** Report of Independent Remuneration Panel

**Background Papers** None.

## **Report of the Independent Remuneration Panel's Review of the Member allowances and expenses scheme 2018**

1. In December 2016, the Council voted to implement a new Scheme of Allowances and Expenses, which took force from the time of the Council elections in May 2017.
2. In 2016, the Governance Committee asked the Independent Remuneration Panel (IRP) to conduct a brief review of the new Scheme once it had been in operation for a year or so, to check whether it was operating in the way intended.
3. The Independent Remuneration Panel has carried out such a review during the period February to May 2018. During this review, the Panel has:
  - a. Received information from Officers on the administration of the new Scheme
  - b. Met with 14 Members to hear first-hand their views on the allowances and expenses and received three written submissions as well. These Members comprised: the Leader and the two minority group leaders; the Chairman and Vice-Chairman of Council; three Cabinet Members; three committee chairmen; a Senior Advisor and an Advisor; and two backbench Members
  - c. Received 29 responses to questions set in the recent Members' survey.
4. The Panel is grateful to all those who took the time to contribute to the review. All of their input has been considered as a part of the Panel's thinking.
5. The overwhelming consensus from all input received is that the Scheme is considered to be fair and appropriate, and to be administered well. 69% of responders agreed or strongly agreed that the Scheme strikes the right balance between public service and the reality of carrying out the role. Neither the Panel, nor relevant Officers, nor senior Council Members have received any substantive complaints about the scheme since it was implemented in May 2017.
6. A couple of respondents suggested that the Special Responsibility Allowances for Committee Chairmen should vary depending on which committee is involved. The Panel had considered this question carefully in 2016, and has re-visited it in this review. The Panel does not recommend implementing such a differentiated allowance for Chairmen: this is because the Panel's approach has been to evaluate responsibility and accountability, which is broadly comparable for chairmen of non-executive committees and select committees. The amount of time spent can vary enormously from individual to individual due to different ways of working, so the Panel does not believe that any differential should be applied.
7. One respondent pointed out that Members travelling to Chichester from the far north-east of the Council area for two consecutive days would save considerable journey time and possibly save money if they were able to stay overnight in Chichester. The Panel is sympathetic to this suggestion, and notes that this is not ruled out by the Scheme. Any Member who believes that this

would help them in their duties and would result in an equal or lower cost to the Council, should approach the Director of Law and Assurance.

8. Some aspects of a more substantive nature were raised by a few respondents:

- a. Revision of the carer’s allowance, and improved publicity associated with this
- b. Whether the scheme can help encourage increased diversity of Council membership
- c. Whether the scheme of expenses could be used to encourage more and better use of technology and distributed offices in order to reduce travelling time and cost

9. Having considered the input received, the Panel recommends that the present carer’s allowance is replaced with two categories of allowance as follows:

- a. Childcare Support – an annual maximum of £3,500 based on actual claims, paid up to a maximum hourly rate of £8.75 (which should be linked to the “real” living wage) on the production of a receipt or other evidence of actual spend
- b. Dependant Carers’ Support – an annual maximum of £7,400 based on actual claims, paid up to a maximum hourly rate of £18.49 (which is linked to the County Council’s maximum usual hourly payment to home support carer workers for weekday daytime care) on the production of a receipt or other evidence of actual spend.

10. There should be discretion for a higher amount to be claimable in cases where a member is caring for someone with particularly complex needs.

11. The present exclusion of payments to family members should be retained. The maximum amounts should be indexed to CPI, in line with subsistence claims. The hourly rates should be reviewed annually and uplifted if the figures they are based on increase.

12. The Panel considered a request from group leaders to allow members to be able to claim travel expenses for observing committee meetings as a development opportunity. The Panel was minded to amend travel expense scheme item 9 to allow this at a group leader’s discretion:

<b>Included in the travel expenses scheme</b>	<b>Excluded from the travel expenses scheme</b>
Attending internal training sessions and seminars and, when approved by an appropriate Cabinet Member, committee or group leader, external courses and conference <b><i>and observing internal meetings for development purposes</i></b>	Attending external courses or conferences without the prior approval of the appropriate Cabinet Member, Committee or Group Leader.

13. A number of respondents mentioned their desire to see more younger, working-age members; a desire which the Panel supports. Following consideration of the limitations imposed by legislation, the Panel has concluded that it is not able to recommend any relevant changes to the scheme of allowances. The Panel would, though, urge the Council to:

- a. Publicise more strongly how the scheme of allowances and expenses can help people thinking of standing for election (for example the childcare and dependent allowances)
- b. Consider encouraging employers to support any members of staff who are elected, and encouraging them to advertise this support as part of their corporate "community" and "giving back" actions

14. Governance Committee needs to be aware that significant numbers of free text responses indicated that allowances are too low to allow some potential candidates to afford to become councillors – e.g. those who are in employment and would lose income if they became councillors. The IRP, however, is not able or minded to solve this – and certainly not by a wholesale increase in allowances. The IRP urges the Council to take this issue forward with Central Government, as the IRP believes that only national Governmental action may address this.

15. The Panel is aware that the Council will soon be refreshing its IT provision. Alongside the rollout, the Panel urges the Council to provide targeted information and training to members as to how to make effective use of digital, audio and video technology to avoid the time and cost of travel.

### **West Sussex Independent Remuneration Panel**

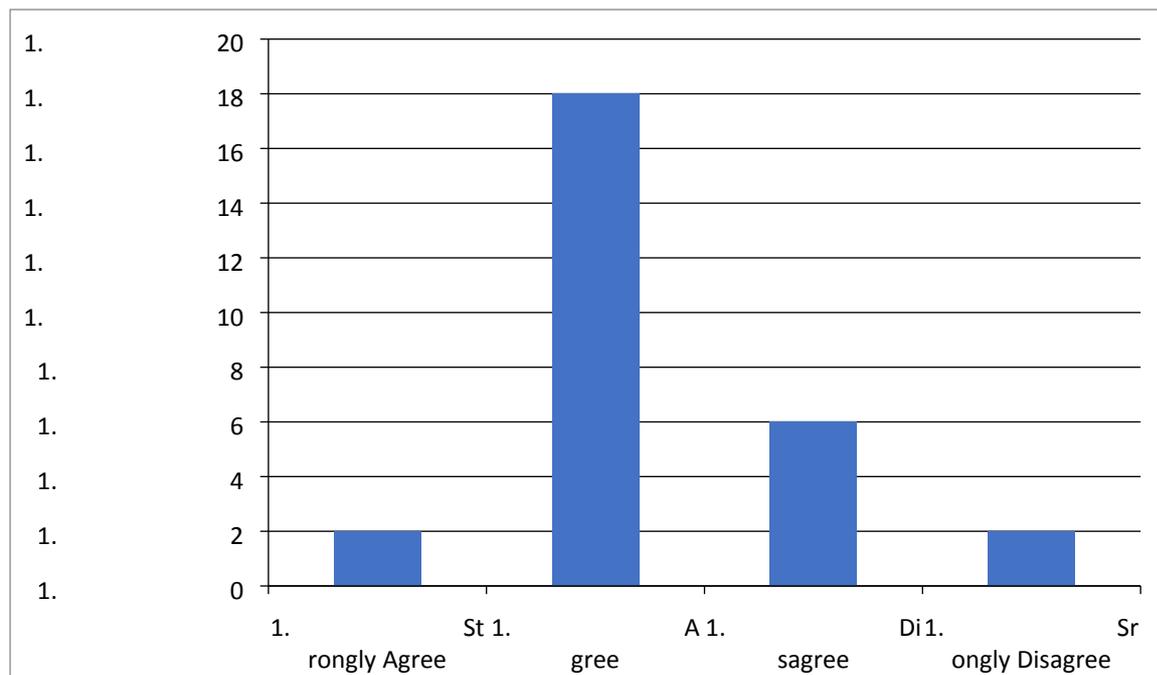
Dr Neil Beer  
Mr Steve Cooper  
Mr John Donaldson  
Mrs Charlotte Pexton  
Mr Kevin Scutt

### Appendix to IRP Report – Survey Analysis

The annual members' survey was completed by 29 of the 70 members of the County Council. Three questions were asked on behalf of the IRP.

#### Q.1 To what extent do you agree or disagree with the following statement:

**The Member Allowance Scheme strikes the right balance between public service and the reality of carrying out the role.'**



Of the 29 responses received, 20 members agreed or strongly agreed that the right balance is struck. One member did not give an answer to this question.

#### Q2: What suggestions do you have about how the Member Allowance Scheme could support greater diversity (age, gender, ethnicity etc.) in elected members?

- 19 members responded to this question, of whom six did not believe that seeking greater diversity should be a consideration for the Scheme.
- Eight comments highlighted the problem that the current allowances are not seen to provide sufficient alternative to a career for people of working age. Some commented that the timing and location of meetings could be a factor that discouraged some potential candidates at present.
- Several members felt that the carer's allowance could be improved to be able to better cover childcare costs.
- Some members felt that the allowance should be higher to reflect the increasing workload
- One suggestion was made that 'be a councillor' information should be more widely advertised.

**Q 3: Are there any changes you would like to see introduced to the members allowance scheme?**

- Around half of respondents stated 'no' or made no comment.
- Other respondents highlighted that a salary, pension provision or higher general levels of allowance would be helpful in encouraging people to put themselves forward for serving as a councillor.
- Better childcare support was mentioned by several members.
- The need to ensure that members are aware of the provisions of the current scheme was emphasised, in particular where members need a prior approval before being able to attend an external event if travel expenses are to be claimed.
- A few members had comments about how appropriate certain SRAs were, but no clear pattern emerged to suggest that there was a widespread view that any were not appropriate.

Charles Gauntlett  
Senior Advisor – Council and Member Support  
17 May 2018

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## **Governance Committee**

**25 June 2018**

**Part I**

### **Review of the Constitution**

#### **Report by Director of Law and Assurance**

##### **Summary**

A technical review has been undertaken of the County Council's Constitution, with an aim of making it a more accessible document, removing duplication and simplifying some of the more technical language.

##### **Recommendations**

- (1) That 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 be recommended for submission to the County Council on 20 July 2018 for approval.

##### **Background**

###### **1. The Constitution Since 2000**

- 1.1 As a requirement of the Local Government Act 2000, West Sussex County Council adopted its Constitution in 2000. This built on the model Constitution available from the Government, but tailored for the County Council.
- 1.2 The Constitution sets out how the County Council discharges its business and responsibilities. It sets out who undertakes what roles and what delegations are made from the Council to committees and individual members and also to officers. It contains rules and advice to ensure that decision-making is sound and lawful, financially sound and meeting all other requirements. It sets out codes of expected conduct and a members' allowances scheme.
- 1.3 The Constitution has always been a dynamic document, subject to regular review and amendment in response to national or local change or need.
- 1.4 Following the elections in 2017 the Chairman and Group Leaders agreed that a full technical review of the Constitution should be undertaken, with the aim of making it a more streamlined, clear resource. This aimed to reduce duplication and review the content for clarity, need and value.

###### **2. Proposal**

- 2.1 A revised Constitution has been prepared to fulfil the aims of the review. The document has been reduced to six sections, including a clearer introduction

in Part 1. The proposed changes for consideration by the Committee are attached as Appendices 1 to 4. A summary of the overall changes is included at Appendix 5. The proposed new Constitution comprises the following parts:

**Part 1** is a brief summary of what is contained in the Constitution.

**Part 2** is a brief introduction to the main aspects of political governance at the Council and how the Council works.

**Part 3**, the Responsibility for Functions, explains who within the Council has powers to exercise various powers and duties. This covers the member-level areas of decision-making and sets out an officer scheme of delegation. The terms of reference (including membership and remit) for each member-level Committee, Panel and Joint Committee are found within this section. There is an index at the start of the section.

**Part 4**, Standing Orders and other procedures, set out the rules to be followed by the Council to ensure that its decisions and actions are legal, financially sound and carried out in accordance with policy frameworks. Standing Orders sets out rules in ten sections:

1. Introduction	6. County Local Committees
2. Council	7. Non-Executive Committees
3. Decision-making and Committees general	8. Scrutiny
4. Access to meetings and documents	9. Appointment of Officers and Disciplinary Action
5. Cabinet and Executive decision-making	10. Delegations to Officers

**Part 5**, the Code of Conduct, sets out the standards of conduct that are expected of members and officers in their Council work. There is an index at the start of this section.

**Part 6**, the Members' Allowances Scheme, sets out the scheme of payment to elected members.

2.2 An aim of the review was to avoid making any material changes to existing political governance arrangements or delegations. This has been done, but several matters of substance are raised below. It is recommended to make the changes below as part of the review:

- (a) **Start of Life Partnership Board** – This is to be abolished, so references will be removed. This is with the agreement of the Cabinet Member for Children and Young People. The activities of the Start of Life Partnership Board will be subsumed within the Health and Wellbeing Board, following discussions with the Cabinet Member for Adults and Health, who chairs the Health and Wellbeing Board.
- (b) **Fire Pension Advisory Board** – This is not currently referenced in the Constitution, unlike the Local Government Pension Advisory Board. It is proposed to correct this omission by including terms of reference for the Board in Part 3.

- (c) **Corporate Parenting Panel** – To allocate non-voting co-opted membership to the Designated Nurse (NHS). This is at the request of the Cabinet Member for Children and Young People, and with the agreement of the Chairman of the Corporate Parenting Panel.
- (d) **Election of Chairman** – To change the wording of Standing Orders to reflect current practice that a secret ballot *may* be held rather than *will* be held.
- (e) **Vice-Chairman of Governance Committee** – To formalise the long-standing convention that this role will be an ex officio role for the County Vice-Chairman.

2.3 The Standards Committee has reviewed the proposed changes to Part 5 of the Constitution, the Codes of Conduct, in accordance with the rules of the Constitution. It agreed to support the proposed changes for submission to the County Council in July 2018.

### **3. Resources**

3.1 There are no resource implications.

### **Factors taken into account**

#### **4. Consultation**

4.1 The Chairman and Group Leaders agreed the scope for the review and have been kept informed as to its progress. The Group Leaders nominated Mr Burrett and Mr Mitchell to review the proposed changes in more detail, to give assurance that the review had made the Constitution clearer and that nothing of substance had changed or been removed.

4.2 Start of Life Partnership Board members have been consulted on proposals to abolish this Board and for its activities to be subsumed within the Health and Wellbeing Board. No concerns regarding this approach have been raised.

#### **5. Risk Management Implications**

5.1 A complex constitution containing duplication and that is difficult to navigate creates risks of inaccurate delegations or decision-making. The proposed changes to the Constitution should ensure that the Constitution is much clearer, which significantly reduces these risks.

#### **6. Other Options Considered**

6.1 Keeping more guidance within the Constitution would have been possible, but it was considered better to minimise guidance within the Constitution to improve its focus and to ensure maximum flexibility in keeping guidance relevant.

#### **7. Equality Duty**

7.1 Reference to the need to have regard to equalities implications in all decision-making is retained in the Constitution.

**8. Social Value**

- 8.1 Reference to the need to have regard to Social Value Act implications in all decision-making is retained in the Constitution.

**9. Crime and Disorder Act Implications**

- 9.1 Reference to the need to have regard to Crime and Disorder Act implications in all decision-making is retained in the Constitution.

**10. Human Rights Implications**

- 10.1 Reference to the need to have regard to Human Rights Act implications in all decision-making is retained in the Constitution.

**Tony Kershaw**

Director of Law and Assurance

**Contact:** Charles Gauntlett 033022 22524

**Appendices**

- Appendix 1 – Part 1: Summary and Explanation
- Appendix 2 – Part 2: Description of the Constitution
- Appendix 3 – Part 3: Responsibility for Functions (changes only)
- Appendix 4 – Part 4, Section 1: Standing Orders
- Appendix 5 – Log of proposed changes

**Background Papers**

None

# Part 1

## **Summary and Explanation**

**New version for July 2018**

## Part 1

### Summary and Explanation

#### The Constitution

West Sussex County Council is required by law to prepare and keep an up-to-date Constitution. This explains how the County Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.

West Sussex County Council has agreed this Constitution, which combines all the governance provisions it is required by law to adopt, together with its Standing Orders which set out how it conducts its meetings. These documents together provide the framework within which the County Council operates.

**Part 1** is a brief summary of what is contained in the Constitution. It also contains definitions and an index.

**Part 2** is a brief introduction to the main aspects of political governance at the Council and how the Council works.

**Part 3**, the Responsibility for Functions, explains who within the Council has powers to exercise various powers and duties. This covers the member-level areas of decision-making and sets out an officer scheme of delegation. The terms of reference (including membership and remit) for each member-level committee, panel and joint committee are found within this section. There is an index at the start of this section.

**Part 4**, Standing Orders, rules and other procedures, sets out the rules to be followed by the Council to ensure that its decisions and actions are legal, financially sound and carried out in accordance with policy frameworks. Standing Orders set out rules in several sections:

1. Introduction	6. County Local Committees
2. Council	7. Non-Executive Committees
3. Decision-making and Committees general	8. Scrutiny
4. Access to meetings and documents	9. Appointment of Officers and Disciplinary Action
5. Cabinet and Executive decision-making	10. Delegations to Officers

Where there is any inconsistency between any document in Parts 3 and 4 of the Constitution and Part 2, the documents in Parts 3 and 4 prevail.

**Part 5**, the Code of Conduct, sets out the high standards of conduct that are expected of members and officers in their Council business. There is an index at the start of this section.

**Part 6**, the Member Allowance Scheme, sets out the scheme of payment to elected members.

## Definitions

<b>Definition</b>	<b>Meaning</b>	<b>References</b>
Adviser or Senior Adviser to Cabinet Member	A member appointed by the Leader to support the Cabinet Member in carrying out his or her responsibilities, subject to those limits made by the Constitution and such limits, conditions or parameters as the Cabinet Member determines. The significance, complexity and range of matters allocated and the amount of time and level of workload required will determine whether the member is identified as an Adviser or Senior Adviser.	
Cabinet	The Leader and Cabinet Members appointed by the Leader.	
Cabinet Board meeting	An informal meeting of members of the Cabinet to receive briefing information from officers.	
Cabinet Member	An elected member appointed to the Cabinet by the Leader.	
Cabinet Member matter	A decision of a Cabinet Member in respect of those matters referred to in the Scheme of Delegation.	
Cabinet portfolio	A function or collection of functions of the County Council allocated by the Leader to a Cabinet Member.	
Call in	The exercise of the right by a Select Committee to review the proposed exercise of a function of the Executive before it may take effect.	
Chairman	Chairman of the County Council or the person presiding at a meeting of the County Council.	
Chairman of a committee	Includes the vice-chairman of the committee or any other member of the committee nominated by the chairman to act on his or her behalf or acting in his or her absence.	
Committee	Includes the Cabinet (except in respect of political proportionality), the Governance, Area, County Local Committee, non-Executive and Select Committees established from time to time by the County Council together with any sub-committees which they may establish.	
Confidential	Matters not to be made public by law or information a government department has given to the County Council upon terms which forbid the disclosure of the information to the public.	
Constitution	The collection of documents called the	

<b>Definition</b>	<b>Meaning</b>	<b>References</b>
	Constitution approved by the County Council for the purposes of Section 37 of the Local Government Act 2000.	
Councillor Call for Action	<p>The process whereby a County Local Committee may refer a matter to a Select Committee for consideration, or if the matter is of pressing local need or urgency, directly to a Cabinet Member through the relevant Executive Director with a copy to the Select Committee. To do so the matter should meet the following criteria:</p> <ul style="list-style-type: none"> <li>(1) It raises an issue of significant local concern.</li> <li>(2) It concerns a matter for which the County Council has responsibility.</li> <li>(3) It has not recently been considered or determined by the decision-maker or Select Committee.</li> <li>(4) There is not a more suitable mechanism for dealing with the matter.</li> </ul>	
County	The county of West Sussex.	
County Council	The County Council of West Sussex.	
County Local Committee	A committee appointed by the County Council to discharge any of its functions (whether Executive or non-Executive functions) and which complies with the definition of Area Committees set out in Section 18(3) of the Local Government Act 2000.	
Decision-making body	The County Council, the Cabinet, Cabinet Member, County Local Committee, Governance and non-Executive committees and officers under delegated powers.	
Document	Any report or background papers, other than that only in draft form, taken into consideration in relation to a decision by a decision-making body.	
Executive or the Executive	The Cabinet and individual Cabinet Members, County Local Committees and officers in so far as they discharge Executive functions.	
Executive arrangements	The description of the political structure of the County Council described as such in the Constitution, and comprising a Cabinet	

<b>Definition</b>	<b>Meaning</b>	<b>References</b>
	with a Leader, and separate arrangements for overview and scrutiny by Select Committees and the discharge of non-Executive functions.	
Executive Decision Database (EDD)	The daily publication of Executive decisions.	
Executive Director	The Chief Executive and those members of the Executive Leadership Team who are not Directors.	
Executive functions	all those functions of the County Council which are not non-Executive functions as defined in the Scheme of Delegation within the Constitution.	
Executive Task and Finish Group	A small, cross-party team of members, of up to seven members without Executive powers appointed by a Cabinet Member to undertake work related to the development of policies, plans or commissioning intentions. It will operate for a time-limited period set by the Cabinet Member and its terms of reference and any report will be available for all members. It may include a minority of representatives of outside bodies, experts or other interested parties as non-voting members.	
Exempt information	Information as defined in the Local Government Act 1972 and includes personal details of staff or clients, legal actions, financial and business affairs of individuals or companies.	
Forward Plan	The plan containing the particulars of key decisions required by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 (as amended).	
Key decisions	Those Executive decisions which are likely to result in significant expenditure or savings or to have significant effects on communities living or working in two or more electoral divisions of the county; "significant" in either case shall be determined by the County Council from time to time, and set out in the Constitution.	
Leader of the Council (the Leader)	The person appointed by the County Council in accordance with Standing Order 2.11.	
Local member	The member for any electoral area which is particularly affected by the proposed	

<b>Definition</b>	<b>Meaning</b>	<b>References</b>
	decision.	
Meeting	A formal meeting of the County Council or a committee, the agenda and papers for which are published under the Local Government Act 1972.	
Member	<ul style="list-style-type: none"> <li>• In relation to the County Council means an elected member of the County Council</li> <li>• In relation to any committee, means a person appointed as a member of that committee, including a voting co-opted or nominated member.</li> </ul>	
Members' Information Service (MIS)	A bulletin of information published to all members weekly.	
Non-Executive committee	A committee appointed by the County Council outside the Executive arrangements to undertake the non-Executive functions delegated to it by the Scheme of Delegation.	
Partnership Board	A Board comprising cross-party elected members, senior officers and representatives of a contractor or partner of the County Council whose role is to oversee the development of the commercial relationship with the contractor or partner and the performance of a relevant contract against defined objectives.	
Policy Framework	Executive functions which are reserved by law or by the Scheme of Delegation to the County Council for determination (defined in paragraph 2 of Appendix 1 of Part 3).	
Private meeting of the Executive	A meeting, or part of a meeting, of the Cabinet meeting as a decision-making body during which the public is excluded to avoid the disclosure of confidential or exempt information or to maintain orderly conduct or prevent misbehaviour.	
Public meeting of the Executive	All decision-making meetings of the Executive which are open to the public.	
Report	The final document on which the County Council, the Cabinet, Cabinet Member, County Local Committee, Governance and non-Executive committees and officers under delegated powers take a decision or agree a proposed decision. It does not include draft reports.	
Scheme of Delegation	That part of the Constitution specifying the delegation by the County Council of its functions.	

<b>Definition</b>	<b>Meaning</b>	<b>References</b>
Scrutiny Task and Finish Group	A small, cross-party team of members of the County Council, without Executive powers but appointed by a Select Committee from amongst its members or jointly by more than one Select Committee, to examine proposals of concern to the Select Committee(s) through their programme of work. It may include a minority of representatives of outside bodies, experts or other interested parties as non-voting members.	
Select Committee	An overview and scrutiny committee appointed by the County Council whose functions include holding to account the Executive.	
Working Day	Any day which is not a weekend or a bank holiday and a working day shall end at 5 p.m.	

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## Part 2

# Description of the Constitution

**Part 2** is a brief introduction to the main aspects of political governance at the Council and how the Council works.

**New version for July 2018**

## 1. **The County Council**

### **Powers of the County Council**

1.01 The County Council exercises all its powers and duties in accordance with the law.

### **Constitution**

1.02 This Constitution is the Constitution of the County Council within the meaning of Section 37 of the Local Government Act 2000. Further copies may be obtained on application to the Director of Law and Assurance and the Constitution is available on the County Council's website ([www.westsussex.gov.uk](http://www.westsussex.gov.uk)).

### **Aims and principles**

1.03 The aims and purpose of the Constitution are to:

- (a) explain how the County Council works
- (b) show how the County Council has organised itself to provide leadership to the community in partnership with others
- (c) ensure that the framework for how the County Council operates is clear
- (d) set out the Executive arrangements which separate the roles of the Executive, Select Committees and non-Executive Committees in a way which is easily understood
- (e) describe how decisions will be made
- (f) describe members' representational roles and the ways they engage directly with the local community
- (g) describe who is going to make a decision and how they will be held accountable.

### **Interpretation**

1.04 The County Chairman may be required to make a ruling as to the construction or application of the Constitution or as to any proceedings of the County Council. He or she may not be challenged on the ruling at a meeting of the County Council. The Chairman may take advice from the Director of Law and Assurance before making his or her ruling. Where questions about the Constitution or the interpretation of it arise at other times, they will normally be addressed to the Director of Law and Assurance. In interpreting the Constitution, the Director of Law and Assurance will have regard to the aims and principles set out in paragraph 1.03.

### **Duty to Monitor and Review the Constitution**

1.05 The County Council has agreed that there will be a regular formal review midway through the life of each Council; the extent of the review will be determined at the time. The Governance Committee will keep the County

Council's governance arrangements under review on advice from the Chief Executive and Director of Law and Assurance.

- (a) The Governance Committee is an advisory committee of the County Council. It has nine members including the County Chairman who is ex-officio Chairman of the Committee.
- (b) The Governance Committee is responsible to the County Council for overseeing the effectiveness of the governance arrangements.
- (c) Without in any way limiting the scope of paragraph (b) its role is to consider specifically any disputes which arise as to whether or not the Executive may make a final decision or whether that power is vested in the County Council alone.

1.06 In accordance with its role of keeping under review and monitoring the governance arrangements of the County Council, the Governance Committee may from time to time recommend to the County Council or to the Regulation, Audit and Accounts Committee that the substantive parts of the Constitution should be amended.

#### **Role of Monitoring Officer**

1.07 In his or her role as Monitoring Officer and adviser to the Governance Committee the Director of Law and Assurance has access to member meetings and necessary parts of the officer structure.

#### **Changes to the Constitution**

1.08 The County Council, on recommendation from the Governance Committee, may change the Scheme of Delegation to members, Standing Orders and the Code of Practice on Local Authority Publicity.

1.09 The Governance Committee may change the Scheme of Delegation to executive directors, may approve changes to the Protocol on County Local Committees and the criteria for the Councillor Call for Action.

1.10 The Regulation, Audit and Accounts Committee, on the recommendation of the Governance Committee, may approve revisions to the Risk Management Procedures, Financial Regulations and Financial Procedures, Standing Orders on Procurement and Contracts and the Anti Fraud and Corruption Strategy on advice from the Chief Financial Officer and the Monitoring Officer.

1.11 The Standards Committee may recommend to the County Council changes to the Code of Practice on Probity in Planning and the Codes of Conduct for officers and members.

1.12 The Director of Law and Assurance, in consultation with the Chairman of the Governance Committee, has authority to update Part 1, Part 2 and Section 1 of Part 3 of the Constitution.

## **Publication**

- 1.13 The Director of Law and Assurance will make sure that each member of the County Council and all co-opted members have access to the Constitution as soon as possible after his or her declaration of acceptance of office.
- 1.14 Copies will be made available for inspection at Council offices and other appropriate locations and are available on request to the Director of Law and Assurance. It is also available on the County Council's website ([www.westsussex.gov.uk](http://www.westsussex.gov.uk)) which can be accessed via libraries.
- 1.15 The summary of the Constitution will be widely available and updated as necessary.

## **Executive Arrangements**

- 1.16 Under the Local Government Act 2000, the County Council is required to make arrangements called Executive arrangements which show how it undertakes its business. This means that the County Council must decide how it will create and operate an Executive and for which functions the Executive will be responsible. It must also provide for the appointment of one or more overview or scrutiny committees (Select Committees) and indicate how its non-Executive functions are to be carried out. The County Council has decided to operate Executive arrangements on a Leader and Cabinet model. Parts 3 and 4 of the Constitution (except for Standing Orders on Contracts) are to be taken as the Executive arrangements for the purposes of Part II of the Local Government Act 2000.

## **Review of Constitution**

- 1.17 The Governance Committee will keep under review the operation of the Constitution so as to ensure that these aims and principles are given full effect. The governance arrangements are contained in this Constitution. Responsibility for decision-making under the Local Government Act 2000 is Part 3 of the Constitution – Responsibility for Functions and the Scheme of Delegation (Part 3 Section 2), and in Standing Orders (Part 4 Section 1). Failure to comply with a relevant part of the Constitution will not necessarily invalidate the decision
- 1.18 Any part of the County Council, a member or an officer acting as a tribunal or in a quasi-judicial manner or considering (other than for the purposes of giving advice) or determining the civil rights and obligations or the criminal responsibility of any person, is required to follow a proper procedure which accords with the requirements of natural justice and the rights referred to in the Human Rights Act 1998.

## **2. How the County Council Operates**

- 2.01 The County Council is composed of 70 members elected every four years. One member is elected by the voters of each electoral division in

accordance with a scheme drawn up by the Local Government Boundary Commission for England. The regular election of members is normally held on the first Thursday in May every four years beginning in 2001. The term of County Council members starts when they have taken their declaration of office after being elected and finishes four days after the date of the next regular election. Where a member of the County Council ceases to hold office during the period of office of the County Council a vacancy arises. A by-election is held unless the vacancy arises within six months of the County Council elections.

- 2.02 Members of the County Council are democratically accountable to the residents of their electoral divisions. The County Council is a political organisation and a key element in its organisation is informal political party groups. The overriding duty of members is to the whole community but they have a special duty to their constituents, even if they did not vote for them.
- 2.03 The Standards Committee ensures that all members maintain high standards of conduct.
- 2.04 All members meet together as the County Council. Meeting as the County Council they are responsible for deciding the County Council's overall policies and setting the budget each year. The County Council at its first meeting after the election elects the Chairman and Vice-Chairman of the Council and a Leader. The Leader then appoints a number of other members to be individual members of the Cabinet each to be responsible for a separate portfolio or a range of services. Together these members form the Executive, or Cabinet, as it is known in West Sussex.

### **The Chairman and Vice-Chairman**

- 2.05 The Chairman, assisted by the Vice-Chairman, has three core roles. The Chairman has an apolitical overview of the political governance arrangements of the organisation and is ex officio chairman of the Governance Committee. Secondly, the Chairman has a lead role in promoting and maintaining high standards of conduct amongst members and officers and is ex officio Chairman of the Standards Committee. The Chairman's third core role is that of civic head of the County Council, representing the County Council on ceremonial or social occasions.

### **The Cabinet - Executive**

- 2.06 The Cabinet (or Executive) is the part of the County Council which is responsible for most day-to-day decisions. The Cabinet is made up of a Leader and other individual Cabinet Members, up to a maximum of 10.
- 2.07 When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan insofar as they can be anticipated. Formal meetings of the Cabinet which are infrequent and held mainly around the time of the budget in January each year are open to the public except where exempt or confidential matters are being discussed. The Cabinet and Cabinet Members have to make decisions which are in line with the

County Council's overall policies and budget. If they wish to make a decision which is outside the budget or Policy Framework, this must be referred to the County Council as a whole to decide.

- 2.08 The Cabinet and Cabinet Members are assisted in their work by Advisers and Senior Advisers to Cabinet Members and cross-party Executive Task and Finish Groups, which provide advice to a Cabinet Member in relation to the development of commissioning plans or plans for service provision, or such other service-related proposal as the Cabinet Member decides. The terms of reference and the membership of an Executive Task and Finish Group is decided by the Cabinet Member and published to all members. The output from such work will also be available to all members.
- 2.09 The Cabinet is responsible for setting the commissioning principles within which commissioning plans can be made that fit the ambitions approved by the County Council in the Performance Framework. The wider member involvement in commissioning is through Task and Finish Groups, all-member events focusing on commissioning outcomes that enable members to influence and inform the development of commissioning proposals or through referral to the relevant Select Committee. Performance management of commissioning may be, for larger contracts, via Partnership Boards which comprise cross-party elected members, senior officers and representatives of a contractor or partner of the County Council whose role is to oversee the development of the commercial relationship with the contractor or partner and the performance of a contract against defined objectives. Performance management for contracts and service delivery is otherwise a function shared between the Cabinet and Select Committees.

### **Select Committees - Scrutiny**

- 2.10 The County Council has established Select Committees which support and monitor the work of the Cabinet and Cabinet Members. They commission reports which advise the Cabinet and the County Council on specific aspects of policy and its implementation. They monitor the decisions of the Cabinet and hold hearings to investigate specific issues. They can also "call-in" a proposal made by the Cabinet, a Cabinet Member, a County Local Committee (CLC) or an officer key decision but not yet implemented within eight working days (six for CLCs) of it being published. This enables them to consider whether the proposal is appropriate. They may also be consulted by the Cabinet or the County Council on forthcoming proposals and the development of policy, through formal meetings or Scrutiny Task and Finish Groups.

### **Non-Executive Committees**

- 2.11 Non-Executive committees carry out a number of regulatory functions mostly where a matter may not be decided by the Cabinet or by individual Cabinet Members (the Executive). Although these committees are described as 'non-Executive' they do take decisions. The non-Executive committees are the Planning Committee and the Rights of Way

Committee, whose work is described by their names, the Regulation, Audit and Accounts Committee (which deals with audit, accounts and regulatory functions), the Pensions Panel and the Appeals Panel. Their purpose and terms of reference are set out in the Scheme of Delegation Part 3 Section 2.

- 2.12 There is also a Standards Committee which promotes and maintains high standards of conduct by members of the County Council and assists members to observe the Code of Conduct (see paragraph 2.17 below). Finally, there is a Governance Committee which keeps the County Council's governance arrangements and the Constitution under review, oversees the effectiveness of the political structure, deals with elections and local government boundary changes and oversees arrangements for the appointment of executive directors and determines the terms and conditions of all staff.

### **County Local Committees**

- 2.13 The County Council has 11 County Local Committees (CLCs), two of which operate in a similar way to Joint Area Committees (in the Eastern and Western areas of Arun District). The purpose of CLCs is to enable the County Council to take some decisions that have a local impact only, to better engage with citizens, customers and communities and offer them the opportunity to access and influence decision-making on local issues.

### **The County Council's Staff**

- 2.14 The County Council employs officers to give advice to all parts of the County Council, implement decisions and undertake the day-to-day planning and management of the wide range of functions undertaken. Certain senior officers have special roles and duties in the governance of the County Council which are laid down by law. A code of conduct governs the conduct of officers. The Protocol on the Relationships between Members and Officers governs the relationships between officers and members. This is included in Part 5 Section 6 of the Constitution.

### **Community Involvement and Rights of the Public**

- 2.15 There are a number of ways in which the members of the public can find out about and participate in the work of the County Council. This includes a right to:
- (a) vote at local elections if they are registered;
  - (b) contact their local member about any matters of concern to them;
  - (c) obtain a copy of the Constitution;
  - (d) petition to request a referendum on a mayoral form of Executive;
  - (e) attend meetings of the Cabinet except where exempt (as defined by the Access to Information Act) matters are being discussed or decided;
  - (f) see reports and background papers, and any record of decisions made, unless containing exempt matters (see paragraph 2.16 below);

- (g) use the County Council's complaints procedure
- (h) complain to the ombudsman if they think the County Council has not acted properly within its own policy and procedures. However, they should only do this after using the County Council's own complaints process;
- (i) complain to the Monitoring Officer if they have evidence which they think shows that a member has not followed the County Council's Code of Conduct; and
- (j) inspect the County Council's accounts and make their views known to the external auditor.

2.16 Members of the public are welcome to attend any meetings of the County Council that are open to the public, except for any part that contains exempt or confidential information. These are listed on the County Council's website at [www.westsussex.gov.uk](http://www.westsussex.gov.uk). Meeting papers are also available on the website, as well as records of daily Executive decisions taken and a Forward Plan of key decisions. Petitions may be submitted under the County Council's petitions scheme.

### **Code of Conduct**

2.17 As well as clear standards of conduct for officers and members, the County Council has a firm commitment to human rights and equalities in policy, provision of services and employment. It is also committed to openness and transparency. It has a Confidential Reporting Policy (Whistle blowing) for officers and contractors. Details of the Freedom of Information Act are set out in Standing Orders (Part 4, Section 1).

### **Complaints**

2.18 The County Council is keen to ensure that complaints by the public are kept to a minimum, by ensuring that its services are as relevant as possible and of the highest quality. A complaints procedure is in place for use when necessary. After using the complaints procedure, a dissatisfied complainant has the right to contact the Local Government Ombudsman.

### **Joint Arrangements**

2.19 The County Council has a number of joint arrangements, including the West Sussex Health and Wellbeing Board, the Parking and Traffic Regulations Outside London Adjudication Joint Committee, the Local Enterprise Partnership Joint Committee and the West Sussex Joint Scrutiny Steering Group. Details of these can be found in the Scheme of Delegation.

### **Statement of Partnership with other councils**

2.20 The County Council works in partnership with the two borough and five district councils in West Sussex. It is committed to working together with local councils in West Sussex (parish, town, city and neighbourhood councils or meetings). The overriding principle is that all members and officers of all councils will be guided in their actions by what makes for

good local government in the best interests of the residents and taxpayers of West Sussex.

- 2.21 The County Council has a statement of partnership with other councils. The detailed statements are available on the County Council's website.

### **Financial Management**

- 2.22 Each year the County Council sets an annual revenue budget and capital programme which indicates how it is going to spend the money which it has available to it. The County Council spends money in a number of different ways to provide services in accordance with its powers and duties. These include employment of staff, building and maintaining premises, contracting with others to provide services and insuring itself and its property.
- 2.23 To help the County Council exercise its statutory financial responsibilities, safeguard its finances and assets and ensure the proper record keeping and reporting of its accounts, the County Council has Financial Regulations, Financial Procedures and Risk Management Procedures which it must follow. The County Council's Financial Regulations also explain how it controls its revenue budget, decides upon its capital programme and deals with income it receives. Financial Regulations are set out in Part 4 Section 3 of the Constitution, the Financial Procedures in Part 4 Section 4 and the Risk Management Procedures in Part 4 Section 2.

### **Contracts and Procurement**

- 2.24 The County Council spends a large proportion of its budget on procuring services, works and goods from other people. To ensure that the County Council is protected when it enters into contracts and also that it acts fairly and secures best value from the use of its budget, the County Council has Standing Orders on Procurement and Contracts which can be found in Part 4 Section 5 of the Constitution. Standing Orders on Procurement and Contracts govern how the County Council selects contractors and who (member or officers) is allowed to enter into a contract which binds the Council.
- 2.25 The County Council is keen to demonstrate that it addresses best value in all of its procurement. The Standing Orders on Procurement and Contracts are supplemented by a Procurement Strategy which sets out how the County Council hopes to achieve best practice in procurement.
- 2.26 Provisions with regard to these matters may be found in the Scheme of Delegation in Part 3 of the Constitution. They are delegated to the Director of Law and Assurance.

### **Legal Proceedings, Authentication of Documents and Affixing the Common Seal of the County Council**

- 2.27 There are occasions on which the County Council needs to institute legal proceedings against other people in the exercise of its powers and duties

and also to defend itself against actions taken by others. The Director of Law and Assurance is Solicitor to the Council and its Chief Legal Officer. He or she is empowered to institute and defend legal proceedings on behalf of the County Council and to represent it in court and at tribunals.

- 2.28 The Director of Law and Assurance is also empowered to witness or authenticate documents and to affix the Common Seal of the Council to deeds. The Scheme of Delegation in Part 3 sets out those powers in more detail.

## Part 3

# Responsibility for Functions

[Extracts containing changes only]

**Part 3**, the Responsibility for Functions, explains who within the Council has powers to exercise various powers and duties. This covers the member level areas of decision-making and sets out an officer scheme of delegation. The terms of reference (including membership and remit) for each member-level Committee, Panel and Joint Committee are found within this section. There is an index at the start of this section.

## Part 3

### Responsibility for Functions

#### Purpose

1. The County Council is required to show how it has arranged for its functions to be carried out. It has allocated its functions by means of a Scheme of Delegation which is described here.
2. Functions are either executive or non-executive. Non-executive functions are delegated to non-executive committees. All other functions are executive functions and are delegated either to the Cabinet, individual Cabinet Members, County Local Committees, officers or joint arrangements with other local authorities and public bodies.
3. The scheme is adopted with the intent that there should be a simplification of the decision-making processes of the County Council and accordingly it should be interpreted widely and not narrowly.
4. The County Council exercises the following functions:
  - (a) adopting the Constitution
  - (b) overseeing the Constitution and changing in particular the following parts which are reserved specifically to the County Council:
    - Standing Orders
    - Scheme of Delegation
    - Protocols on Decision-Making and on Select Committees
  - (c) receiving recommendations from the Cabinet on, and agreeing, the Policy Framework and the annual revenue budget and capital programme
  - (d) deciding an Executive function where there is a proposal to depart from the Policy Framework or annual revenue budget and capital programme
  - (e) Electing the Chairman and Vice-Chairman of the County Council and appointing the Leader
  - (f) agreeing or changing the Constitution and terms of reference of committees, and making appointments to committees including the chairmen and vice-chairmen, on the recommendation of the group leaders.
  - (g) adopting the Scheme of Members' Allowances
  - (h) confirming the appointment of the Head of Paid Service (Chief Executive)

- (i) such other matters as the law requires to be dealt with by the County Council

## 5. Policy Framework

The Policy Framework means the following plans and strategies:

- County Strategy
- Annual Revenue Budget and Capital Programme
- Performance Framework
- Sustainable Community Strategy
- Development Plan Documents
- Local Transport Plan

## 6. Types of Meeting

There are three types of County Council Meeting:

- (a) the Annual Meeting
- (b) Ordinary Meetings
- (c) Extraordinary Meetings

The procedural rules for how each type of County Council meeting operates can be found in Standing Orders in Part 4 Section 1.

### **Executive Functions**

4. Functions delegated by the County Council to the Cabinet are set out in Appendix 1. General and specific delegations to individual Cabinet Members are set out in Appendix 2. Functions delegated to Local Committees are set out in Appendix 3. Functions delegated to officers are set out in Appendix 4.

### **Non-Executive Functions**

5. Non-executive functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended have been delegated to non-executive committees or to officers in accordance with this Scheme of Delegation. The terms of reference of non-executive committees are set out in Appendix 5.
6. Those functions where the County Council has a choice as to whether they are treated as executive or non-executive functions have been delegated to non-executive committees, to officers, or to the Executive in accordance with this Scheme of Delegation.

### **Scrutiny Functions**

7. The County Council has appointed Select Committees to undertake the overview and scrutiny functions required by Section 21 of the Local Government Act 2000, Part 12 of the National Health Service Act 2006 and Part 3 of the Police and Justice Act 2006.

## **8. Definitions**

- 8.1 For the purposes of this scheme a function of the County Council means any activity which the County Council may lawfully perform under statute or common law.
- 8.2 Functions of the County Council are divided between.
- 8.2.1 Executive functions which are all those functions of the County Council which are not non-Executive functions.
- 8.2.2 Non-Executive functions which are those functions listed in Appendix 5 together with any further functions which are required by statute to be non-Executive functions or which the County Council decides shall be non-Executive functions in exercise of a statutory discretion.
- 8.3 Executive functions fall into two categories
- 8.3.1 Functions which are reserved by law or this scheme to the County Council ("Policy Framework").
- 8.3.2 Delegated functions which may be
- 8.3.2.1 reserved to the full Cabinet ("Cabinet function"); or
- 8.3.2.2 delegated to County Local Committees ("Local Committee function"); or
- 8.3.2.3 delegated to officers outright ("Officer functions") as described in Appendix 4 to this scheme; or
- 8.3.2.4 the remaining Executive functions ("Cabinet Member matters").
- 8.3.3 For the purpose of this scheme, the definitions in Part 1 apply.
- 8.4 This scheme delegates to the Cabinet, to Committees, or to officers the County Council's functions within the description set out in the Appendices to this scheme together with the powers and duties within those functions under all present and future legislation, and all powers incidental to those functions including those under Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.
- 8.5 The functions delegated by the Scheme are as follows
- |            |   |   |
|------------|---|---|
| Appendix 1 | - | Executive Functions                               |
| Appendix 2 | - | Cabinet Members                                   |
| Appendix 3 | - | County Local Committees (subject to consultation) |
| Appendix 4 | - | Officer Functions                                 |
| Appendix 5 | - | Non-Executive Committees                          |
| Appendix 6 | - | Standards Committee                               |

Appendix 7	-	Governance Committee
Appendix 8A	-	Performance and Finance Select Committee
Appendix 8B	-	Health and Adult Social Care Select Committee
Appendix 8C	-	Children and Young People's Services Select Committee
Appendix 8D	-	Environment, Communities and Fire Select Committee
Appendix 9	-	Adoption Panels and Fostering Panels
Appendix 10	-	Treasury Management Panel
Appendix 11	-	PropCo Panel
Appendix 12	-	Corporate Parenting Panel
Appendix 13	-	Safeguarding Adults Member Reference Group
Appendix 14	-	Independent Remuneration Panel
Appendix 15	-	West Sussex Health and Wellbeing Board
Appendix 17	-	Orbis Public Law Joint Committee
Appendix 17	-	Parking and Traffic Regulations Outside London Adjudication Joint Committee
Appendix 18	-	Local Enterprise Partnership Joint Committee
Appendix 19	-	West Sussex Joint Scrutiny Steering Group
Appendix 20	-	Pension Advisory Board
Appendix 21	-	Pension Board of the West Sussex Fire and Rescue Authority
Appendix 22	-	Local Government Pension Scheme ACCESS Joint Committee
Appendix 23	-	Sussex Police and Crime Panel

8.6 The functions delegated by this Scheme may be further delegated

8.6.1 In the case of a Cabinet function, by the Cabinet to a Cabinet Member, County Local Committee or officer

8.6.2 In the case of a Cabinet Member matter by that Cabinet Member to a County Local Committee or officer

8.6.3 The functions described in Appendix 4 may be further delegated by the officer named in that Appendix to another officer defined by their role, provided that such delegation is recorded in writing, signed by the delegating officer and the officer receiving the delegated authority and that all such onward delegations are reviewed at least annually.

8.7 In this Scheme a delegation shall not prevent

8.7.1 the County Council from exercising any non-Executive function delegated to a Committee or officers

8.7.2 the Cabinet from exercising any executive function delegated to Cabinet Members, County Local Committees or officers

8.7.3 Cabinet Members from exercising any executive functions delegated to County Local Committees or officers

## **9. Limitations and Conditions**

- 9.1 The delegations set out in this scheme are subject to
  - 9.1.1 The right of a Select Committee to consider a proposal within the Policy Framework, or any addition or amendment to it.
  - 9.1.2 The powers of a Select Committee to call in or review other Executive functions.
  - 9.1.3 A requirement of the Cabinet to consult
    - 9.1.3.1 The Planning Committee on the parts of the Structure and Local Plans relevant to that Committee's function
    - 9.1.3.2 The Performance and Finance Select Committee on the Annual Audit Letter
    - 9.1.3.3 The Governance Committee on any proposed changes to the Constitution
  - 9.1.4 The requirement of the Governance Committee to consult the Executive on any proposed changes to the Constitution in making recommendations to County Council.
- 9.2 All delegated functions within this scheme must be exercised
  - 9.2.1 in accordance with all parts of the County Council's Constitution
  - 9.2.2 to comply with the Policy Framework of the County Council and other approved policies and plans
  - 9.2.3 within approved budgetary provision
  - 9.2.4 having regard to agreed arrangements for recording decisions made
  - 9.2.5 having regard to advice received from the relevant Executive Director or Director or his or her staff on professional and technical aspects of the matter in question.
- 9.3 This scheme does not delegate:
  - 9.3.1 any matter reserved by law or by this scheme to the County Council;
  - 9.3.2 to an officer, any matter which by law may not be delegated to an officer;
  - 9.3.3 any matter which is specifically excluded from delegation by this scheme or by resolution of the County Council.

- 9.4 The delegation of any function delegated by this scheme either expressly or in accordance with paragraph 8.4 may be revoked by or reserved to the delegator at any time.
- 9.5 Executive Directors and Directors must keep an up to date record of delegations to the officers within their area of responsibility, and should provide the Director of Law and Assurance with a copy.

### **Executive Functions**

1. Subject to the following paragraphs all Executive functions of the County Council are delegated to the Cabinet. Without in any way affecting/limiting the generality of these paragraphs the Cabinet may act as Fire and Rescue Authority for the purposes of the Fire and Rescue Services Act 2004.
2. The following schemes, plans, strategies or matters comprise the Policy Framework and must be determined by the County Council on recommendation by the Cabinet and where appropriate the relevant non-Executive committee.
  - 2.1 Corporate Plan
  - 2.2 Annual Revenue Budget and Capital Programme
  - 2.3 Sustainable Community Strategy
  - 2.4 Development Plan Documents
  - 2.5 Local Transport Plan
3. In addition the following matters must be determined by the County Council:
  - 3.1 The Constitution including the Scheme of Members' Allowances.
  - 3.2 Such other major policy matters as shall for the time being be reserved to itself by the County Council.
  - 3.3 Any matter for the time being reserved to the County Council by law and not included in this list including the power to promote or oppose local or personal Bills.
  - 3.4 The draft of any matter referred to in 2.1 to 2.5 above where that matter has to be approved by the relevant Secretary of State; together with any variations or amendments required by the Secretary of State.

### **Cabinet Functions**

4. The Cabinet may collectively consider:
  - 4.1 Those matters to be referred to full Council for decision relating to Policy Framework documents.
  - 4.2 Such other plans or strategies which individual Cabinet Members may wish to refer to the full Cabinet for decision.
5. The Cabinet shall decide to which outside bodies the County Council should make member appointments and advise the Director of Law and Assurance who will maintain a list of such bodies and shall appoint members to outside bodies which precept on the County Council.

## Appendix 2

### Cabinet Members

- 1.1 Where Executive functions are not reserved to the County Council or to Cabinet or delegated to County Local Committees or officers, they are Cabinet Member matters in accordance with the portfolios as follows:
- 1.2 The Director of Law and Assurance in consultation with the Chairman of the County Council shall determine the appropriate Cabinet Members in cases of uncertainty. Any Cabinet Member matter shall be determined by the Cabinet Member shown.

#### Leader

- 1.3 The Leader is a member elected to the office of leader by the County Council. The Leader holds office until:
- (a) he or she resigns from the office; or
  - (b) a decision by the County Council following a specific motion on the appointment of Leader; or
  - (c) he or she is suspended from being a member by virtue of action under Part III of the Local Government Act 2000; or
  - (d) he or she ceases to be a member; or
  - (e) until the next post quadrennial election meeting of the County Council

whenever is the earliest.

#### Cabinet Members

- 1.4 Only members of the County Council may be appointed to the Cabinet. The Cabinet may not co-opt members and deputies or substitute members are not permitted to be members of the Cabinet. Neither the Chairman nor Vice-Chairman of the County Council may be appointed to the Cabinet and members of the Cabinet (including the Leader) cannot be members of a Select Committee or of a Scrutiny Task and Finish Group.
- 1.5 The term of office for Cabinet Members is determined by the Leader.
- 1.6 **Register of Cabinet Members**

<b><u>Name</u></b>	<b><u>Electoral Division</u></b>	<b><u>Portfolio</u></b>
Louise Goldsmith	Chichester West	Leader
Richard Burrett	Pound Hill	Education and Skills
Stephen Hillier	Haywards Heath East	Children and Young People (Lead member for Children)
Jeremy Hunt	Chichester North	Finance and Resources
Amanda Jupp	Billingshurst	Adults and Health
Debbie Kennard	Shoreham North	Safer, Stronger Communities
Bob Lanzer	Maidenbower & Worth	Infrastructure and Highways
Deborah Urquhart	Angmering & Findon	Environment

Agenda Item 6  
Appendix 3

- 1.7 Cabinet Members may wish to be supported by Advisers or Senior Advisers to Cabinet Members and by cross-party Executive Task and Finish Groups, which provide advice to a Cabinet Member in relation to the development of commissioning plans or plans for service provision, or such other service-related proposal as the Cabinet Member decides. The terms of reference and the membership of an Executive Task and Finish Group is decided by the Cabinet Member and published to all members. Task and Finish Groups will operate for a time-limited period set by the Cabinet Member. The output of their work will be available to all members save in exceptional cases.
2. The following areas of responsibility are included in the matters which may be determined by a Cabinet Member.
  - 2.1 To consider draft reports to the Cabinet with the relevant Executive Directors, directors or heads of service.
  - 2.2 To determine how expenditure on services should be undertaken.
  - 2.3 To determine the commissioning plans related to the services within their portfolio.
  - 2.4 To determine the appropriate arrangement for enabling members of the Council to contribute to and influence commissioning plans and to set the terms of reference of any Task and Finish Group established for this purpose or to commission an all-member service planning session for this purpose.
  - 2.5 To maintain a dialogue with the Business Planning Group of any Select Committee. The Cabinet Member may request that a Select Committee undertakes work to assist the development of service or commissioning plans.
  - 2.6 Approving the commencement of procurements of services, supplies and works not already identified in the capital programme, which come within the scope and definition of a key decision.
  - 2.7 To agree annual reports.
  - 2.8 To approve Portfolio Service Plans.
  - 2.9 The monitoring of the budget for particular services.
  - 2.10 To determine policies for particular services, which are consistent with the Policy Framework.
  - 2.11 To agree responses to consultation papers unless delegated to an officer.
  - 2.12 To make appointments to outside bodies within the list approved by the Cabinet except those which fall to the Cabinet or County Local Committees.
  - 2.13 To appoint Executive Task and Finish Groups.

2.14 To receive and consider referrals from Select Committees or from a County Local Committee, in accordance with the arrangements for a Councillor Call for Action.

3. The following describes the allocation of Executive functions among members of the Cabinet:

### 3.1 **Collective Responsibilities**

- ❑ Performance Management
- ❑ Procurement
- ❑ Contract Management
- ❑ Residents' Satisfaction
- ❑ Income Generation

N.B. The Cabinet Member for Finance and Resources leads on the strategic approach to commissioning and performance management. Cabinet Members will take decisions individually on aspects of commissioning and contract management affecting their portfolio areas but only after consultation with the Cabinet Member for Finance and Resources.

The Cabinet Member for Finance and Resources shall be able to declare land and property as surplus to requirements (except schools' property which will be undertaken jointly with the Cabinet Member for Education and Skills) and, where the value is £500,000 or over, dispose of such land and property. Where the value is below £500,000, the disposal of such land and property is delegated to officers.

In addition a number of responsibilities for particular Cabinet Members, as set out below, will be discharged in consultation with the Leader or another Cabinet Member as specified.

### 3.2 **Leader of the Council**

The following functions are allocated to the Leader of the Council

- to chair meetings of the Cabinet and oversee the preparation of business for its consideration
- to indicate to the Chief Executive and Executive Directors the priorities and programmes of the Cabinet and majority party, and their likely reaction to new policies or projects
- to be the principal political spokesman for the County Council at internal and external meetings
- to decide matters on behalf of another Cabinet Member if he or she is unwell, out of the county, has an interest in a matter under consideration, or is otherwise unable to act, or in the Leader's absence, to nominate the Deputy Leader or another Cabinet Member to do so

- to have responsibility for the following portfolio areas:
  - ❑ Strategic Political Direction
  - ❑ Policy and Strategy
  - ❑ Communications
  - ❑ Transformation
  - ❑ Economy

### 3.3 **Deputy Leader of the Council**

To undertake the functions of the Leader of the Council in the absence of the Leader where the business cannot await the return of the Leader due to urgency or to the compelling interests of the Council or when specifically requested by the Leader to do so, within the scope and limitation set out below.

#### **Scope:**

- To chair meetings of the Cabinet.
- To act for the Leader at meetings of the Council or any of its committees, sub-committees or other member meetings which the Leader is expected or required to attend.
- To act for the Leader at any external meetings or meetings with partners or other scheduled events to which the Leader is requested or invited to attend.
- To make, when urgently required, appointments to the Council's Executive or decisions related to such appointments and the allocation of cabinet portfolios.
- To take executive decisions relating to the Leader's portfolio or on matters reserved to the Leader or which would otherwise fall to the Leader.

#### **Limitation:**

- Not to take any decision on the Council's business, or to attend meeting on behalf of the Leader, and not to receive information on any matter, which has been identified by the Leader as the responsibility of another member or members of the Executive.

### 3.4 **Adults and Health**

- ❑ Adult Social Care
- ❑ Adult Safeguarding
- ❑ Health and Wellbeing
- ❑ Public Health (in consultation with the Cabinet Member for Children and Young People for relevant business)
- ❑ Blue Badge Scheme

### 3.5 **Children and Young People (Lead Member for Children)**

- ❑ Children's Social Care
- ❑ Children's Safeguarding
- ❑ Youth Services
- ❑ Youth Justice
- ❑ Early Help Services
- ❑ Children's Health – Public Health

### 3.6 **Education and Skills (and Deputy Leader)**

- ❑ Schools
- ❑ Schools Place Planning
- ❑ Adult Skills and Learning
- ❑ Education
- ❑ Further Education – Liaison
- ❑ Skills Development and Apprenticeship
- ❑ Special Educational Needs (in consultation with the Cabinet Member for Children and Young People)
- ❑ Schools Forum
- ❑ Schools Capital Programme (in consultation with the Cabinet Member for Finance and Resources)

### 3.7 **Environment**

- ❑ Waste Strategy
- ❑ Recycling
- ❑ Energy
- ❑ South Downs National Park
- ❑ Coast and Countryside
- ❑ Rights of Way
- ❑ Cycling Improvement (in consultation with the Cabinet Member for Highways and Infrastructure)
- ❑ Air Quality and Wellbeing (in consultation with the Leader)

### 3.8 **Finance and Resources**

- ❑ Finance
- ❑ Assets and Capital Programme
- ❑ Pensions
- ❑ Treasury and Investment Management
- ❑ Capita Partnership
- ❑ Human Resources
- ❑ Facilities Management
- ❑ Procurement
- ❑ Legal Services
- ❑ Democratic Services

### 3.9 **Highways and Infrastructure**

- ❑ Highways
- ❑ Transport Planning
- ❑ A27 Improvement
- ❑ Strategic Transport
- ❑ Minerals
- ❑ Planning
- ❑ Flood Prevention
- ❑ Broadband Digital
- ❑ IT and Information
- ❑ Railway and Public Transport Liaison
- ❑ Cycling and Cycle ways

### 3.10 **Safer, Stronger Communities**

- ❑ Domestic Abuse
- ❑ Community Safety
- ❑ Coroner and Mortuaries
- ❑ Trading Standards
- ❑ 3<sup>rd</sup> Sector
- ❑ Drug and Alcohol Action
- ❑ Gypsy, Roma and Travellers
- ❑ Registration Services
- ❑ Libraries and Archives
- ❑ Community Development
- ❑ County Local Committees (Community Engagement)
- ❑ Member Support
- ❑ Fire & Rescue Service
- ❑ Police Liaison
- ❑ Emergencies and Resilience
- ❑ Armed Forces Liaison
- ❑ Military Covenant

## 4. **Executive Task and Finish Groups**

- 4.1 Established by a Cabinet Member. To comprise up to seven members (cross party) who will provide advice to a Cabinet Member in relation to the development of commissioning plans or plans for service development and the sourcing options for service provision, or such other service-related proposal as the Cabinet Member decides.
- 4.2 The terms of reference and the membership shall be decided by the Cabinet Member and published to all members.
- 4.3 The Group shall operate for a time-limited period set by the Cabinet Member and shall make any report available for all members. It may call upon the assistance of such officer advice and support as may be required.

**5. All-Member Service Planning Sessions (SPS)**

- 5.1 A meeting to which all members of the Council will be invited and which will be used to enable all members to comment on, make representations about and otherwise influence the planning and the commissioning of services, to include budget planning and sourcing options, and which will take place in a timely way so that such plans can be made in the light of the outcome of the session. The conclusions reached at those sessions to be made available to all members.
- 5.2 The relevant officers from the Corporate Leadership Team shall be available to assist the development of plans.

**6. Partnership Boards**

- 6.1 A panel of up to four members (cross party) appointed by the relevant Cabinet Member to sit alongside the relevant senior officers of the Council on a specially constituted Board with senior representatives of a contractor or partner from whom services are to be procured. Appointments should be based on experience and interest and will be reported formally to the County Council as decisions of the relevant Cabinet Member. The Cabinet Member, in consultation with the Leader, will decide which contractual relationship would be assisted by such a Board, taking into account any representations from Select Committees.
- 6.2 The Board will oversee the development of the commercial relationship and service planning with the contractor and will monitor effective performance against the outcomes sought and the specified performance measures for the contract.
- 6.3 The minutes and action plans prepared by the Board shall be available for all members.
- 6.4 The terms of reference and detailed governance arrangements for each Partnership Board shall be agreed by the members appointed in discussion with the representatives of the contracting partner and shall be made available to all members.

**Select Committees**

There is a Performance and Finance Select Committee (Appendix 8A), a Health and Adult Social Care Select Committee (Appendix 8B), a Children and Young People’s Services Select Committee (Appendix 8C) and an Environment, Communities and Fire Select Committee (Appendix 8D). Their constitutions and terms of reference are set out in the Appendices. Each Committee shall undertake the functions set out below in respect of those items relevant to the Select Committee’s specific service area.

Each Select Committee shall have no more than 12 County Council members with the exception of Performance and Finance Select Committee which will have 15 members (inclusive of the three other Select Committee chairmen). The members of each Select Committee shall be appointed, having taken into account the following guiding principles:

- That the member has an interest in the business of the committee.
- That the member is able to devote the time needed to undertake the work of the committee.
- That the member is not also a member of another Select Committee.
- That the member remains free to serve on Scrutiny or Executive Task and Finish Groups.
- Three of the members of the Performance and Finance Select Committee shall be the three members who are at any time the chairmen of the other three Select Committees.

A list of Select Committees is below, including areas of responsibility:

<b>Select Committee</b>	<b>Area of Responsibility</b>
<i>Performance and Finance</i>	Strategic overview of scrutiny process; Leader’s portfolio; general strategy issues; Partnership Working; County Local Committees; IT and Customer & Community Access; Finance; Property; Procurement; Human Resources Strategy; Performance Management; Equality and Diversity; Law and Governance; Communications; Media & Marketing; Europe liaison
<i>Health and Adult Social Care</i>	Adults’ Social Care Services; Adults’ Safeguarding; Dementia Services; Health and Health Partnerships; Public Health; Review and scrutiny of the planning, provision and operation of health services in West Sussex ( <b><i>The health functions of the Health and Adult Social Care Select Committee arise under Part I of the Health and Social Care Act 2001.</i></b> )

<b>Select Committee</b>	<b>Area of Responsibility</b>
<i>Children and Young People's Services</i>	Social Services relating to children and young people; Education; Educational Attainment and Skills; Adult Skills and Learning; Youth Services; Youth Justice
<i>Environment, Communities and Fire</i>	Economic Strategy; Environment (Coast and Countryside Matters (including the South Downs National Park); Rights of Way; Transport Planning and Policy; Highway Infrastructure Aviation; Public Transport Liaison; Land-use Planning; Minerals and Waste; Fracking; Waste Minimisation; Fire and Rescue Service; Community Safety; Trading Standards; Gypsies and Travellers; Emergency Planning; Police Liaison; Registration Services; Coroner; Arts & Heritage Liaison; Libraries and Archives; Crime and Disorder; Domestic Violence; Drug and Alcohol Action

### **Business Planning Groups**

Each Select Committee shall have a Business Planning Group comprising the Chairman of that Committee and four other members, two of whom shall be minority group members. The Chairman of the Select Committee shall be the chairman of the Business Planning Group.

The Business Planning Group shall oversee the planning of the Committee's business and may identify issues of common interest to other Select Committees. It may do this by acting jointly with the Business Planning Group of another Select Committee.

The Business Planning Group(s) shall discuss with the relevant Cabinet Member(s) the need for any referral by the Cabinet Member to the Committee for the undertaking of work relating to the planning of services or their commissioning. In such circumstances, the Business Planning Group shall decide its terms of reference in discussion with the Cabinet Member(s).

The Business Planning Group shall have responsibility for deciding whether an area of work is considered by a Task and Finish Group. The Business Planning Group is responsible for deciding to establish a Task and Finish Group and for defining its outline terms of reference.

## **Corporate Parenting Panel**

### **Constitution**

An advisory panel to the County Council and to the Cabinet Member for Children and Young People comprising seven members of the County Council, appointed from among those best qualified to serve but including at least one minority group member. The Designated Nurse (NHS) will be a non-voting member. At least two members of the Panel will also be members of the Children and Young People's Services Select Committee. Quorum is three.

### **Purpose**

The Corporate Parenting Panel aims to ensure that the County Council undertakes its duties as Corporate Parents for all children looked after and care leavers for which it is responsible so that young people can achieve their full potential and a successful transition into adulthood.

The Panel does this by ensuring that the services provided for children and young people looked after by the County Council are of good quality and meet their needs. It does this through work with all elected members and officers within the Council, with colleagues from partner agencies and with children and young people who are looked after.

### **Terms of Reference**

1. To work on behalf of all members in ensuring that the County Council's responsibilities for children looked after and care leavers are met and to monitor performance against the strategies of the Cabinet, Children's Services and partners (including the Local Safeguarding Children Board and the Start of Life Partnership), making recommendations for improvement as appropriate.
2. To act as advocates for children looked after and care leavers to the Leader of the County Council, the Cabinet Member for Children and Young People and other Cabinet Members as appropriate.
3. To contribute to the development of the Children Looked After and Care Leavers Strategy and to monitor progress against it.
4. To endeavour to ensure that the County Council's 'Pledge' to children looked after and care leavers is delivered.
5. To monitor the effectiveness of the Virtual School and its governing body in improving the educational attainment of children looked after and care leavers.
6. To raise members' awareness and understanding of children looked after and care leavers, their needs and experiences and consider how all members can contribute to improving outcomes.

7. To report to the County Council when appropriate and at least once a year.

### **Notes**

These objectives will be delivered by the Panel in the following ways:

- The Panel will work with the Cabinet Member for Children and Young People on services for children looked after and care leavers, and liaise with the Leader on the wider corporate parenting agenda across the County Council.
- The Panel will liaise with the Children and Young People's Services Select Committee to seek to avoid duplication of work. Members of the Panel who are also on the Select Committee and its Business Planning Group will be responsible for sharing knowledge and issues of concern so that the Committee and the Panel can each fulfil their roles in the knowledge of the work undertaken by the other body.
- Being well informed on government legislation, guidance and policy concerning children and young people in care and their implications for children looked after, care leavers and the County Council.
- Ensuring a dialogue with the Children in Care Council to enable participation of children looked after and care leavers in the corporate parenting agenda and in influencing services.
- Receiving regular reports on the level and quality of services and scrutinising performance to ensure that shortfalls are addressed.
- Recognising that it is the responsibility of every county councillor as Corporate Parents, encouraging representation and commitment from county councillors on various bodies e.g. involvement in formal inspections of Children's Homes, membership on Adoption and Fostering Panels and participation in auditing activities.
- Reviewing plans and activities relevant to the Ofsted Inspection framework.
- The Panel will be supported in its task by the multi-agency officer group responsible for ensuring delivery of Corporate Parenting within the County Council and partner agencies.

## **Pension Board of the West Sussex Fire and Rescue Authority**

### **Terms of reference**

#### **Statement of purpose**

1. The purpose of the Board is to assist West Sussex Fire and Rescue Authority in its role as a scheme manager of the Fire Fighters Pension Scheme. Such assistance is to:
  - (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and;
  - (b) ensure the effective and efficient governance and administration of the Scheme. To this end, the Board may:
    - Assist with improvements to customer service
    - Monitor performance against indicators
    - Review the risk register
    - Monitor training needs
    - Assist with the development of improved administration and governance structures and policies.

#### **Duties of the Board**

2. The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of this duty, Board members:
  - (a) Should act always in the interests of the scheme and not seek to promote the interests of any stakeholder group above another.
  - (b) Should be subject to and abide by the West Sussex Fire and Rescue Authority Code of Conduct.

#### **Membership**

The Board will comprise an equal number of employer and member representatives with a minimum requirement of no less than four in total.

#### **Member representatives**

3. Three scheme member representatives shall be appointed to the Board. The term 'member representative' includes active members, deferred members and pensioner members.
4. Member representatives shall either be members of the scheme administered by West Sussex Fire and Rescue Authority or have experience of representing pension scheme members in a similar capacity.

5. Member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.
6. Member representatives will be appointed to the Board as follows:
  - The FBU will appoint one member
  - The RFU will appoint one member
  - One other member representative.

### **Employer representatives**

7. Three employer representatives shall be appointed to the Board.
8. Employer representatives shall be office holders or senior employees of West Sussex Fire and Rescue Authority or have experience of representing scheme employers in a similar capacity. Office holders or employees of West Sussex Fire and Rescue Authority with delegated responsibility for discharging the scheme manager function of West Sussex Fire and Rescue Authority may not serve as employer representatives.
9. Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.
10. Employer representatives shall be appointed by West Sussex Fire and Rescue Authority in a manner which it considers best promotes the purpose of the Board.

### **Other people in attendance at Pension Board meetings**

11. The Board may invite expert officers to attend meetings to provide information to the Board.
12. Any such people in attendance at meetings will not have voting rights and shall have regard to the best interests of the purpose of the Board.

### **Appointment of chair**

13. West Sussex Fire and Rescue Authority shall appoint the chair.
14. The Chair will have the casting vote in any votes and will lead the meetings.
15. The Chair may appoint a Deputy Chair who will lead meetings in the absence of the Chair.

### **Notification of appointments**

16. On appointment to the Board, West Sussex Fire and Rescue Authority shall publish the name of the appointees, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

### **Conflicts of interest**

17. All members of the Board must declare to West Sussex Fire and Rescue Authority on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board.
18. On appointments to the Board and following any subsequent declaration of potential conflict West Sussex Fire and Rescue Authority shall ensure that any potential conflict is effectively managed in line with both the internal procedures of West Sussex Fire and Rescue Authority and the requirements of the Pensions Regulators codes of practice on conflict of interest for Board members.

### **Knowledge and understanding (including Training)**

19. Knowledge and understanding must be considered in light of the role of the Board to assist West Sussex Fire and Rescue Authority in line with the requirements outlined in the Duties of the Board.
20. The Board should establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to Board members. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.
21. Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework.
22. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Term of office**

23. The term of office for Board members will be three years. Members may only serve for a maximum of three terms of office (9 years).
24. Board membership may be terminated prior to the end of the term of office due to:
  - (a) A member representative appointed on the basis of their membership of the scheme no longer being a member of the scheme.
  - (b) A member representative no longer being a member of the body on which their appointment relied.
  - (c) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.

- (d) The representative no longer being able to demonstrate their capacity to attend and prepare for meetings or to participate in required training.

### **Meetings**

- 25. The Board shall as a minimum meet twice per year. Meetings shall normally take place between the hours of 9.00 am and 5.00 pm.
- 26. The chair of the Board with the consent of the Board membership may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails.

### **Quorum**

- 27. The total number of members required to be present for a meeting to be quorate is 3 plus the Chair or Deputy Chair.

### **Voting**

- 28. The Chair shall determine when consensus has been reached.
- 29. Where consensus is not achieved this should be recorded by the Chair.
- 30. In support of its core functions the Board may make a request for information to the Chief Fire Officer and Deputy Chief Fire Officer, in their capacity as Scheme Managers for the Pension schemes, with regard to any aspect of the scheme manager function. Any such a request should be reasonably complied with in both scope and timing.
- 31. In support of its core functions the Board may make recommendations to the Chief Fire Officer and Deputy Chief Fire Officer, in their capacity as Scheme Managers for the Pension schemes, with regard to any aspect of the scheme manager function which should be considered and a response made to the Board on the outcome within a reasonable period of time.

### **Interpretation**

- 32. In these terms 'the Scheme' means the Firefighters' Pension Scheme.
- 33. In these terms Regulations means the Firefighters' Pension Scheme 1992, as amended, the Firefighters' Pension Scheme 2006, as amended and the Firefighters' Pension Scheme Regulations 2014 as amended.
- 34. In these terms 'regulations' include the Firefighters' Pension Scheme 1992, as amended, the Firefighters' Pension Scheme 2006, as amended, the Firefighters' Pension Scheme Regulations 2014 as amended, the Pension Regulators Codes of Practice as they apply to the scheme manager and pension board and any other relevant legislation applying to the Scheme.

### **Appointment Processes**

#### **Member representatives**

1. One representative shall be appointed by the FBU
2. One representative shall be appointed by the RFU
3. The third member shall be elected following a nomination process. In the event that no member is appointed following this process, an additional member of the Board shall be appointed; the process for which will be agreed by the Fire Authority and the representative bodies.
4. Any nomination should include information as to how the nominee meets the requirements of the role as set out in the terms of reference and how their appointment would be in the best interests of the purpose of the Board.
5. Nominations shall be communicated to all deferred and pensioner members by email along with information about the voting process.
6. The one nominee with the most number of votes shall be appointed to the Board.

#### **Employer representatives**

1. The Authority will appoint three employer representatives. These may be from:
  - (a) Group Managers
  - (b) Area Managers
  - (c) The Assistant Chief Fire Officer

## **Part 4**

### **Section 1**

# **Standing Orders**

**Part 4**, Standing Orders, rules and other procedures, set out the rules to be followed by the Council to ensure that its decisions and actions are legal, financially sound and carried out in accordance with policy frameworks. Standing orders sets out rules in several sections:

1. Introduction	6. County Local Committees
2. Council	7. Non-Executive Committees
3. Decision-making and Committees general	8. Scrutiny
4. Access to meetings and documents	9. Appointment of Officers and Disciplinary Action
5. Cabinet and Executive decision-making	10. Delegations to Officers

# 1. Introduction

- 1.01 In these Standing Orders, unless the context requires otherwise, the following expressions have the meaning given in the definitions set out in Part 1 of the Constitution.

## **Interpretation, Variation or Revocation of Standing Orders**

- 1.02 The ruling of the Chairman as to the construction or application of any of these Standing Orders or as to the proceedings of the County Council including points of order or the admissibility of a personal explanation or question of conduct shall not be challenged at any meeting of the County Council, nor open to discussion.
- 1.03 These Standing Orders are subject to any statutory provision for the time being in force.
- 1.04 Any amendment or variation of or addition to or revocation of these Standing Orders shall be approved by the County Council and shall take effect from the conclusion of the meeting at which the County Council's approval is given, subject to any direction to the contrary by the County Council.
- 1.05 Any one or more of the Standing Orders may be suspended at any meeting by a majority of the members present and voting, subject to any statutory requirement.
- 1.06 Ancillary guidance on all areas of decision-making and political governance is available from Democratic Services.

## 2. Council

### Council Meetings

- 2.01 Each annual meeting of the County Council, except the Annual Meeting following quadrennial elections to the County Council, shall be combined with an ordinary meeting and shall be held at County Hall, Chichester, commencing at 10.30 a.m., unless the County Council or the Chairman shall otherwise direct.
- 2.02 Ordinary meetings shall be held at County Hall, Chichester, at 10.30 a.m. unless the County Council or the Chairman shall otherwise direct.
- 2.03 (a) The Chairman of the County Council may call an extraordinary meeting at any time. Also, five members may present a requisition for an extraordinary meeting to the Chairman.
- (b) If the Chairman refuses to call an extraordinary meeting after a requisition in (a) above within five working days, then any five members of the County Council may immediately call an extraordinary meeting of the Council.
- (c) Notice of the time, date and place of any extraordinary meeting of the County Council shall be sent to every member not less than five clear working days before the date of the meeting.
- (d) Where in relation to any meeting of the County Council, the next such meeting is an extraordinary meeting called under (a) or (b) above, the next following meeting of the County Council (being a meeting called otherwise than under (a) or (b) above) shall be treated as a suitable meeting for the purposes of signing of minutes.
- 2.04 A register of attendance to be signed by all members will be placed in a convenient place at every meeting of the County Council. Any omission may be remedied by the Director of Law and Assurance.

### Chairman and Vice-Chairman of the Council

- 2.05 At the annual meeting of the Council, or at any other meeting of the County Council at which the election of Chairman is before the County Council, the Chair for this item shall be taken by the Vice-Chairman of the County Council or, failing him or her, such member as the County Council may elect.
- 2.06 The Chairman and Vice-Chairman may be elected by secret ballot. Nominations are to be submitted in writing to the Director of Law and Assurance by not later than 10.30 a.m. on the day before the meeting and must be signed by the proposer and also by the nominee to signify his or her consent to being nominated.

- 2.07 If, where there are more than two nominations for the office of Chairman or Vice-Chairman, the first voting does not produce an absolute majority of votes in favour of any nominee, the nominee having the least number of votes shall be struck off the list and a fresh ballot shall take place, and so on, until an absolute majority of the members present and voting is obtained in favour of one nominee.
- 2.08 Subject to Standing Order 2.03, at a meeting of the County Council the Chairman of the Council shall preside. In the Chairman's absence or where the Chairman has a prejudicial interest disqualifying him or her from undertaking the duty in question, the Vice-Chairman of the Council shall preside. If both the Chairman and Vice-Chairman of the Council are absent from a meeting of the County Council or have a prejudicial interest, the County Council shall choose another member to preside, such person not being a member of the Cabinet.
- 2.09 The Chairman and Vice-Chairman of the County Council may not be members of the Cabinet.

### **Appointments made by the Council**

- 2.10 Unless otherwise provided by statute or a scheme approved by the County Council the following appointments will be made by the County Council.
- 2.11 The Leader shall be appointed at the first meeting of the County Council following a quadrennial election of the Council and shall be ex-officio Chairman of the Cabinet. The term of office of the Leader will be four years unless a new Leader is appointed by the County Council.
- 2.12 The chairmen, vice-chairmen and members of committees shall be appointed each year at the annual meeting of the County Council. The County Council may at any meeting fill a vacancy in the office of chairman or vice-chairman of any committee.
- 2.13 Appointments by the County Council shall include the appointment ex-officio of:
- (a) the Chairman and Vice-Chairman of the Council, as Chairman and Vice-Chairman of the Governance Committee respectively;
  - (b) the Chairman and Vice-Chairman of the Council, as Chairman and Vice-Chairman of the Standards Committee respectively;
  - (c) the chairmen of the three service Select Committees as members of the Performance and Finance Select Committee;
  - (d) The Chairmen of the Select Committees as members of the West Sussex Joint Scrutiny Steering Group (the appropriate Vice-Chairmen to act as substitute(s) in the event that one or more Chairmen is unable to attend a meeting);

- (e) a minority group member as the Chairman of the Regulation, Audit and Accounts Committee;
  - (f) the Cabinet Member for Finance and Resources as a member of the Treasury Management Panel; and
  - (g) the Vice-Chairman and the Cabinet Member with responsibility for member development as members of the Member Development Group.
- 2.14 The Leader shall appoint the Cabinet Members and Advisers or Senior Advisers to Cabinet Members (up to two per Cabinet Member) on such terms and to such areas of responsibility as the Leader may determine and shall do so in such a manner that enables the County Council to discharge its obligations under Standing Order 3.01 without undue delay.
- 2.15 Members of the Cabinet may not be members of a Select Committee nor of the West Sussex Joint Scrutiny Steering Group. An Adviser or Senior Adviser to a Cabinet Member may not be a member of the Select Committee that deals with his or her Cabinet Member's portfolio.
- 2.16 The Chairmen and where appropriate Vice-Chairmen of County Local Committees shall be appointed each year at the annual meeting of the Committee.
- 2.17 Chairmen of County Local Committees shall be appointed following a ballot of members of the Committee prior to the annual meeting. Where voting is tied the Leader will decide the outcome.
- 2.18 Except in the case of the Health and Adult Social Care Select Committee, the number of non-voting members who are not members of the County Council serving upon any committee shall not exceed 25% of the total membership of that committee.
- 2.19 Non-voting members of a committee and voting borough and district council members of the Health and Adult Social Care Select Committee shall be appointed by the committee concerned and in the case of a sub-committee, by the relevant parent committee, having regard in either case to the advice of the relevant Cabinet Member.
- 2.20 A member who is also a member of the cabinet or Executive of a West Sussex borough or district council may not serve on any task group or other scrutiny body appointed by the West Sussex Joint Scrutiny Steering Group to undertake joint scrutiny of any matter where a decision may fall to be made by the cabinet or Executive of that West Sussex borough or district council.
- 2.21 Members of the Treasury Management Panel, including the Chairman, shall be appointed on the recommendation of the Cabinet Member for Finance and Resources from among those best qualified to serve on the Panel.

- 2.22 If a member resigns from his or her political group, his or her resignation carries with it an automatic resignation from any posts to which he or she has been appointed (other than Cabinet Member or Adviser or Senior Adviser to a Cabinet Member) in accordance with the wishes of his or her group, unless agreed otherwise by that group, in which case he or she will remain in post until the matter is considered by the County Council.

### **Order of Business; Time Limits**

- 2.23 The order of business at a meeting of the County Council shall be determined by the Chairman, in consultation with political group leaders. Items of high significance are likely to be prioritised on the agenda. Business may include any of the following, at the Chairman's discretion, and subject to any statutory requirements:
- (a) To choose a member other than a member of the Cabinet to preside if the Chairman and Vice-Chairman of the County Council are absent;
  - (b) When required by statute, to elect a Chairman;
  - (c) When necessary, to appoint a member of the County Council to be Vice-Chairman;
  - (d) Members' interests;
  - (e) To consider whether the minutes of the last meeting of the County Council are a correct record;
  - (f) Where necessary to appoint a member to fill a vacancy which has arisen on any committee;
  - (g) To deal with business required by statute to be done at the meeting;
  - (h) To deal with business specially brought forward by the Chairman;
  - (i) To receive an address from a Cabinet Member under Standing Order 2.32;
  - (j) To consider a petition in accordance with the Petitions Scheme in accordance with Standing Order 3.43(a);
  - (k) To deal with business remaining from the last meeting, if any;
  - (l) To consider notices of motion received in accordance with Standing Order 2.45;
  - (m) To receive and consider strategies or plans within the Policy Framework and any departure or variations from them, and any report of a non-Executive committee where officers' recommendations have not been accepted;
  - (n) To answer questions asked pursuant to Standing Order 2.41;

- (o) To consider any reports from Select Committees pursuant to Standing Order 8.09;
  - (p) To consider any reports from the Health and Adult Social Care Select Committee under Standing Order 8.33;
  - (q) To receive a presentation from an external or internal speaker, followed by questions to the speaker;
  - (r) To consider any information reports, including consultation reports by Cabinet Members; and
  - (s) Other business (if any) specified in the summons.
- 2.24 The agenda shall specify a maximum period of 15 minutes for items (a) to (e) inclusive, together with any announcements which the Chairman considers appropriate; 20 minutes for each address including questions under (i) (Cabinet Member statement on an urgent matter); 2 hours for item (n) (members' questions); and times for adjournment at 1 p.m. and for all business to conclude at 4.15 p.m. Items not commenced by 4.15 p.m. and any unfinished business shall be deferred to the following meeting.
- 2.25 The Chairman shall terminate the item or debate and call for any summing up to ensure that the item or debate concludes at the time specified on the agenda, subject to his or her discretion in all cases.
- 2.26 Other items held over from the previous meeting or otherwise on the agenda will be given such time as the Chairman considers appropriate.

### **Reports to Council**

- 2.27 Subject to the waiver in Standing Order 3.49, a printed copy of the plans and strategies which are proposed to that meeting for inclusion within the Policy Framework or any proposed amendments or variations to them, shall be sent to every member and, so far as possible, shall be forwarded with the summons to attend such meeting. The papers shall include any recommendations on the plan or strategy made by the Cabinet, and by a Select or non-Executive committee, where the recommendation has not been accepted by the Executive in whole or in part, and any recommendations made by the Governance Committee on the Constitution.
- 2.28 All recommendations which are to be submitted to the County Council, so far as practicable, shall be set out clearly in the form of resolutions to be considered by the County Council.
- 2.29 The agenda shall include:
- (a) a report from members of the Cabinet, in accordance with Standing Order 2.35.

- (b) any reports from a Select Committee for debate.
  - (c) a report from a non-Executive committee on any matter where officers' recommendations have not been accepted, except where the chairman of the relevant committee considers that the non-acceptance or variation of an officer's recommendations does not warrant a report to the County Council.
- 2.30 No minutes or reports which have not been circulated shall be considered at the meeting.

## **Questions**

### **During a Debate**

- 2.31 A member of the County Council may without notice ask the relevant Cabinet Member introducing a debate on an item within the Policy Framework, or chairman introducing the report of a non-Executive committee or a Select Committee in pursuance of Standing Order 2.27, any question upon the matter then before the County Council if the question is put before the debate is concluded.

### **Cabinet Member Address**

- 2.32 A Cabinet Member may address the Council on a matter of urgency and/or significant interest to the County Council and which relates to the powers and responsibilities of the County Council or which affects the county. The Leader will settle proposals for an address with the Chairman by the end of the day before the meeting of the County Council or, in cases of greater urgency, by 9.00 a.m. on the day of the meeting.
- 2.33 Members may ask questions (limited to one question per member) of the Cabinet Member on his or her statement subject to the time limit in Standing Order 2.34. A member shall have the right to put one relevant supplementary question arising from the reply to the original question put by him or her.
- 2.34 The time taken for an address by a Cabinet Member shall be limited to five minutes. Questions by members arising from the statement shall be limited to a total of 15 minutes.

### **Question Time Report**

- 2.35 The Director of Law and Assurance shall prepare, in consultation with the Leader and individual Cabinet Members, a report summarising all matters of significance arising in Cabinet portfolios since the previous meeting of the County Council. The report shall not be restricted to those matters on which decisions have been proposed or made.
- 2.36 The reports referred to in 2.35 shall be distributed to all members with the summons and agenda; they shall be supplemented by further reports

prepared in the same way, summarising those matters arising between the dispatch of the summons and agenda and the meeting of the County Council. The supplementary reports shall be made available to members by 9.30 a.m. on the day of the meeting.

- 2.37 A list of proposed items to be included in the reports distributed with the agenda shall be circulated electronically to all members nine working days before the meeting of the County Council to assist the preparation of written or verbal questions to cover any matters of concern to individual members.

*(N.B. This will be on the Monday of the week before the meeting, when this is held on a Friday.)*

### **Written Questions**

- 2.38 Subject to the giving of the notice required by Standing Order 2.39, a member may ask a question on any matter in relation to which the County Council has powers or duties or which affects West Sussex (including any matter considered by the Executive, a Select Committee or non-Executive committee) which is not otherwise on the agenda for the meeting, and which the Chairman does not rule to be irrelevant or inappropriate or involve the expenditure of a disproportionate amount of time or money to prepare the answers.

- 2.39 The notice of a question to be asked in pursuance of Standing Order 2.38 shall be in writing and shall be given to the Director of Law and Assurance no earlier than four weeks before the meeting and at the latest by 9.00 a.m. on the fourth working day before the meeting of the County Council at which the question is to be asked; the Chairman may allow this provision to be relaxed if, in his or her opinion, it would be an advantage to the County Council's business to do so.

*(N.B. This will be by 9.00 a.m. on the Monday prior to the meeting when the County Council meets on a Friday.)*

- 2.40 Each meeting of the County Council will receive answers to the first 10 such questions received. Further questions will be referred to the appropriate senior officer for a written reply and published in the Members' Information Service. There is a limit of two questions per member within the first 10 questions received except that, if fewer than 10 questions are received by the deadline, additional questions from a member who has already asked two questions will be answered up to the maximum of 10. Answers to written questions shall be circulated in writing by 12 noon on the day before the County Council meeting. Neither questions nor answers under this paragraph shall be argumentative or open to debate.

### **Question Time**

- 2.41 Members may ask questions of Cabinet Members on matters contained

within the Leader and Cabinet Member report, any supplementary report, written questions and any other question relevant to the portfolio area. Members may also ask questions of the Leader on anything which is currently relevant to the County Council. Questions may be asked without notice. There will be an indicative five-minute time limit for answers to questions and any supplementary questions on a particular matter, starting when the Cabinet Member has given his or her first answer, subject to the Chairman's discretion to use his or her judgement to allow a longer period of questions for topics of particular interest or significance. Subject to that time limit and to the Chairman's rights under Standing Order 3.18 or otherwise to deal with irrelevant, repetitive or offensive questions or other disorderly conduct, members may ask supplementary questions, without limit. Neither questions nor answers shall be argumentative or open to debate.

- 2.42 Replies to questions under Standing Order 2.38 relating to Executive functions shall be given by the relevant Cabinet Member; replies to questions relating to other business shall be given by the chairman of the relevant committee.
- 2.43 Where a reply to a question or supplementary question under Standing Order 2.41 cannot conveniently be given orally, it shall be sufficient if a written answer is sent as soon as possible to the member asking the question.
- 2.44 The Chairman shall expect and ensure that all questions and responses to questions shall be concise.

### **Notices of Motion**

- 2.45 Except as provided by Standing Order 2.56, every notice of motion shall be in writing, signed by the member giving the notice, and shall be delivered to the Director of Law and Assurance, no later than noon on the seventeenth day before the next meeting of the County Council and no earlier than four weeks before the meeting.

*(N.B. The deadline will be before noon on the Tuesday two weeks before that of the meeting, when this is held on a Friday).*

- 2.46 A motion may be considered with less than the required notice if the Chairman decides that the matter is urgent i.e. it could not have been anticipated before the deadline for notices of motion, and that the proposer has given as much notice as was practical.
- 2.47 Every notice of motion shall be relevant to some question over which the County Council has power, or which affects the county as such. The Director of Law and Assurance will advise the Chairman accordingly.
- 2.48 The Chairman, in consultation with political group leaders, may decide that a motion shall be:

- (a) moved and debated at the next meeting;
  - (b) moved and referred to a Cabinet Member or non-Executive committee at the next meeting;
  - (c) moved at a later meeting;
  - (d) moved and referred to a Cabinet Member or non-Executive committee at a later meeting; or
  - (e) dealt with outside the meeting.
- 2.49 Notice will be given to the proposer of the motion by the Friday two weeks before the meeting of the County Council as to the course of action determined by the Chairman.
- 2.50 Where the Chairman determines that the issue raised in a motion shall be dealt with outside the meeting, the proposer will be informed by the Director of Law and Assurance in writing and will subsequently receive a response from the relevant Cabinet Member or non-Executive committee chairman.

#### **Motions to be Debated**

- 2.51 All notices of motion properly given and accepted for debate by the Chairman shall be numbered by the Director of Law and Assurance in the order in which they are received and shall be entered with the date of reception in a book, kept at the office of the Director of Law and Assurance and open to inspection by any member.
- 2.52 The Director of Law and Assurance shall insert in the summons for a meeting of the County Council all notices of motion which the Chairman has agreed will be taken at that meeting (unless any have been previously withdrawn).
- 2.53 Motions which the Chairman determines shall be debated shall be dealt with at the meeting to which they are brought forward provided:
- (a) That notwithstanding Standing Order 2.63 the Chairman shall have the discretion to allow the relevant Cabinet Member or the chairman of a non-Executive committee a right of reply after any reply by the proposer of the motion immediately before such motion is put to the vote.
  - (b) That the Chairman may, if he or she considers it convenient and conducive to the dispatch of business, allow such motion to stand referred to the relevant Cabinet Member or non-Executive Committee. In such instances motions relating to an Executive matter shall, upon being formally moved and seconded without speeches, stand referred to the relevant Cabinet Member for consideration. The response of the Cabinet Member shall be

published via the Executive Decision Database (EDD) and may (if necessary) be called in; it shall be reported to the next ordinary meeting of the County Council. The Cabinet Member's response will not be final until it has been reported to the next ordinary meeting of the County Council for debate in relation to the original motion.

- (c) When the County Council considers such a report the member giving the notice shall have the rights of the proposer of an original motion.
- (d) That the member giving the notice of motion shall be entitled to attend and speak at the meeting of the Cabinet or when the matter is to be considered by a Cabinet Member, or at any non-Executive committee to which a motion stands referred, and shall have the same notice of that meeting as provided for by Standing Order 3.12.
- (e) That if following action resulting under Standing Order 2.53(d) above, the proposer, seconder and the responder are in agreement on a course of action, they may agree that the motion will not be put before the Council for debate but will be withdrawn. In such circumstances a statement to that effect will be published in the Members' Information Service.

#### **Briefing Notes for Motion**

- 2.54 The relevant Executive Director shall prepare a full briefing note on factual background information to the motion and shall circulate it to all members of the County Council by not later than the end of the Friday of the week preceding the County Council meeting. Where motions are referred the briefing note will be circulated by not later than the end of the Wednesday preceding the Council meeting. If a motion will not be moved until a future meeting, the briefing note will not be issued until that meeting, to the same timescales. If the topic is to be dealt with informally, a briefing note will not be produced.

#### **Whether a Motion is in Order**

- 2.55 A motion cannot be in order if it attempts to rescind, reverse or is inconsistent with any decisions made within the preceding six months. The only exceptions are:
- (a) The right of the Leader to challenge a decision of the County Council under Standing Orders 2.67-2.71 (Disputes Procedure); and
  - (b) The notice required in Standing Order 2.45 bears the names of at least a quarter of the County Council in addition to the proposer.

*N.B. This Standing Order is relevant only to motions moved by members at County Council meetings and not to recommendations of committees.*

#### **Motions that may be Proposed Without Notice**

- 2.56 Any of the following motions may be proposed without notice:

- (a) To appoint a chairman of the meeting;
- (b) To amend a motion;
- (c) To exclude the public
- (d) Motions relating to the accuracy of the minutes, to closure, adjournment, order of business or next business;
- (e) To receive or approve a report from an officer or to adopt a recommendation of a committee or sub-committee;
- (f) To appoint a special committee or sub-committee to consider a matter referred to in the summons to the meeting;
- (g) Subject to the Chairman's discretion under Standing Order 2.48, that a matter be referred to or referred back to the Executive or a non-Executive committee;
- (h) That leave be given to withdraw a motion;
- (i) To give the consent of the County Council, where it is required by these Standing Orders;
- (j) To suspend a Standing Order or Standing Orders at the meeting in accordance with Standing Order 1.05;
- (k) That the member named be not further heard, or that the member named leave the meeting; and
- (l) That the question be put or that the debate be adjourned or that the County Council adjourn, made in accordance with Standing 3.17.

### **Rules of Debate applicable to the County Council only**

#### **General**

- 2.57 A member shall stand when speaking and shall address the Chair.
- 2.58 A member shall direct his or her speech to the question under discussion or to a personal explanation or to a question of order.
- 2.59 A member shall not speak more than once on any motion, except to move a further amendment, or on any amendment, except in the exercise of a right conferred by any of the following Standing Orders, that is to say, Orders 2.63, 3.16, 3.17, 3.29 and 3.40.
- 2.60 Under Standing Order 2.56, the proposer of a motion without notice shall have no right of reply. This includes movers of amendments and

references back. The exception to this is proposers under Standing Order 2.56(e).

### **Notices of Motion**

- 2.61 The proposer of a motion may speak for up to five minutes. The member responding to the motion (a Cabinet Member or committee chairman) will also be able to speak for five minutes. All following speakers may speak for up to five minutes each.
- 2.62 When a motion is under debate no other motion shall be moved except to amend the motion, to postpone its consideration, or to refer it to the appropriate Cabinet Member or non-Executive committee. However, this Standing Order shall not prevent a member from moving at the appropriate time a motion in accordance with Standing Orders 2.56(b), (h), (j), (k) and (l), 2.63, 3.17, 3.35 and 3.40.
- 2.63 Subject to Standing Orders 2.53(a) and 2.60, the Chairman shall have the discretion to allow the relevant Cabinet Member or Chairman of a non-Executive committee a right of reply after any reply by the proposer of a motion immediately before such motion is put to the vote. If an amendment is proposed, the proposer of the original motion and then the Cabinet Member shall be entitled to reply at the close of the debate upon the amendment. A proposer, in exercising his or her right of reply, shall confine himself or herself to answering previous speakers and shall not introduce any new matter into the debate.
- 2.64 Any member who has given notice of motion in accordance with Standing Order 2.45 may, with the consent of the Chairman, vary its terms or language, provided that in so doing he or she does not alter its substance.
- 2.65 If a motion, referred to in the summons, is not moved either by the member who has given the notice, or by some other member on his or her behalf, it shall be treated as abandoned and shall not be moved without fresh notice, unless postponed by consent of the County Council.

### **Reports to be considered**

- 2.66 The Chairman shall:
- (a) refer to the plan proposed for the Policy Framework together with the recommendations of the Cabinet and any recommendations from a Select Committee which have not been accepted by the Executive. The Chairman shall then invite the relevant member of the Cabinet to introduce the item; or
  - (b) refer to the reports from Cabinet Members on which questions may be asked, in accordance with Standing Order 2.41; or

- (c) refer to the report from the non-Executive Committee or a Select Committee under Standing Order 2.27, and shall invite the relevant chairman to introduce.

### **Disputes Procedure**

2.67 In the event of a Select Committee resolving that a matter which is proposed to be or has been determined by the Executive is required to be referred to the County Council for final determination because it is contrary to any plan or strategy approved by the full Council, or contrary to or not wholly in accordance with the budget or the County Council's borrowing or capital expenditure strategies, then:

- (a) the Director of Law and Assurance shall prepare a report on the matter in consultation with the Chief Executive and relevant Executive Director(s); and
- (b) the question of the ability of the Executive to determine the matter shall be determined by the County Council, on advice from the Governance Committee.

2.68 Where the Cabinet has submitted a draft Policy Framework document other than the budget or precept to the Council for its consideration, and following consideration of that draft, the Council has objections to it, the Council must, before it:

- (a) amends it;
- (b) approves for the purpose of submission to the Secretary of State or any Minister for his or her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be submitted; or
- (c) adopts it (with or without modification);

inform the Leader of any objections which it has to the draft document and must give to him or her instructions requiring the Cabinet to reconsider it in the light of those objections.

2.69 Where the Council has informed the Leader of objections which it has to any draft policy framework document submitted to it, it must specify a period of at least five working days beginning on the day on which the Leader received the instructions referred to in Standing Order 2.68(b) above, within which the Leader must:

- (a) submit a revision of the draft as amended;
- (b) inform the Council of any disagreement which the Cabinet has with any of the Council's objections and the Cabinet's reasons for such disagreement.

- 2.70 After the five-day period, before amending, approving or approving for submission, the draft document, the Council (at a meeting convened as soon as practical for this purpose) must take into account any amendments made to it, the Cabinet's reasons for the amendments, the disagreements the Cabinet may have with the Council's objections, and the Cabinet's reasons for those objections which have been notified to the Council by the Leader within the said period.
- 2.71 This paragraph is to be read in conjunction with the Financial Regulations for the Council insofar as they relate to the preparation of the budget and precept for the following year (in the case of inconsistency these Standing Orders shall prevail).
- (a) Where the Council has objections to the budget and precept submitted by the Cabinet, the Council must give instructions to the Leader requiring the Cabinet to reconsider, in the light of those objections, the budget and precept in accordance with the Council's requirements
  - (b) Where the Council has informed the Leader of objections and given such directions it must specify a period of at least five working days beginning with the day on which the Leader received notification within which the Leader may:
    - (i) submit a revised budget with reasons for amendments;
    - (ii) inform the Council of any disagreement which the Cabinet has to any of the Council's objections and the reasons for such disagreement;
  - (c) After the expiry of the period specified, the Council (at a meeting convened as soon as practical for this purpose) must take into account the amendments, reasons for them, and disagreements and reasons for them, which the Cabinet has submitted to it, before agreeing the budget or issuing the precept.

## 3. Decision-Making and Committees General

### Delegations to Committees

- 3.01 Committees of the County Council, and their constitutions and terms of reference, shall be set out in the Scheme of Delegation and the chairman and vice-chairman of every committee shall be elected members of the County Council.
- 3.02 The delegation of functions by the Council to any committee or officers (including the Cabinet and Cabinet Members) is set out in the Scheme of Delegation which forms part of the Constitution and is subject to the limitations and conditions in that scheme.
- 3.03 In lieu of exercising its delegated powers, any non-Executive committee may refer any matter to the County Council for decision. This paragraph shall not apply to the Cabinet, a Cabinet Member, a County Local Committee or any joint arrangement in respect of any Executive functions which they may determine.
- 3.04 Every committee shall have power to appoint sub-committees, to delegate powers to them, or to make any change in the constitution of a sub-committee.
- 3.05 Each committee shall, at its first meeting after its annual or other appointment, appoint a chairman and, where appropriate, a vice-chairman of each standing sub-committee of that committee. In the absence of a chairman or vice-chairman of a committee from a meeting, a chairman for the meeting shall be appointed by the committee.
- 3.06 A committee may, at any meeting, fill a vacancy in the office of chairman or vice-chairman of a sub-committee of that committee.
- 3.07 Except in relation to the annual election of chairmen, the chairman and the vice-chairman of a committee shall, provided they continue to be members of the County Council, hold office until their successors are appointed in accordance with Standing Order 2.12.
- 3.08 County Council representative appointments to joint committees and external bodies will be appointed as follows:
  - (a) in the case of committees or bodies with a power to precept on the County Council, by the Cabinet;
  - (b) in other cases, by the relevant Cabinet Member or County Local Committee (in respect of committees or bodies exercising Executive functions) or non-Executive committees;

- (c) in all cases, as and when appointments are required to be made and according to the terms of office of the committee or body concerned.

### **Quorum**

- 3.09 Except where authorised by a statute or ordered by the County Council or a committee, business shall not be transacted at a meeting of a committee unless at least one quarter of the number of voting members of the committee is present but, except where specific provision is made to the contrary, this shall in no case be fewer than three members of the County Council. Where a Committee has five or fewer members, then the quorum is two members.

### **General Rules of Debate and Conduct**

- 3.10 The Chairman may at any time adjourn a meeting of the County Council or a Committee, and shall adjourn any meeting at 1 p.m. unless, in his or her opinion, the business is likely to be concluded in a short time thereafter. The decision of the Chairman in this matter shall be final and shall not be open to discussion.
- 3.11 A special meeting of a committee shall be summoned on the request of the chairman of the committee or of the Chairman of the Council on the written requisition of at least a quarter of the members of the committee (see Standing Order 2.03 for provisions on an extraordinary meeting of the County Council).
- 3.12 A summons to attend a meeting of the County Council or a committee shall, except in case of urgency, be given at least five clear working days before the meeting and shall briefly specify the business to be brought forward at the meeting.
- 3.13 Meetings of standing committees other than County Local Committees shall, unless otherwise determined by resolution of the Chairman of the committee concerned, be held at County Hall, Chichester.

### **Conduct**

- 3.14 Members will always have regard to the Code of Conduct rules, including declaration of interests, in Part 5 of the Constitution in all decision-making, committees and informal meetings, including when participating in informal meetings via videoconference or telephone conference.
- 3.15 Whenever the Chairman rises during a meeting a member then speaking or standing shall resume his or her seat and the County Council or Committee shall be silent, by virtue of the provisions of Standing Order 1.02; the ruling of the Chairman on a point of order or the admissibility of a personal explanation or on any question of procedure or conduct shall not be challenged nor open to discussion.
- 3.16 A member may at any time rise to a point of order or in personal explanation. A personal explanation shall be confined to some material

part of a former speech by him or her at the same meeting which may have been misunderstood. A member so rising shall be entitled to be heard immediately. The Chairman's ruling on the matter is final.

- 3.17 A member who has not spoken in a debate may, at the conclusion of a speech by another member, move without comment, "That the question be put", or "That the debate be adjourned," or "That the County Council or Committee adjourn," on the seconding of which the Chairman shall proceed as follows:
- (a) On a motion that the question be put: unless, in his or her opinion, the matter before the meeting has been insufficiently discussed, the Chairman shall first put the motion to the vote. If it is passed, the Chairman shall then call upon the proposer of the original motion only to exercise his or her right of reply under Standing Order 2.63 and, in respect of any motion under Standing Order 2.45, a right of reply by any Cabinet Member or chairman of a non-Executive Committee.
  - (b) On a motion to adjourn the debate or the meeting: if, in his or her opinion, the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, the adjournment motion shall be put to the vote without giving the proposer of the original motion his or her right of reply on that occasion.
- 3.18 If any member, in the opinion of the Chairman, and named to the Council or Committee, misconducts himself or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the County Council, a member may move "That the member named be not further heard," or "That the member named leaves the meeting." Such a motion, if seconded, shall be put and determined without discussion.
- 3.19 If the misconduct or obstruction continues, after such a motion has been carried, or action is taken in pursuance of Standing Order 4.02 which, in the opinion of the Chairman, renders the due and orderly dispatch of business impossible, the Chairman may, without question, adjourn or suspend the sitting of the County Council or Committee for such period as he or she considers expedient. These powers are in addition to any other powers vested in him or her.

### **Attendance**

- 3.20 A member of the County Council may request the chairman of a committee other than the Cabinet to allow him or her to attend a particular meeting in order that he or she may:
- (a) take part in the discussion of an item relating to his or her division;  
or

- (b) take part in the discussion of an item where the member's attendance is desirable in the interests of the County Council.

In the event of the chairman of the committee not agreeing that the member can attend the member should be given the right of appeal to the Chairman of the Council.

3.21 A Cabinet Member may request the Chairman of a Select Committee to allow him or her to attend a particular meeting in order that he or she may take part in the discussion of a particular item relating to his or her portfolio.

3.22 A member of the County Council may:

- (a) attend meetings of the Cabinet but not to speak or to vote;
- (b) attend and speak but not vote at adjoining County Local Committee meetings where matters affecting their division are being discussed.

and this shall be an "approved duty" for the payment of travelling allowance (as set out in the Member Allowance Scheme, Part 6).

3.23 A member of the County Council who attends, receives the agenda for, or otherwise has access to information concerning any meeting of a committee shall not disclose to the press or public any matter designated on the agenda or at the meeting as exempt or confidential information as defined by the Local Government Act 1972, as amended from time to time.

### **Minutes**

3.24 The minutes of the business of each meeting of the County Council or Committee shall be printed and a copy sent to each member with the summons to attend the next meeting of the County Council or Committee.

3.25 As soon as the minutes have been read, or if they are taken as read, the Chairman shall put the question "That the minutes of the meeting of the County Council held on the.....day of.....be signed as a true record."

3.26 No motion or discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of, the Chairman shall sign the minutes.

### **Motions and amendments applicable to Council and Committees**

3.27 Any of the following motions may be proposed without notice:

- (a) To appoint a chairman of the meeting.
- (b) To amend a motion.

- (c) To exclude the public.

### **Proposing and Seconding a Motion**

- 3.28 A motion or amendment may be spoken to by the proposer, but shall not be discussed by the County Council or a Committee until it has been seconded. The seconder has the rights contained in Standing Order 3.29. Except where notice has been given in accordance with Standing Order 2.56 the motion or amendment shall, if the Chairman so requires, be written down, signed and handed to him or her before it is further discussed by the meeting.
- 3.29 A member when seconding a motion or amendment may declare his or her intention of reserving his or her speech until a later period of the debate subject to Standing Order 3.17.
- 3.30 A motion or amendment once moved and seconded shall not be altered or withdrawn by the proposer without the consent of the seconder and of the County Council or Committee, which shall be signified without discussion.
- 3.31 When a motion is under debate no other motion shall be moved except to amend the motion or to postpone its consideration.

### **Amendments**

- 3.32 An amendment shall be:
  - (a) to leave out words;
  - (b) to leave out words and insert or add words; or
  - (c) to insert or add words;but it shall not have the effect of introducing a new proposal into, or of negating the motion before the County Council or Committee.
- 3.33 Whenever an amendment has been moved and seconded no other amendment shall be moved until the first amendment has been disposed of; however, notice of any number of amendments may be given.
- 3.34 If an amendment is rejected, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended takes the place of the original motion, and becomes the substantive motion on which any further amendment may be moved.

### **Voting**

- 3.35 Unless a recorded vote is required under 3.36, every question shall be determined at the Chairman's discretion by a show of hands or electronic voting with the provision that the Chairman or eight voting members may demand a division. In that case, the voting shall be recorded either manually or by electronic voting so as to show how each member voted.

In applying this Standing Order to a committee, the number of members who may demand a division shall be one quarter of the number of appointed members of the committee or three members of the committee, whichever is the greater. The taking of a division supersedes any prior determination of the question.

- 3.36 When a vote is taken at a budget decision meeting of the County Council the voting must be recorded either manually or by electronic voting so as to show how each member voted, including on any amendments.
- 3.37 Where immediately after a vote is taken at a meeting of the County Council or a committee, any member requires, the minutes shall indicate whether that member cast his or her vote for the question or against the question or whether he or she abstained from voting.
- 3.38 If there is an equality of votes, then the Chairman has a second or casting vote to determine the issue: A second vote is where the Chairman has already voted on the issue, a casting vote is when he or she has abstained on the previous vote.

### **Petitions**

- 3.39 The County Council wishes to enable all people resident, working or studying in the county to petition the Council and to obtain a response that meets the expectations of the petition or provides a reasoned explanation for why those expectations cannot be met.
- 3.40 Petitions submitted to the Council **must** include:
- (a) a clear and concise statement of the subject of the petition, which must be a matter that is relevant to the functions of the County Council;
  - (b) a statement about what action the petitioners wish the council to take; and
  - (c) the name, address and signature of any person supporting the petition.
- 3.41 Valid signatories will be people who live, work or study in West Sussex – a West Sussex postcode must be given. Signatures from adjoining areas may be included at the discretion of the Director of Law and Assurance if the petition concerns a matter or service close to the county border.
- 3.42 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.
- 3.43 Certain thresholds allow member-level consideration of a petition:
- (a) This Standing Order shall allow a petition which satisfies the criteria of having at least 3,000 valid signatures to be the subject of debate

at a meeting of the County Council. Whether the criteria are met shall be determined by the Director of Law and Assurance in consultation with the Chairman.

- (i) The organiser of the petition has the option of submitting a written statement of no more than 500 words, which should be sent to the Democratic Services Unit (preferably by e-mail) to arrive at least nine working days before the County Council meeting. The relevant Directorate should also submit a brief position statement/briefing note by the same deadline.
  - (ii) The organiser of the petition (or his or her nominee) may attend the meeting of the County Council so as to address the County Council for not more than five minutes. The relevant Cabinet Member(s) (as determined by the Director of Law and Assurance in consultation with the Chairman) shall be entitled to speak for up to five minutes in reply and the matter may then be debated for no more than 30 minutes, with a time limit of three minutes per member.
  - (iii) The Chairman shall ask for any member wishing to move a proposition to do so at an early point in the debate.
  - (iv) At the end of the debate and before any proposition is put to the vote the petitioner and the relevant Cabinet Member(s) will be given three minutes (maximum) each to make a closing statement.
  - (v) Where more than one proposition is moved, the Chairman shall determine which shall be put to the vote. The Chairman's decision shall be final. A member can seek to amend a proposition and the Chairman will call for a vote on any amendments before the substantive proposition is voted on. Both propositions and amendments must be seconded. The Council will not vote on the wording of the petition.
  - (vi) Where necessary for the purpose of advising the County Council or where the officer is directly affected by the content of the address, the Chairman may call upon a senior officer to advise the Cabinet Member or, exceptionally, to address the County Council.
- (b) Where the petition meets the criteria for requiring member level consideration, with at least 500 valid signatures and this is via a meeting of a Committee, the organiser of the petition (or his or her nominee) may submit in writing at least five days before the meeting questions to be answered at the meeting. Alternatively, a meeting may be arranged with the appropriate Cabinet Member.
- (i) The organiser of the petition has the option of submitting a written statement of no more than 500 words, which should be sent to the Democratic Services Unit (preferably by e-mail) to

arrive at least nine working days before the Committee meeting. The relevant Directorate should also submit a brief position statement/ briefing note by the same deadline.

- (ii) The organiser of the petition (or his or her nominee) may attend the meeting of the Committee so as to address the Committee for not more than five minutes. The relevant senior officer(s) (as determined by the Director of Law and Assurance) shall be entitled to address the Committee for up to five minutes in reply.
- (iii) At the end of the debate and before the Committee decides how to respond to the petition, the petitioner and the relevant senior officer(s) will be given three minutes (maximum) each to make a closing statement.

3.44 Any member is able to make a Councillor Call for Action, which must be submitted to the Director of Law and Assurance. The Director will decide the most appropriate route, which will be consideration by a Cabinet Member, County Local Committee, Select Committee or non-Executive Committee.

### **Urgent Action**

3.45 The Chief Executive or Director of Law and Assurance may decide a matter that meets one of these criteria:

- (a) a County Council decision in respect of the Policy Framework or any other matter requiring a resolution of the County Council is sufficiently urgent that it cannot wait for the next ordinary meeting of the County Council; or
- (b) a matter for consideration by the Cabinet is sufficiently urgent that it should be decided before the next ordinary or extraordinary meeting of the relevant Select Committee; or
- (c) a Cabinet Member matter is sufficiently urgent that it cannot wait for the Cabinet Member to decide it; or
- (d) a matter within the powers of a non-Executive committee is sufficiently urgent that it cannot wait for the next ordinary meeting; or
- (e) a matter within the powers of a County Local Committee is sufficiently urgent that it cannot wait for the next ordinary meeting; or
- (f) a key decision by an officer is sufficiently urgent that it cannot wait for the officer to decide it.

3.46 If the matter is an executive key decision that has not appeared in the Forward Plan for 28 days, then the provisions in Standing Order 5.23

(Regulation 11 Decisions) apply.

3.47 With the exception of decisions falling under Standing Order 3.46 (Regulation 11 decisions) in each case of Urgent Action proposed via Standing Order 3.45 the Chief Executive or Director of Law and Assurance shall consult the relevant Executive Director/Director and the following members:

- County Chairman, Leader and chairman of the relevant Select Committee in respect of (a);
- the Leader and chairman of the relevant Select Committee in respect of (b);
- the relevant Cabinet Member (or in their absence, the Leader) and chairman of the relevant Select Committee in respect of (c);
- relevant chairman in respect of (d);
- the Chairman or Vice-Chairman of the County Local Committee as appropriate and the relevant Select Committee Chairman in respect of (e);
- the officer and the relevant Select Committee Chairman in respect of (f).

3.48 Where an urgent decision affects a single electoral division the local member will be sent a copy of the proposed decision for information. In all cases the Director of Law and Assurance as Monitoring Officer shall also be consulted.

3.49 The decision taken under Standing Orders 3.45 or 5.23 and notice of reasons why the decision was urgent and could not reasonably have been deferred shall be published in the next edition of the MIS. Executive decisions, including Regulation 11 decisions, shall also be notified via the EDD.

3.50 Nothing shall prevent the relevant Select Committee, or where appropriate, the County Council, from considering the matter after a decision has been taken.

3.51 A register shall be maintained of every decision taken urgently in accordance with Standing Orders 3.45 or 5.23.

## **4. Access to Meetings and Documents**

### **Rights to attend Meetings**

- 4.01 Members of the public and press may attend all meetings of the County Council, including the Cabinet, Select Committees, County Local Committees, Governance and non-Executive committees of the County Council. The exception is where Confidential or Exempt information is to be discussed.
- 4.02 If a member of the public interrupts the proceedings or behaves in a disorderly manner at any meeting, the Chairman may, after warning, order his or her removal from the room, or may order that the part of the room open to the public shall be cleared.
- 4.03 Subject to the provisions allowing the exclusion of the press and public, the filming or recording of all formal meetings of the County Council held in public is permitted. Any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities may be used. Publication and dissemination may take place at the time of the meeting or occur after the meeting. A person attending a meeting for the purpose of reporting on the meeting will, so far as practicable, be afforded reasonable facilities for doing so. To assist with the management of a meeting, anyone wishing to film or record is asked to inform an officer of their intentions before the meeting starts. Oral reporting or oral commentary on a meeting while it takes place if the person is in the room is not permitted.
- 4.04 Where the press and public are excluded from any part of a meeting, members of the press and public must remove all recording devices that they have brought into the room.
- 4.05 Mobile devices must be switched to silent while meetings of the County Council are in progress. In the event that any mobile device interferes with microphones, hearing loops or other audio visual equipment used to assist the running of the meeting, the user must switch it off.

### **Webcasting**

- 4.06 Meetings of the County Council and some committees are webcast and the following provisions will apply.
- 4.07 The Chairman of the meeting has the discretion to request the termination or suspension of the webcast if, in the opinion of the Chairman, continuing to webcast would prejudice the proceedings of the meeting. The circumstances in which termination or suspension might occur would include:

- (a) Public disturbance or suspension of the meeting;
  - (b) Exclusion of public and press being moved and supported; and
  - (c) Any other reason moved and seconded and supported by the Council/meeting.
- 4.08 No exempt or confidential agenda items shall be webcast. No part of any meeting held in 'Part II' (i.e. with the public and press excluded) will be webcast after members have passed a resolution excluding the public and the press because there is likely to be disclosure of exempt or confidential information. The clerk of the meeting will ensure that filming and/or recording of the meeting has ceased and will confirm this to the Chairman of the meeting before any discussion of exempt or confidential matters is commenced.
- 4.09 All archived webcasts will be available to view on the County Council's website for a period of six months, but archived webcasts or parts of webcasts can be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any legal provision such as Data Protection and Human Rights legislation or provisions relating to confidential or exempt information. If the Monitoring Officer decides to take such action he or she must notify all members in writing as soon as possible of his or her decision and the reasons for it.

#### **Access to Agenda and Reports**

- 4.10 The County Council will make copies of the agenda, reports and background papers open to the public available for inspection at the designated office at least five clear working days before the meeting and on its website. If an item is added to the agenda later, the revised agenda will be open to inspection and available on the website from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Director of Law and Assurance shall make each such report available to the public as soon as the report is completed and sent to members.
- 4.11 Subject to sub-paragraph 4.12 below, a printed copy of the summons and agenda for the forthcoming meeting and the minutes of the previous meeting shall be dispatched to each member by the Director of Law and Assurance at least five clear working days before such forthcoming meeting.
- 4.12 A member may, by notice in writing given to the Director of Law and Assurance, give consent for the summons and agenda to be sent electronically to their County Council email address or left for collection at County Hall. A member may at any time give notice that they wish to withdraw that consent.
- 4.13 The Director of Law and Assurance will supply copies of the following to any person on payment of a charge for postage and any other costs:

- (a) any agenda and reports for public meetings;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, any document available for inspection by a person under any provision in these rules

- 4.14 Except for any part of the meeting during which the public are excluded, the County Council will make available a reasonable number of copies of the agenda and reports for the use of members of the public present at the meeting.
- 4.15 Decisions of committees shall be recorded and published by the Director of Law and Assurance in accordance with the provisions of the Local Government Act 1972.

### **Inspection of Documents**

- 4.16 Any document which is in the possession of or under the control of the County Council and contains material relating to any business to be transacted at a meeting of the County Council or a committee of the County Council shall, subject to Standing Order 4.17 below, be open to inspection by any member of the County Council.
- 4.17 Where it appears to the Director of Law and Assurance that a document discloses exempt or confidential information as defined by the Local Government Act 1972, as amended from time to time, then subparagraph (i) above does not require the document to be open to inspection.
- 4.18 A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he or she is professionally interested or in which he or she has any personal and prejudicial or pecuniary interest.
- 4.19 The Director of Law and Assurance will make available, at County Hall, Chichester, copies of the following for six years after a meeting:
- (a) the agenda for the meeting; and
  - (b) reports relating to items when the meeting was open to the public.
  - (c) minutes and records of decisions taken, at public meetings, which include a minute of the debate and summary of any additional amendments or proposals which were considered at the meeting, but which exclude any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (d) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and

coherent record;

### **Background Papers**

- 4.20 The executive director, director or head of service will ensure that the report author sets out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his or her opinion:
- (a) disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) which have been relied on to a material extent in preparing the report;
- (but this does not include published works or those which disclose exempt or confidential information).
- 4.21 The County Council makes copies of those documents available on the County Council's website will retain and make available for public inspection for four years after the date of the meeting, or date of which the decision to which the background papers relate, one copy of each of the documents on the list of background papers.

### **Exclusion of Access by the Public to Meetings**

- 4.22 Any meeting may, by resolution, exclude the public and the press from the meeting during an item or items of business whenever it is likely that exempt or confidential information as defined by the Local Government Act 1972, as amended from time to time, would be disclosed to them.
- 4.23 The chairman of the meeting shall have the right to order the exclusion of the public and the press without question whenever, in his or her opinion, Standing Order 4.22 is likely to apply.
- 4.24 A resolution under Standing Order 4.22 above shall identify the proceedings or the part of the proceedings to which it applies and shall state the description in the terms as defined by the Local Government Act 1972, as amended from time to time, of the exempt or confidential information giving rise to the exclusion of the public and press.
- 4.25 If any item of business arises at a meeting of the County Council where information relating to a particular employee, former employee or applicant to become an employee of, or a particular office holder, former office holder or applicant to become an office holder under the County Council is likely to be disclosed then, unless the County Council otherwise so resolves, that item of business shall be considered by the County Council after the public and the press have been excluded by resolution under Standing Order 4.25 above.
- 4.26 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the

proceedings that confidential information would be disclosed and a resolution has been made by the decision-making body excluding the public during the transaction of business.

4.27 There is discretion to exclude the public as follows:

- (a) The public may be excluded from meetings whenever it is determined by the decision-making body that the nature of the business to be transacted or the nature of the proceedings are such that exempt information would be disclosed.
- (b) Where the meeting will determine any matter to which Article 6 of Schedule I to the Human Rights Act 1998 applies (the determination of a person's civil rights or obligations) there will be a presumption that the meeting will be held in public unless one of the exceptions provided for in Article 6 applies.

4.28 Exempt information means information falling within the following seven categories (subject to any conditions):

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual	
2. Information which is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 1985[3];</li> <li>(b) the Friendly Societies Act 1974[4];</li> <li>(c) the Friendly Societies Act 1992[5];</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978[6];</li> <li>(e) the Building Societies Act 1986[7];</li> <li>or</li> <li>(f) the Charities Act 1993[8]</li> </ul> <p>"Financial or business affairs" includes contemplated, as well as past or current activities.</p> <p>"Registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p>

<b>Category</b>	<b>Condition</b>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means:</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>“Office-holder”, in relation to the authority, means the holder of any paid office appointment to which is or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	
<p>6. Information which reveals that the authority proposes:</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p>	

Category	Condition
(b) to make an order or direction under any enactment.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

(a) Applicable to all the above categories:

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

(b) Information which falls within any of paragraphs 1 to 7 above; and is not prevented from being exempt by virtue of the condition on exempt paragraph 3 or on Standing Order 4.26 above, is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

4.29 If the Director of Law and Assurance thinks fit, the County Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Standing Order 4.22, the meeting is likely not to be open to the public. Such reports will be marked "not for publication" together with the category of information likely to be disclosed.

### **Additional Access Rights of Members**

4.30 All members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business to be transacted at a public meeting unless it contains exempt information as defined in Standing Order 4.28.

4.31 All members of the County Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any business transacted at a private meeting, any decision made by a Cabinet Member or any key decision made by an officer, unless it contains exempt information as defined by Standing Order 4.28. Such documents will be available for inspection when the meeting concludes or, where a decision is made by a Cabinet Member or a key decision is made by an officer, immediately after the decision has been made, at the offices of the County Council and on its website.

- 4.32 However, members are entitled to see documents falling within exempt paragraph 3 of Standing Order 4.28 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) and information falling within exempt paragraph 6 of Standing Order 4.28.
- 4.33 No member of the County Council shall disclose any information given to that member in confidence by anyone, or which may come into his or her possession or within his or her knowledge as a member of the County Council, without the consent of the person authorised to give it unless he or she is required by law to do so.

### **Inspection of Lands and Premises etc.**

- 4.34 Unless authorised in writing by the Director of Law and Assurance to do so, or by the County Council, or a committee or a Cabinet Member, a member of the County Council shall not:
- (a) inspect any lands or premises which the County Council has the right or duty to inspect, provided that no authorisation in writing shall be required where the County Council, non-Executive committee or a Cabinet Member have named members on a rota for regular visits to any specified lands or premises;
  - (b) enter upon any lands or premises and issue any order respecting any works which are being carried out by or on behalf of the County Council;
  - (c) (except in the case of a Cabinet Member in respect of a matter within his or her portfolio) negotiate for and on behalf of the County Council or conduct any consultations with any person or body.

### **Members' Information Service (MIS)**

- 4.35 The Director of Law and Assurance shall publish the Members' Information Service (MIS) for distribution to all members and make it available to the press and public. The MIS shall include information summaries of:
- (a) all proposed Cabinet and Cabinet Member decisions, Executive decisions by County Local Committees and key decisions by an officer published via the EDD in the previous week;
  - (b) decisions by a Select Committee Business Planning Group to call-in or review a proposed decision or recommendation;
  - (c) as a result of the call-in of a decision, whether the Select Committee agreed with the Cabinet, a Cabinet Member, County Local Committee or officer or, if relevant, whether the Cabinet, Cabinet Member, County Local Committee or officer has agreed with the recommendation of the Select Committee;
  - (d) a statement that a referred motion will be withdrawn following

agreement between the proposer, seconder and relevant Cabinet Member or non-Executive committee;

- (e) decisions by non-Executive committees where recommendations of officers have not been accepted to a material degree (to the extent that the chairman of the committee considers it necessary that a report be submitted to the County Council under Standing Order 2.27).
- (f) a report of the membership and terms of reference of each Scrutiny or Executive Task and Finish Group or Partnership Board established since the last such report and the appointment, nature and duration of role of any Advisers or Senior Advisers to Cabinet Members;
- (g) a reference to the publication or updating of any Forward Plan, or the Forward Plan itself;
- (h) matters of general information for members.

### **Advertisements**

- 4.36 All public notices required by statute or Standing Orders to be given by the County Council or by a committee or a Cabinet Member and all advertisements (other than advertisements for staff vacancies) required by statute or Standing Orders to be inserted in any newspaper or journal shall be approved by and issued in the name of the Director of Law and Assurance.

# 5. Cabinet and Executive Decision-Making

## The Cabinet

- 5.01 The individual portfolios to be allocated to Cabinet Members shall be determined by the Leader and notified to the County Council at the first available opportunity and set out in the Scheme of Delegation in the Constitution.
- 5.02 At meetings of the Cabinet, in the absence of the Leader of the Council, the Deputy Leader shall preside; in the absence of both, a chairman shall be elected for the meeting by those present.

## Cabinet Board

- 5.03 Cabinet Board is solely for the purpose of advising members of the Cabinet on the business of the Council and has no decision-making powers. The following will be served notice of all Cabinet Board meetings and shall be entitled to attend:
- (a) all members of the Cabinet.
  - (b) members of the Corporate Leadership Team and the Director of Law and Assurance.

## Cabinet Liaison with Other Members

- 5.04 A member of the County Council may request a meeting with the relevant Cabinet Member in respect of a matter affecting his or her division. The provisions of Standing Order 3.18 shall apply in determining whether such a meeting should take place.
- 5.05 Cabinet Members shall comply with a request to attend a meeting of a Select Committee to address issues relating to the Cabinet Member's area of responsibility, unless attendance is impracticable in which case any relevant Adviser or Senior Adviser to a Cabinet Member shall attend or another Cabinet Member at the discretion of the Leader.
- 5.06 The Cabinet or Cabinet Member will provide a Select Committee with a reasoned, written justification on any occasion when it is decided not to accept a recommendation of a Select Committee. This will be by way of a letter covering all the points raised which will be provided before, and reported to, the next meeting of the Select Committee.

## Executive Decisions

- 5.07 In deciding Cabinet Member matters, the relevant Cabinet Members:

- (a) shall have regard to the rules set out within the Constitution;
  - (b) may consult an Adviser or Senior Adviser to a Cabinet Member or an Executive Task and Finish Group before deciding a Cabinet Member matter.
- 5.08 Where an individual Cabinet Member receives a report as part of making any key decision, then the decision will not come into effect until the report has been available for public inspection for at least seven clear working days.
- 5.09 As soon as reasonably practicable after an Executive decision has been taken by the Cabinet, a Cabinet Member, or a County Local Committee, or a key decision has been taken by an officer, a written statement must be published setting out:
- (a) a record of the decision including the date on which the proposed decision was made;
  - (b) a record of the reasons for the decision;
  - (c) consideration of all relevant corporate policies, as set out on the County Council's website;
  - (d) details of any alternative options considered and rejected by the Cabinet, Cabinet Member, County Local Committee or officer at the time the decision was made;
  - (e) a record of any personal interest declared in relation to the decision by any member of the decision-making body, by any Cabinet Member who is consulted by the member or by the officer who made the decision; and
  - (f) in respect of any declared prejudicial or pecuniary interest, a note of the dispensation granted by the Director of Law and Assurance.
- 5.10 The Director of Law and Assurance shall maintain the Executive Decision Database (EDD) and make it available to all members, the press and public. The EDD shall include summaries of:
- (a) proposed decisions by the Cabinet or by individual Cabinet Members;
  - (b) proposed decisions by the Executive for recommendation to the County Council on matters within the Policy Framework;
  - (c) proposed Executive decisions by a County Local Committee;
  - (d) proposed key decisions by an officer.
- 5.11 Proposed decisions or recommendations of the Executive under Standing Order 5.10 above shall not be final decisions:

- (a) until the expiry of the time referred to in Standing Order 8.23 within which the chairman of the Select Committee's Business Planning Group may notify the Director of Law and Assurance of the requirement to call-in the decision or proposal; or
- (b) until the Select Committee has completed its examination of the matter as a Call-in; or
- (c) in the event of the Select Committee coming to a different view, until that decision has been published and the matter has been reconsidered by the Executive, County Local Committee or officer (and the decision of the Cabinet or a Cabinet Member certified by the Director of Law and Assurance); or
- (d) until the matter has been determined in accordance with the disputes procedure under Standing Order 2.67;

whichever is the latest.

- 5.12 The Executive may notify the Director of Law and Assurance of its intention to reconsider any proposal, at any time before the expiry of the time referred to in the Protocol on Select Committees for notification of call-in; on receipt of that notification, the proposal shall be withdrawn from further consideration.

### **Key Decisions Definition**

- 5.13 A Key Decision means an Executive decision that is significant because it is:
- (a) a proposal that involves spending or saving money to a value of £500,000 or more, except those decisions taken by the Director of Finance, Performance and Procurement under delegated powers in connection with Treasury Management; or
  - (b) a proposal that is significant in terms of its effect on people or the place of two or more electoral divisions. A proposal is significant if it would noticeably change or enable changes to services. There should be a presumption of openness about plans which affect residents or their area so that local people have sufficient knowledge, in advance, of decisions which are likely to be of real concern or interest to them or their community.
- 5.14 The key decision criteria includes decisions to consult on significant proposals and to begin a procurement falling within (a) and/or (b) above for which Cabinet Member approval is required under paragraph 2.3 of Part 3, Appendix 2 of the Scheme of Delegation (functions delegated to Cabinet Members) but does not include the following:
- strategic comments on planning applications determined by district councils
  - certification of local plans

- responses to government and quango consultations (except consultations on options or proposals that would have a direct impact on the County Council, or its services or the people of West Sussex)
- Treasury investment decisions
- decisions to consult on proposals for closures or amalgamations affecting individual schools.

5.15 Where a Cabinet Member has delegated a decision to an officer, including the letting of a contract when approving a procurement, the officer decision may also qualify as a key decision and require inclusion in the Forward Plan.

### **Forward Plan and Publicity in relation to Key Decisions**

5.16 In accordance with the requirements of the Access to Information Executive Regulations 2012 and other relevant legislation the Leader, on the advice of the Director of Law and Assurance, shall publish a Forward Plan containing details of key decisions to be taken, which must be published on at least a monthly basis. Key decisions will be included in the Forward Plan for at least 28 days and for up to four months.

5.17 Subject to the rules relating to general exceptions and special urgency, a key decision may not be taken unless it accords with the entry which must be published in respect of the Forward Plan.

5.18 Forward Plans will be prepared to cover a period of four months. The Forward Plan will be updated at least each month on a rolling basis and will be made available to all members, considered by Select Committees and published on the Council's website 28 days before any decision to which it relates is taken.

5.19 The Forward Plan will contain details of key decisions to be taken by the County Council, the Cabinet, Cabinet Members, County Local Committees, officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his or her name and title, if any, and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;

- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- (g) a list of documents, submitted to the decision taker for consideration in relation to the matter in respect of which the decision is to be made;
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from, any document listed is available;
- (i) that other documents relevant to those matters may be submitted to the decision maker; and
- (j) the procedure for requesting details of those documents (if any) as they become available.

5.20 Exempt information need not be included in a Forward Plan and confidential information cannot be included.

### **Regulation 10 Decisions**

5.21 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to the provisions relating to special urgency the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the Forward Plan for 28 days;
- (b) the Director of Law and Assurance has informed the chairman of a relevant Select Committee or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Director of Law and Assurance has made copies of that notice available to the public at the offices of the County Council and published it on its website; and
- (d) at least five clear working days have elapsed since the Director of Law and Assurance complied with (b) and (c) above.

5.22 As soon as reasonably practicable after Standing Order 5.21 has been complied with, the Director of Law and Assurance must make available to the public at the offices of the County Council and on its website a notice setting out the reasons why a key decision was not included in the Forward Plan.

### **Special Urgency (Regulation 11)**

- 5.23 If the date by which a decision must be taken and the general exception provisions cannot be followed, then the decision can be taken urgently only if the Director of Law and Assurance or Chief Executive obtains the agreement of:
- (a) the usual decision taker (if an individual) or the chairman of the usual body making the decision (in the absence of a relevant Cabinet Member, this will be the Leader)
  - (b) the chairman of a relevant Select Committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant Select Committee or if the chairman of each relevant Select Committee is unable to act, then the agreement of the Chairman of the County Council must be obtained. If there is no chairman of either the relevant Select Committee or the County Council, agreement must be sought from the Vice-Chairman of the County Council.
- 5.24 As soon as reasonably practicable after the decision maker has obtained agreement under Standing Order 5.23 that the making of the decision was urgent and could not reasonably be deferred, the decision maker must make available at the offices of the County Council and on its website a notice setting out the reasons why the decision was urgent and could not reasonably have been deferred.
- 5.25 The Leader shall submit to the County Council at least annually a report containing details of each Executive decision taken under Standing Order 5.23 above, including the particulars of each decision made and the reason for urgency.

## 6. County Local Committees

6.01 The provisions in Section 3, Decision-making and Committees General apply to County Local Committees, who receive their decision-making powers from the Cabinet. The following provisions apply specifically to County Local Committees (CLCs).

### **Membership and Attendance**

6.02 All members of the County Council elected for divisions covered by the CLC will be voting members of the CLC. Members of adjoining CLCs may attend and speak but not vote at meetings where matters affecting their division are being discussed. Members from other CLCs may attend and may speak with the permission of the CLC Chairman but may not vote.

6.03 Chairmen of CLCs are appointed each year at the annual meeting of the CLC. The Chairman will be appointed following a ballot of the members of the CLC prior to the annual meeting. Where this results in a tied vote the Leader will decide the outcome.

6.04 Substitutes are not permitted as the CLCs comprise only members representing their divisions.

6.05 Where a CLC comprises six or more members the quorum is three members but, where a CLC comprises five or fewer members, the quorum is two. The co-option of additional voting members to a CLC is not permitted.

### **Agenda Setting**

6.06 The final agenda will be circulated to members no less than five working days before the meeting, and will be agreed in advance by the Chairman with the Democratic Services Officer (DSO) with advice from relevant Heads of Service.

6.07 The Chairman will be able to decline or defer consideration of any matter that does not fall within the CLC's terms of reference, does not relate to the area or, in his or her opinion, re-opens a matter that the CLC has previously resolved, or relates to a personal complaint by a member of the public.

### **Conduct of Meetings**

6.08 Provisions relating to the rules of debate at CLCs should be guided by Standing Orders but also take account of the policy to encourage interaction and communication with residents.

6.09 Sub-groups, working parties and task forces cannot have any functions of the County Council or CLC delegated to them. Any recommendations will require confirmation by the CLC, although there are ways of ensuring

decisions are not slowed down by having to wait for formal meetings e.g. through the urgent action procedure or by delegation to an officer between meetings in consultation with the Chairman or CLC members.

### **Executive Decisions**

- 6.10 Key decisions (as defined in the County Council's Constitution) to be taken by CLCs will be published in the Forward Plan.
- 6.11 Decisions are made based on written reports submitted to CLCs by officers. After the meeting proposed decisions are published in accordance with a process managed by the Director of Law and Assurance, the details of which are set out in Standing Orders 5.09 and 5.10.

## 7. Non-Executive Committees

- 7.01 The provisions in Section 3, Decision-making and Committees General apply to non-Executive Committees, who receive their decision-making powers direct from the County Council. The following provisions apply specifically to non-Executive Committees.
- 7.02 In the event of a non-Executive committee deciding any matter which has implications for the functions carried out by the Cabinet or a Cabinet Member, and the Cabinet or Cabinet Member not accepting those implications, the matter shall be determined by the County Council on recommendation from the Governance Committee.

### **Substitutes for Planning and Rights of Way Committees**

- 7.03 Substitute members are permitted to attend a meeting of the Planning Committee and the Rights of Way Committee.
- 7.04 The County Council will, at each annual meeting, nominate a panel of substitutes for the Planning Committee and the Rights of Way Committee.
- 7.05 If a member is not able to attend a meeting, his or her political party may arrange a substitute by giving appropriate notice to the Director of Law and Assurance in writing, including the name of the member to attend in his or her place from the appropriate panel of substitutes.
- 7.06 The notice should be given by the appropriate Group Leader, Deputy Group Leader, Group Secretary or Group Chairman to the Director of Law and Assurance by 5.00 p.m. on the day before the meeting if possible and not later than the start of the meeting.
- 7.07 Members appointed as substitutes are in the same position in terms of responsibilities and duties as any other member of the committee, for example in relation to the declaration of any interest they might have.

### **Planning Committee decisions**

- 7.08 If the Planning Committee is minded to refuse an application under Regulation 3 of the Town and Country Planning General Regulations 1992 or grant consent subject to a condition or conditions which may be unacceptable to the relevant Cabinet Member:
- (a) The Planning Committee will not determine the application but will indicate its decision in principle.
  - (b) The officers of the County Council will try to overcome the objections to the proposal. If, after further investigation and discussion, they conclude that the Planning Committee's decision is justified, the decision will be implemented. If, on the other hand, they conclude that a re-submission or modification is not appropriate because the

original proposal remains the best option, or the condition or conditions in dispute impose an unreasonable demand on the implementing committee, a report will be made to the Planning Committee.

- (c) In the event of the Planning Committee sustaining its original decision it will proceed only by way of recommendation to the County Council.
- (d) Any recommendation by the Planning Committee shall include:
  - (i) The full officer report to the Planning Committee, including the views of the applicant Cabinet Member; and
  - (ii) A covering report from the Chairman of the Planning Committee explaining the reason(s) for its refusal which had not been accepted by the applicant Cabinet Member; and
  - (iii) A third report giving legal advice/guidance and indicating the views of other consultees, including the district council and any members of the public who have made representations at the Planning Committee meeting considering the matter.
- (e) At the County Council meeting hearing the recommendation from the Planning Committee the County Council will act as a planning authority under its statutory powers. The Chairman of the Planning Committee shall introduce the item and the Leader shall respond for the applicant Cabinet Member. The applicant Cabinet Member shall be treated as having a prejudicial interest and shall not participate in the debate nor vote but may remain in the chamber. Members of the Planning Committee shall be treated as having a personal interest.

### **Public Participation at Planning and Rights of Way Committees**

- 7.09 Where a report on a planning application to the Planning Committee or a matter before the Rights of Way Committee for determination is included on the agenda of the relevant committee the provisions of this paragraph shall apply.
- 7.10 An individual who is either the objector to the proposal the subject of the application or a supporter (which includes applicant, agent or supporter) shall be eligible to address the relevant committee subject to the provisions of Standing Order 7.11 below.
- 7.11 This Standing Order shall be read in conjunction with the Protocol on Public Participation at Planning and Rights of Way Committees (Part 5 Section 3). An individual wishing to address the committee under Standing Order 7.10 must contact the Director of Law and Assurance's representative at least two clear working days before the relevant committee to give notice of their wish to speak, stating the application/matter about which they wish to address the committee and

whether they are in favour of, or against the officer's recommendation. The Director of Law and Assurance shall record the receipt of such a request.

- 7.12 The maximum time for parties speaking for and against the application the subject of the recommendation shall be 15 minutes for those parties speaking for the application and 15 minutes for those parties speaking against the application for every relevant item on the agenda.
- 7.13 A maximum of three objectors and three supporters (which can be any combination of representatives from the following groups; applicant, agent or supporters of the application) shall be permitted to address the committee during such time, subject to a time limit of five minutes each, and they shall be determined in strict order of receipt of request by the Director of Law and Assurance.
- 7.14 The Chairman of the Committee shall have discretion at or in advance of a meeting to increase the number of members of the public permitted to speak if he or she is of the view that to do so would assist the Committee in determining a major or controversial case. In doing so he or she may also increase the maximum time limit for public representations but not the five minutes allowed for each speaker.

## 8. Scrutiny

8.01 The provisions in Section 3, Committees and Decision-making General apply to Select Committees, who receive their scrutiny powers direct from the County Council. The following provisions apply specifically to Select Committees.

### Work Planning

- 8.02 The relevant Select Committee may consider the Executive's proposals in respect of any plan or strategy in the Policy Framework or a Corporate Strategy or any commissioning or service plans, and may submit recommendations to the Executive.
- 8.03 The relevant Select Committee may consider any other matter referred to it by the Executive, and may make recommendations on it to the Executive.
- 8.04 A Select Committee may call-in a proposed decision or recommendation by the Cabinet, a Cabinet Member, an Executive decision by a County Local Committee, or a key decision in the Forward Plan proposed to be made on behalf of the Executive by an officer, in accordance with Standing Order 8.21.
- 8.05 Any decision by the Executive (or the County Council in respect of the operation of matters within the Policy Framework) may be reviewed by the relevant Select Committee after six months from the date on which the decision was made in accordance with the Protocol on Decision-Making; an exception, however, is that decisions made under the urgent action procedure under Standing Orders 3.45 and 5.23 may be reviewed within six months. After 12 months from the date on which the decision was made, a review may be carried out only as part of the Select Committee's approved programme within Standing Order 8.07.
- 8.06 The chairman of the appropriate Select Committee may require the Director of Law and Assurance to include on the agenda of the next Select Committee any matter brought to his or her attention which in the Chairman's view is not being considered by the Executive.
- 8.07 The Select Committees shall submit to the Performance and Finance Select Committee and then to the County Council by the end of May each year, proposals for the reviews and development of County Council policies for the following year. Such proposals shall be reviewed to assess their suitability for joint scrutiny following their approval by the County Council.
- 8.08 Select Committees may submit proposals to amend their approved programmes and substitute alternative studies to the Performance and Finance Select Committee, in the light of any overlap between the work of Select Committees, or changed circumstances.

- 8.09 The Performance and Finance Select Committee may identify major items of work undertaken by Select Committees or matters relating to the systems and arrangements for scrutiny to be reported to meetings of the County Council for debate with the intention of not proposing more than one item to be reported to any one meeting of the County Council.
- 8.10 Other items of work can be received in the following ways during the year and, in deciding to accept an item for scrutiny, preview or call-in, the Business Planning Group (BPG) will consider whether it has been covered sufficiently in another forum and what added value the Select Committee could bring:
- (a) Items referred to the Committee by the Cabinet or a Cabinet Member or a County Local Committee (CLC) (either as a preview to a decision being taken or a review of a decision taken no sooner than six months after the decision has been taken) – a Select Committee may turn down a referral by providing its reasons in writing to the referrer. CLC referrals may include Councillor Calls for Action.
  - (b) Scrutiny of the performance of the Council’s services against the outcomes, objectives and measures set through a relevant commissioning process.
  - (c) Call-in of proposed decisions made by the Cabinet, a Cabinet Member, executive decisions by a CLC or a key decision made by an officer.
  - (d) Items which a member of the Select Committee has requested to be included on the agenda, including items that might be drawn from the Executive’s future decisions, set out in a Forward Plan (either as a preview to a decision being taking or a review of a decision taken no sooner than six months after the decision has been taken).
  - (e) Any items on any relevant local government matter raised by any member of the County Council. If a Select Committee decides to take no action then it must give reasons in writing to the member requesting the item.
  - (f) Any item on any local crime and disorder matter referred by any member or by the Cabinet (Environment, Communities and Fire Select Committee only).
  - (g) The discharge of the Health Scrutiny functions (including the power of referral on behalf of the County Council (Health and Adult Social Care Select Committee only)).
  - (h) Any other health matter raised by any other person or body, at the discretion of the Committee (Health and Adult Social Care Select Committee only). Any member of the public wishing to refer a health matter will need to provide 100 supporting signatures and give at least 10 days’ notice.

- (i) The County Council's petition arrangements, set out in Standing Order 3.43, allows for petitions to be referred to a Committee for consideration.
- (j) Any item of joint scrutiny work referred under the auspices of the West Sussex Joint Scrutiny Steering Group, which is an agreement between the County Council and the district and borough councils in West Sussex. Where a report on any joint scrutiny work undertaken under the auspices of the West Sussex Joint Scrutiny Steering Group is referred to a Select Committee for onward transmission to the relevant Cabinet Member, the Committee may consider it before passing it on to the Cabinet Member as long as this does not cause delay which hinders the Cabinet Member's ability to address any recommendations in the report. In passing on any such report to the Cabinet Member, the Select Committee may give its own views on the content and any recommendations, but should not duplicate the work already undertaken.

8.11. Where work relates to the remit of more than one Select Committee (i.e. cross-cutting work) a Task and Finish Group will be established to undertake the work. The outline terms of reference and reporting lines of the Task and Finish Group will be agreed by the relevant Select Committee BPGs co-ordinated by the relevant Select Committee chairmen. See the Task and Finish Group section later in the Protocol for further details.

#### **Procedures at Select Committee Meetings - General**

8.12 Select Committees shall operate having regard to Section 3, Decision-making and Committees General, including the rules of debate when formal decisions are to be taken but chairmen of Select Committees shall have regard to the need to conduct meetings in a flexible manner, with the aim of improving decision-making, and to the provisions of the protocol on questioning officers. The principle is that a person undertaking scrutiny of an issue should not also be closely involved in the decision itself.

8.13 Informal, private meetings of members of Select Committees may take place, particularly to prepare for the questioning of witnesses (internal or external) in relation to high profile scrutiny investigations including call-ins or in relation to work planning for the budget.

8.14 A Select Committee can require any of the following to attend and advise a Select Committee meeting:

- (a) A member of the Cabinet (there will be a standing invitation from the Select Committee Chairman to allow them to attend);
- (b) An Adviser or Senior Adviser to a Cabinet Member;
- (c) The Chairman of a CLC;

- (d) An officer of the County Council; and
  - (e) An officer of any local NHS body (Health and Adult Social Care Select Committee only).
- 8.15 It is the duty of a Cabinet Member, Chairman of a CLC or officer so requested to comply with the requirement except that he or she is entitled to refuse to answer any question which he or she would be entitled to refuse to answer in a court of law; provided where a Select Committee requires a named officer to appear before it, that officer's Executive Director, director or head of service may also be in attendance.
- 8.16 A Select Committee may request or allow any other person to attend and speak at a meeting, including other members, representatives of outside bodies, expert witnesses and West Sussex residents. The BPG will usually identify speakers and the length of the address to the Committee, but the final decision rests with the Chairman on the day of the Committee.
- 8.17 On completion of a major piece of work, such as by a Scrutiny Task and Finish Group, a report will be submitted to the Committee or direct to the Cabinet Member as agreed by the BPG.
- 8.18 Where Task and Finish Group reports are to be considered by the Select Committee before submission to the relevant Cabinet Member the draft Task and Finish Group report should be discussed between the appropriate Task and Finish Group Chairman, Committee Chairman, Cabinet Member and officers, before they are submitted to the Select Committee. Any consequential substantial changes to the draft report should be notified to the Committee and the Cabinet Member or officer should be given the opportunity to contribute to the Committee's discussion on the report.
- 8.19 Subject to Standing Order 2.67 (Disputes Procedure) the recommendations of Select Committees on matters called-in, reviewed or previewed, shall be submitted to the Cabinet, a Cabinet Member, CLC or officer.
- 8.20 The Cabinet Member will respond to reports and recommendations from a Select Committee in a letter covering all the points raised and with a reasoned justification where recommendations are rejected. This will be reported to the next meeting of the Select Committee.

### **Call-in Protocol**

- 8.21 The call-in mechanism is an important part of a short decision-making process and the role of Select Committees in calling-in a proposal before it is finalised is to test the merits of the proposal, consider the process by which the proposal has been formulated and to make recommendations to the Cabinet Member. Select Committees may call-in any proposal by the Cabinet or a Cabinet Member, an Executive decision by a County Local Committee (CLC) or a key decision proposed by an officer. The only exception is any decision taken under the urgent action procedure.

- 8.22 Once a proposed decision is published in the Executive Decision Database (EDD), members are encouraged to read the reports and the relevant background papers if considering making a call-in request.
- 8.23 A member wishing to request the call-in of a proposed decision must notify the statutory Scrutiny Officer by, at the latest, 5 p.m. on the seventh working day (fifth day for CLC decisions) after the proposal is published via the EDD. The request must be supported by four (including the requester) members of the committee. The request should be in writing (which includes e-mail), should contain the reason for the request and the outcome being sought. The decision whether to call-in a proposed decision will be taken by the members of the relevant Select Committee's Business Planning Group (BPG).
- 8.24 If a call-in request is received, the call-in period will end at 5 p.m. on the eighth working day (sixth working day for a CLC decision) after the publication of the proposal in the EDD (subject to, for example, bank holidays). If a call-in request is not accepted by the BPG the proposal will take effect at the end of the call-in period i.e. on the ninth working day after publication (seventh for CLC decisions).
- 8.25 If a call-in request is not received, the proposal will take effect on the eighth working day after publication (sixth for CLC decisions), as the call-in deadline was 5 p.m. on the seventh working day (fifth working day for CLCs).
- 8.26 A call-in request will be determined by the appropriate Select Committee's BPG, which will have regard to the advice of the Monitoring Officer. BPG members who are signatories to the call-in request may not also be party to the BPG's consideration of that request. The key factors in determining whether to accept a call-in request are whether:
- (a) The item has already been considered by the relevant Select Committee;
  - (b) Significant new information has become available since previous Select Committee consideration;
  - (c) It is a decision that the Committee can or would expect to preview;
  - (d) A delay in making the decision would be likely to significantly damage the interests of the County Council.
- 8.27 The decision of the BPG may be by majority if a unanimous view cannot be reached. Where there is no majority view the Select Committee Chairman's view will prevail.
- 8.28 If a call-in request is received, the Chairman of the BPG must notify the statutory Scrutiny Officer in writing (which includes e-mail) by no later than 5 p.m. on the eighth working day (sixth day for CLC decisions) after the publication of the proposal via the EDD, of the intention to call-in the proposal and of any requirement for Cabinet Member, CLC Chairman

and/or officer attendance. If a decision is taken not to call-in the item, then the Chairman will confirm this in writing to the statutory Scrutiny Officer and the call-in requester by the deadlines set out above explaining the reasons for the rejection, which will also be published on the next set of Committee papers.

**Health Scrutiny** (Health and Adult Social Care Select Committee only)

- 8.29 An NHS body must consult the Select Committee on a reasonable timescale for the Committee to respond to a consultation. This will usually be not less than three months.
- 8.30 Any dissolution or establishment of an NHS Trust shall not in itself be a substantial development or variation. Any urgent change made by the NHS because of a risk to safety or welfare of patients or staff will not be subject to consultation, but the NHS must inform the Select Committee and outline the reasons for urgency.
- 8.31 The Select Committee is entitled to any information held by local NHS bodies which relates to the planning and provision of health services in West Sussex as the Committee may reasonably require in order to discharge its functions. Any exempt or confidential information shared with Committee members should have its confidentiality respected and should only be used in connection with a Committee investigation.
- 8.32 The County Council has delegated the power of referral to the Select Committee, so in any case where the Committee is not satisfied that consultation on any proposal for substantial variation or development is reasonable in terms of content or time allowed, or if the Committee is not satisfied that the reasons for an urgent change to services is adequate, it may refer the item to the Secretary of State. The Secretary of State may require the local NHS body to carry out further consultation as he or she considers appropriate.
- 8.33 The Committee will notify the County Council of any proposals for NHS service change that have been identified as 'substantial' and which it intends to refer to the Secretary of State for Health. This notification will be made to all members of the Council within two working days of the decision. Any member may require that the County Council debates the proposed referral at the next meeting of the County Council provided the member has the support of at least eight other members and informs the Chairman of this request within eight days of the notification. Otherwise the matter will be noted at the Council meeting. The referral may be made 'subject to consideration by full Council', if the referral would otherwise be compromised by the need to await such debate.
- 8.34 The Select Committee may delegate its powers when appropriate to a scrutiny committee of another council, including a district or borough council or a neighbouring council. It may also establish joint scrutiny arrangements with other health scrutiny authorities when a proposal for substantial change has an impact across boundaries.

### **Urgent Action on Joint Health Scrutiny**

- 8.35 The Chief Executive or Director of Law and Assurance, in consultation with the Chairman of the West Sussex Health and Adult Social Care Select Committee, may agree to the formation of a joint health overview and scrutiny committee with delegated powers and appoint members and agree terms of reference if there is insufficient time for the decision to be taken by the West Sussex Health and Adult Social Care Select Committee subject to the details being submitted for approval to the next meeting of the Committee.

### **Select Committee Access to Documents**

- 8.36 A Select Committee (including any sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive which contains material relating to:
- (a) any business which has been transacted at a private or public meeting of a decision-making body of the County Council;
  - (b) any decision which has been taken by a Cabinet Member; and
  - (c) any key decision which has been made by an officer.
- 8.37 Subject to Standing Order 8.38, the document must be provided as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.
- 8.38 A Select Committee will not be entitled to:
- (a) any document that is in draft form;
  - (b) any information presented for the purpose of briefing members; for the avoidance of doubt this includes material presented to Cabinet Board meetings; or
  - (c) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## **9. Appointment of Officers and Disciplinary Action**

### **General**

- 9.01 The standard terms and conditions upon which staff are employed by the County Council shall be as approved by the Governance Committee.
- 9.02 When making application, candidates for any appointment shall be required to disclose in writing to the Director of Human Resources and Organisational Change whether to their knowledge they are related to any member of the County Council or an Executive Director or a head of service. A candidate who fails so to do after notice shall be disqualified for such appointment and, if appointed, shall be liable to dismissal without notice. Every member of the County Council and Executive Director, director and every head of service shall disclose to the Director of Human Resources and Organisational Change any relationship known to him or her to exist between himself or herself and a candidate for an appointment of which he or she is aware. It shall be the duty of the Director of Human Resources and Organisational Change to report to the Director of Law and Assurance and to the appropriate Cabinet Member as the case may be any such disclosure made to him or her.
- 9.03 The requirements of this Standing Order shall be stated either in the advertisement inviting applications for appointment or in any form of application supplied for use by candidates.
- 9.04 For the purposes of this Standing Order persons shall be deemed to be related if they are husband, wife or partner or if either of them or the spouse of either of them is the son or daughter or grandson or granddaughter or brother or sister or nephew or niece of the other, or of the spouse of the other.
- 9.05 Canvassing by applicants for appointment to or promotion within the County Council's employment is prohibited.
- 9.06 A member shall not solicit for any candidate for any appointment under the County Council, nor provide testimonials of the candidate's ability, experience or character for submission to the County Council with an application for appointment.

### **Appointment of Officers**

- 9.07 Where it is proposed to appoint an Executive Director other than by promotion or transfer from among the existing officers, the Director of Human Resources and Organisational Change shall take the following action:
- (a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised publicly in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in (a) above to be sent to any person on request.
- 9.08 Where a post has been advertised under 9.7 above, either:
- (a) all qualified applicants shall be interviewed for the post, or
  - (b) a short list of such qualified applicants shall be selected and those included on the short list shall be interviewed.
- 9.09 Where no qualified person has applied, further arrangements shall be made for advertisement in accordance with 9.7(b) above.
- 9.10 A vacancy in any other office in the appointment of the County Council which is not to be filled by promotion or transfer shall be publicly advertised in some suitable manner by the Director of Human Resources and Organisational Change.
- 9.11 Every appointment of an Executive Director shall be made by an Appointing Committee established under arrangements approved by the Governance Committee which may include one or more members of the Cabinet and will include representatives of minority parties to reflect the principles of political proportionality and the wishes of those parties in respect of their nominees. The Appointing Committee shall be chaired by the Chairman. The membership of the Appointing Committee for the appointment of the Chief Executive must include a member of the Cabinet.
- 9.12 Where the Appointing Committee has chosen a candidate for appointment as Chief Executive, the Council must approve the appointment before an offer of employment is made.
- 9.13 Where the Appointing Committee has chosen a candidate for appointing to a post of an Executive Director it must inform the Director of Law and Assurance that it wishes to make an offer. The Director of Law and Assurance must inform every member of the Cabinet of the recommendation, any particulars relevant to the appointment and the period of objection to be made by the Leader on behalf of the Cabinet.
- 9.14 The appointment may not be made unless, within the period specified, the Leader has notified the Director of Law and Assurance that neither he or she nor the Cabinet has any objections or no objections are received, or

the Appointing Committee has satisfied itself that any objections received are not material or well founded.

- 9.15 The Council must approve the designation of the Monitoring Officer and of the Section 151 Officer responsible for the proper administration of the authority's financial affairs.
- 9.16 If, where there are more than two candidates for a vacancy in the office of an Executive Director to be filled at a meeting of the Appointing Committee the first voting does not produce an absolute majority of votes in favour of any candidate, the candidate having the least number of votes shall be struck off the list and fresh voting shall take place, and so on, until an absolute majority of the members present, and voting, shall be obtained in favour of one candidate.

### **Disciplinary Action**

- 9.17 No disciplinary action as defined in the Local Authorities (Standing Order) (England) Regulations 2001 as amended shall be taken in respect of the Chief Executive, as head of the County Council's paid service, the Monitoring Officer, or the Chief Financial Officer, except as provided in this Standing Order. Subject to the action described in Standing Order 9.18 below, no disciplinary action may be taken by the County Council, a committee, a Cabinet Member, joint committee or any other person acting on their behalf, other than by having regard to recommendations in a report made by an Independent Panel under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 9.18 The action mentioned in Standing Order 9.17 above is suspension for the purpose of investigating the alleged misconduct; and any such suspension shall be on full pay and shall terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- 9.19 Disciplinary cases concerning the Chief Executive shall be heard by a Member Panel drawn from the Appeals Panel by the Director of Law and Assurance but the panel shall also include a member of the Cabinet. Disciplinary cases concerning Executive Directors, directors who report to the Chief Executive or the Monitoring Officer shall be heard by the Chief Executive plus at least one other person (identified by the Chief Executive) who may be another Executive Director, a Cabinet Member or one of each. Appeals shall be heard by a Board of Appeal of up to five members drawn from the Appeals Panel but shall include the Chairman and Leader and/or a Cabinet Member.
- 9.20 Where a Member Panel or Board of Appeal in accordance with Standing Order 9.19 hears disciplinary proceedings against a director, other than one covered by Standing Order 9.17, and intends to give a notice of dismissal to such an officer, such notice must not be given until:
- (a) the Director of Law and Assurance has been notified of the officer's name and any particulars relevant to the dismissal;

- (b) the Director of Law and Assurance has notified every member of the Cabinet of the name of the officer, particulars relevant to the proposed dismissal and the period within which objections to the proposal should be submitted by the Leader on behalf of the Cabinet; and
- (c) the Leader has indicated that there are no objections, no objections are received within the specified period or that any objection received is not material or well founded.

9.21 Where a Member Panel or Board of Appeal acting in relation to an officer referred to in Standing Order 9.17 intends to give notice of dismissal such notice shall not be given until the matter has been referred for approval by the County Council, together with the recommendations from the Independent Panel referred to in Standing order 9.17.

# 10. Delegations to Officers

## Interest of Officers in Contracts

10.01 The Director of Law and Assurance shall record in books to be kept for the purpose particulars of any notice given by an officer of the County Council under the Local Government Acts for the time being in force, of any prejudicial interest in a contract, and books shall be open during office hours to the inspection of any member of the County Council.

## Common Seal

10.02 Subject to Standing Order 10.3 below, the Common Seal of the County Council shall not be affixed to any document unless the sealing has been authorised:

(a) by either:

- (i) a resolution of the County Council; or
- (ii) a decision of a Cabinet Member or a committee to which the County Council has delegated its powers on its behalf; or
- (iii) in the case of documents required for the exchange, purchase or sale of Superannuation Fund securities, by the Director of Finance, Performance and Procurement after consultation with the Chairman of the Pensions Panel; or
- (iv) the Chief Executive or the Director of Law and Assurance where, in his or her opinion, such action is necessary in individual cases before the next meeting of the committee other than a Select Committee; action by the Chief Executive or Director of Law and Assurance is subject to consultation with the appropriate Cabinet Member or the chairman of the appropriate non-Executive committee (or, in his or her absence, the Leader, the vice-chairman or acting chairman of the relevant committee respectively);

or

(b) is required in order to comply with paragraph 14.2 of Standing Orders on Procurement and Contracts.

10.03 A resolution of the County Council (or of the Cabinet, a Cabinet Member or a committee having that power) authorising the acceptance of any tender, the purchase, sale, letting or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate or contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

- 10.04 The Common Seal shall be affixed in the presence of the Director of Law and Assurance, or other person appointed by the Director of Law and Assurance for that purpose, who shall authenticate the impression of the Seal with his or her signature.
- 10.05 An entry of the sealing of every deed and other document to which the Common Seal shall have been affixed shall be made by the Director of Law and Assurance in a book to be provided for that purpose, and shall be signed by the person present at the sealing.
- 10.06 The Common Seal of the County Council shall be kept in a safe place in the custody of the Director of Law and Assurance.

## Log of Proposed Changes

Section of Constitution	Change
Each main section 'header' page	To have short explanation of the contents/what it is for
<b>Part 1</b> – Summary and Explanation	<p>Part 1 is significantly shortened, providing a brief introduction to the Council and to the main layout of the Constitution.</p> <p>Some elements of the current Part 1 have been put into Part 2.</p> <p>Definitions are included and these will also provide index references in the final version.</p>
<b>Part 2</b> – Description of the Constitution	Becomes much shorter (10 pages): removing all duplication; becomes a succinct outline of what the Constitution is for; very broad outline of contents. Some elements of Part 2 to go in Part 3 (e.g. functions of Council, schedule of cabinet members, areas of responsibility of select committees).
<b>Part 3</b> – Responsibility for Functions	Remains: Minor editing. Various sections are being moved into this from Part 2, as mentioned above. Quorum has been added to the terms of reference of each committee. The Start of Life Partnership Board is removed. The Fire Service Pension Advisory Board is added.
<b>Part 4</b> – Rules of the Constitution	To be renamed 'Standing Orders (rules and procedures)' and themed, with sub-sections.
<ul style="list-style-type: none"> <li>• Section 1: Standing Orders</li> </ul>	<ul style="list-style-type: none"> <li>• Remains, but rewritten to make this easier to use, less technical language.</li> <li>• Themed section headings introduced –               <ol style="list-style-type: none"> <li>1. Introduction</li> <li>2. Council</li> <li>3. Decision-making and Committees General,</li> <li>4. Access to meetings and documents</li> <li>5. Cabinet and Executive Decision-making</li> <li>6. County Local Committees</li> <li>7. Non-Executive Committees</li> <li>8. Scrutiny</li> <li>9. Appointment of Officers and disciplinary action</li> <li>10. Delegations to officers.</li> </ol> <p>Aim to reduce number of cross-references</p> <li>• Some sections currently in other parts of the Constitution have been merged into this document (the decision-making protocol, CLC Protocol, Select Committee protocol, Petition Scheme and Part 7, Access to information, as well as excerpts from Part 8.</li> </li></ul>
<ul style="list-style-type: none"> <li>• Section 2: Protocol on Decision Making</li> </ul>	<ul style="list-style-type: none"> <li>• Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders and Scheme of Delegation. Other relevant information to be incorporated as supporting guidance.</li> </ul>

<b>Section of Constitution</b>	<b>Change</b>
<ul style="list-style-type: none"> <li>Section 2A: Protocol on County Local Committees</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders and Scheme of Delegation. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 3: Protocol on Select Committees</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders and Scheme of Delegation. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 3A: Protocol on Joint Scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders or Scheme of Delegation (as appropriate). Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 4 (Risk Management), 5 (Financial Regs), 5A (Financial Procedures), 6 (Standing Orders on Procurement and Contracts)</li> </ul>	<ul style="list-style-type: none"> <li>Remain – no changes planned, although a parallel review of Financial Regulations and Procedures is included elsewhere on the agenda and is going to RAAC for approval in July.</li> </ul>
<ul style="list-style-type: none"> <li>Section 7 (Petitions Scheme)</li> </ul>	<ul style="list-style-type: none"> <li>To be included as a shorter version in Section 1. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 8 (General Protocol with Borough and District Councils) and 9 (Statement of partnership with local councils)</li> </ul>	<ul style="list-style-type: none"> <li>To be included as shorter section in Part 2, with separate document on Website setting out protocol.</li> </ul>
<b>Part 5 – Code of Conduct</b>	
<ul style="list-style-type: none"> <li>Section 1: Code of Conduct</li> </ul>	<ul style="list-style-type: none"> <li>Retained, with inclusion of sections below and a section from Standing Orders.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 2 (Members' Disciplinary Arrangements), 4 (Guidance for Members on Hospitality and Gifts) and 5 (Protocol for use of IT Equipment and Facilities)</li> </ul>	<ul style="list-style-type: none"> <li>Shortened and move into section 1 (i.e. main Code of Conduct)</li> </ul>
<ul style="list-style-type: none"> <li>Sections 3 Code of Practice on Probity in Planning and Protocol on Public Participation at Planning and Rights of Way Cttees) and 6 (Protocol on Relationships between Members and Officers)</li> </ul>	<ul style="list-style-type: none"> <li>Retain as stand-alone sections. Section 3 unchanged. Section 6 now includes some information from part 8 (Corporate Advice Notes)</li> </ul>
<ul style="list-style-type: none"> <li>Section 7 (Code of Practice on Publicity)</li> </ul>	<ul style="list-style-type: none"> <li>Remains unchanged</li> </ul>
<ul style="list-style-type: none"> <li>Sections 8 – 13 (listed below):</li> </ul>	<ul style="list-style-type: none"> <li>Some of these are HR policies so can be taken out of the Constitution and merged with HR</li> </ul>

Section of Constitution	Change
<ul style="list-style-type: none"> <li>- Section 8: Guidance on Human Rights Act: corporate policy</li> <li>- Section 9: Guidance on Propriety and Official Conduct for Officers: HR policy</li> <li>- Section 10: Anti-Fraud and Corruption Strategy: corporate policy</li> <li>- Section 11: Anti Bribery Policy and Procedures: corporate policy</li> <li>- Section 12: Confidential Reporting Policy: HR policy</li> <li>- Section 13: Equality of Opportunity Value Statement and Policy: corporate policy : corporate policy</li> </ul>	<p>policy documentation separately available. Others are Corporate Policies that need to have separate place to be available separately – along with other policies not listed here (e.g. Crime &amp; Disorder, Sustainability, Social Value Act, Human Rights, Equalities).</p> <p>A delegation will be recommended to Standards Committee that staff standards and conduct documents should be delegated to officers.</p>
<p><b>Part 6</b> – Members’ Allowances Scheme</p>	<p>Retain, no editing required (although IRP is reviewing, so it is possible it may recommend some changes to this in July 2018)</p>
<p><b>Part 7</b> – Access to Information Procedure Rules</p>	<p>To be incorporated into Part 4 Section 1 (Standing Orders) and duplication removed.</p>
<p><b>Part 8</b> – Corporate Advice Notes</p>	<p>Remove as a whole, but incorporate some elements into Parts 3, 4 and 5. Other sections will be retained as separate guidance.</p>
<ul style="list-style-type: none"> <li>• Section 1 (Briefing Members for Public Occasions)</li> </ul>	<ul style="list-style-type: none"> <li>• Some elements included in Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 2 (Question Time)</li> </ul>	<ul style="list-style-type: none"> <li>• Some elements included in Part 4 Section 1, the rest to be retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 3 (Members’ Statements of Opinion in the Community)</li> </ul>	<ul style="list-style-type: none"> <li>• Moved to Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 4 (Non-Exec Cttees – PrAMs)</li> </ul>	<ul style="list-style-type: none"> <li>• Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 5 (Principles governing the calendar of meetings)</li> </ul>	<ul style="list-style-type: none"> <li>• Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 6 (Protocol for items being referred to Cabinet)</li> </ul>	<ul style="list-style-type: none"> <li>• Some elements included in Part 4 Section 1, the rest to be retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 7 (Protocol for Local Member Notification)</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant elements moved to Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>• Section 8 (Protocol on officer attendance at group meetings)</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant elements moved to Code of Conduct, Part 5, duplication removed.</li> </ul>

<b>Section of Constitution</b>	<b>Change</b>
<ul style="list-style-type: none"> <li>Section 9 (Protocol on use of the Council Chamber and Cttee Rooms at County Hall)</li> </ul>	<ul style="list-style-type: none"> <li>Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 10 (Member Job Descriptions)</li> </ul>	<ul style="list-style-type: none"> <li>Some of the detail on Chairman and Vice-Chairman to go in Part 2, but most removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 11 (Exec and Scrutiny TFGs)</li> </ul>	<ul style="list-style-type: none"> <li>Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 12 (Advisers and Senior Advisers to Cab Members)</li> </ul>	<ul style="list-style-type: none"> <li>Included in Part 3, Responsibility for Functions.</li> </ul>
<ul style="list-style-type: none"> <li>Section 13 (Appts to Outside Bodies)</li> </ul>	<ul style="list-style-type: none"> <li>Added to Standing Orders.</li> </ul>
<ul style="list-style-type: none"> <li>Section 14 (Protocol for webcasting)</li> </ul>	<ul style="list-style-type: none"> <li>Included in Part 4 Section 1 (Standing Orders).</li> </ul>
<ul style="list-style-type: none"> <li>Section 15 (Councillor Call for Action flowchart)</li> </ul>	<ul style="list-style-type: none"> <li>Reference included in Part 4, Section 1 (Standing Orders) but most removed from Constitution but retained as separate guidance.</li> </ul>

## **Governance Committee**

**25 June 2018**

### **Change to County Local Committee Boundaries**

#### **Report by Director of Law and Assurance**

##### **Executive Summary**

In 2016 a County Local Committee (CLC) review made proposals to reduce the number of CLCs in Mid Sussex from three to two.

The original proposal was for the Lindfield & High Weald division to be in the North Mid Sussex CLC. However, a number of parishes and county councillors suggested Lindfield, Lindfield Rural and Horsted Keynes should be part of the Central and South proposed CLC.

It was therefore agreed by full Council in October 2016 for the Lindfield & High Weald division to be split across the two new CLCs.

Since this decision was taken a new county councillor, Mr Lea, has been elected to the Lindfield & High Weald division. He has now attended a number of meetings of both the CLCs and is of the view that his division should be in one CLC rather than two.

##### **Recommendation**

That the Committee determines whether Lindfield & High Weald division be entirely in the North Mid Sussex CLC, and, if so, that this be recommended to the County Council for approval.

## **1. Background and Context**

- 1.1 In 2016 it was agreed to reduce the number of County Local Committees (CLCs) in Arun, Mid Sussex and Crawley, reducing the overall numbers of CLCs from 14 to 11, creating greater parity to other areas in West Sussex with urban areas such as Worthing and Crawley having one CLC per District/Borough and larger mixed urban and rural districts such as Chichester and Horsham having two CLCs per District.
- 1.2 The proposal in Mid Sussex was to reduce from three to two Committees. The original proposal was for the Lindfield and High Weald division to be in the North Mid Sussex CLC.
- 1.3 Internal consultation took place with all county councillors. This was followed by a consultation with local partners, such as town and parish councils, affected by the proposed changes. In Mid Sussex a number of parishes and county councillors suggested that Lindfield, Lindfield Rural and Horsted

Keynes should be part of the southern proposed CLC. It was stated that these parishes have a geographical and historical alignment with Haywards Heath in the south rather than with East Grinstead in the north.

- 1.4 As a result of this feedback an alternative option was put forward that resulted in the Lindfield and High Weald division being split across the two new proposed CLCs. Horsted Keynes and Lindfield urban/rural would be in the Central and Southern CLC and West Hoathly in the North CLC. This option was agreed by full Council in October 2016.

## **2. Proposal for consideration**

- 2.1 In May 2017 the County Council elections resulted in a new county councillor, Mr Lea, being elected to the Lindfield & High Weald division. That local member has since attended the majority of the meetings of both the North and the Central and South CLCs.

- 2.2 The local member has reviewed the previous consultation material and, whilst he understands the reasons why his division was split across the two CLCs, he requests that his division now be entirely in the North Mid Sussex CLC. His reasons for this request are:

- The South and Central Mid Sussex CLC is bigger than the North, so they are somewhat out of balance.
- The aggregated geographical area of the two CLCs in which the County Council division currently sits is very large.
- Because Community Initiative Funding items often come to both committees, the County Council may already have taken a position on an application prior to it being presented to the other CLC.

- 2.3 Should this proposal be agreed the North Mid Sussex CLC will have still have five County Councillors but the number of town and parish councils within the CLC will increase from eight to 11. The Central and South Mid Sussex CLC would reduce from having eight to seven county councillors and would reduce from 16 to 13 Town and Parish Councils within the CLC.

## **3. Resources**

- 3.1 This proposal would not have an impact on the overall grant funding budget for the Community Initiative Fund (CIF). Currently where a County Council division is split across two CLCs, the local member decides how much CIF to allocate to each committee. Agreement to the proposal would result in the whole allocation going to North Mid Sussex CLC.

## **Factors taken into account**

### **4. Consultation**

- 4.1 Mid Sussex District Council, Haywards Heath Town Council, Lindfield Parish Council and Horsted Keynes Parish Council have all been informed of the proposal and asked to comment. We are awaiting their comments and have set a deadline of 11 June 2017.

- 4.2 All the County Council members within the Mid Sussex District have been consulted on these proposals and their comments are recorded in Appendix 1. In summary we have currently received seven responses. Four local members responded in favour of the recommendation from Mr Lea, two responded against the proposal and one did not provide a clear preference. It should also be noted a number of members commented on the need to change the format of the committees and revert back to three CLCs to cover the Mid Sussex area.

## **5. Risk Management Implications**

- 5.1 The parishes and towns affected have previously stated that they have a geographical and historical alignment with Haywards Heath in the south rather than with East Grinstead in the north. If this proposal is agreed the County Council will ensure close communication with the affected parishes and towns on issues relating to the CLCs.

## **6. Other Options Considered**

- 6.1 The other option to the proposal would be to keep the CLC boundary in Mid Sussex as it is now.

## **7. Equality Duty**

- 7.1 An Equality Impact Report is not required for this report because it does not directly impact upon customers and relates to internal governance arrangements only.

## **8. Social Value**

- 8.1 There are no social value implications because it is a report dealing with internal or procedural matters only

## **9. Crime and Disorder Act Implications**

- 9.1 None

## **10. Human Rights Implications**

- 10.1 None

### **Tony Kershaw**

Director of Law and Assurance

**Contact:** Nick Burrell 033022 23881

### **Background Papers**

None

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### **Mid Sussex Members' Responses on the Proposal**

Of the 12 Mid Sussex members, seven provided responses on the proposal. Of these, one sits on the North Mid Sussex County Local Committee (CLC); five on the South Mid Sussex CLC; and one sits on both. Of the 12 respondents, four agreed with the proposal, two did not and one felt that this should be postponed pending a wider discussion on the future configuration of Mid Sussex CLCs. Comments and points raised are summarised below.

- There was general recognition of the capacity issues caused to the member for Lindfield & High Weald by having to sit on two CLCs.
- Three members felt that the interests of the residents of Lindfield would not be best served by this proposal. One commented that "*the interests of the residents should be put before the wishes of the local member*".
- The importance of the links between Lindfield and Haywards Heath were stressed and it was pointed out that there is 21 miles between Lindfield and East Grinstead. However, one member who supported the proposal outlined the travel distances between each of the villages within Lindfield & High Weald and East Grinstead and Haywards Heath (set out below) – and that this provides a rationale for this division sitting solely within North Mid Sussex CLC:
  - Horsted Keynes (15 miles to East Grinstead; 16 to Haywards Heath)
  - West Hoathly (14 miles to East Grinstead; 15 to Haywards Heath)
  - Sharpthorne (3.8 miles to East Grinstead; 17 miles to Haywards Heath)
  - Lindfield (21 miles to East Grinstead; 6 miles to Haywards Heath)
- One member suggested that if it is agreed that the member for Lindfield & High Weald should only sit on one CLC, then it should be Central and South rather than the North Mid Sussex CLC.
- Three members highlighted concerns with the current structure of the Mid Sussex CLCs, that it does not reflect local communities and cuts across divisions, and that Central and South Mid Sussex CLC is too big both geographically and in terms of the number of divisions it contains. These members felt that this issue should be paused whilst consideration is given to reverting to three CLCs in Mid Sussex.
- One member who supported the proposal suggested that in future, one North Mid Sussex CLC meeting per year could be held in Lindfield.
- One member asked for the various parish councils affected to be consulted on this proposal.

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## **Governance Committee**

**25 June 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)

<b>Year</b>	<b>Number and type of appeal</b>	<b>Outcome</b>
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 Both UNISON and the Fire Brigades Union have been consulted and their views will be provided when available!
- 4.4 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.
- 4.5 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.
- 4.6 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.

<b>Authority</b>	<b>Member role</b>	<b>Type of HR process</b>	<b>Form of member role</b>
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

## **Governance Committee**

**25 June 2018**

**Part I**

### **Staff Appeals Panel Annual Report 2017/18**

#### **Report by Director of Human Resources and Organisational Change and Director of Law and Assurance**

##### **Executive Summary**

Four Boards of Appeal were convened from the Staff Appeals Panel in 2017/18.

- Three were staff appeals against dismissal. One appeal was dismissed and the other two were upheld
- One was a school transport appeal which was dismissed.

There was also:

- A further appeal against dismissal which was withdrawn prior to any hearing being arranged and
- One request for a final stage grievance appeal which was declined by Officers - and so not referred to members.

Appeal hearings are scheduled on fixed dates throughout the year and meetings are cancelled if necessary. As a consequence of this six of 16 members were not involved in staff appeals throughout 2017/18.

A record of recommendations emerging from the Boards of Appeal has been kept for 2017/18 and the actions taken as a result.

##### **Recommendation**

That the Appeals Panel Annual Report 2017/18, including the recommendations and actions taken, be noted.

#### **1. Background and Context**

- 1.1 The County Council's Human Resources policies and procedures make provision for staff who have been dismissed to appeal against that decision to members via an Appeals Panel. Subject to meeting the agreed criteria (determined by the Director of Law and Assurance), staff may also appeal to the Panel as the final stage of a grievance. The Boards of Appeal drawn from the Panel have the power to uphold management decisions or to reverse a dismissal decision or uphold or alter a grievance outcome.
- 1.2 The Appeals Panel also hears appeals against school transport decisions.

- 1.3 The Appeals Panel currently comprises 16 members of the County Council and is currently carrying two vacancies. It does not include members of the Cabinet. Boards of Appeal comprise between three and five members.
- 1.4 Members are allocated to four Appeal Boards each year and Boards of Appeal are scheduled approximately every three weeks to ensure that all appeals can be heard in a timely fashion. Some of these dates are cancelled due to a lack of business, so it cannot be guaranteed that all members of the Appeals Panel will sit on any boards of appeal.
- 1.5 It was agreed by the Governance Committee in January 2010 that an annual report be presented setting out:
  - an overview of the cases heard;
  - a summary of any recommendations arising from the hearings and any comments or feedback relating to them;
  - any comments or observations from the annual training session for Panel members; and
  - any recommendations for the future.

## 2. **Review of Staff Appeals Panel in 2017/18**

- 2.1 As explained in the report to the Governance Committee on 27 November 2017, due to the timing of the election the annual meeting for 2017 was held later than usual, on 23 June 2017, and took the form of induction training. Of the current remaining cohort of members on the Staff Appeals Panel, eight members were previously Panel members, and eight were newly appointed to the Panel.
- 2.2 Twelve members attended the annual training meeting on 23 June 2017 and one-to-one training was subsequently arranged for those newly elected members who were unable to attend the induction event. During the course of the year there have been a couple of changes to those appointed to the Panel, as a result of Cabinet Member appointments. There remain two vacancies on the Panel at this time.
- 2.3 One staff appeal was carried out prior to the election in May 2017 and was heard by three members who were not subsequently re-elected, and one member who remains on the current Panel. Following the election, 10 of the 16 panel members were involved in at least one hearing and six members were not. All those involved in a Board of Appeal had been trained before they were asked to attend a Board. A summary is attached at Appendix 1.
- 2.4 There were four appeals against dismissal submitted to the Staff Appeals Panel in 2017/18.
  - One appellant withdrew their appeal
  - Three hearings took place. Two of the three appeals were upheld and the employees re-instated. The other appeal was dismissed.

A further request for a final stage grievance appeal was received but declined and so not referred to members. Recommendations to management were made following conclusion of the hearings.

A summary of the hearings is set out at Appendix 2 for members of the Committee only.

2.5 Specific training is provided to the Panel for hearing school transport appeals. These appeals are very rare and, in the calendar year 2017/18, there was only one school transport appeal, which was not upheld.

**3. Recommendations from the Boards of Appeal**

<b>Recommendation</b>	<b>Commentary</b>
<p>Investigations should be more robust, in this instance, to ask IT to look at a Blackberry to identify text messages.</p>	<p>A range of steps have been taken to address the overall quality of disciplinary casework:</p> <ul style="list-style-type: none"> <li>• On 1 February 2018 the County Council in-sourced the employee relations casework function, from Capita, for all services other than schools. Casework is now being undertaken within the WSCC HR function and a training programme is in place to support this;</li> <li>• Arrangements are being made to have in place a panel of disciplinary investigating officers who will be trained and who can be drawn upon at short notice when required.</li> <li>• A panel of external disciplinary investigating officers is being set up. These IOs will be called upon to investigate more complex disciplinary issues resulting in shorter timescales.</li> <li>• The HR function has been restructured with effect from 1 April 2018 with a new operating model which will provide a greater level of HR support to investigations and hearings.</li> <li>• The quality and speed with which disciplinary casework is undertaken should improve as a result of these steps.</li> </ul>
<p>Legal Services should be present at disciplinary hearings where dismissal is a possibility</p>	<p>Steps being taken (described above) should make this unnecessary.</p>

<b>Recommendation</b>	<b>Commentary</b>
Disciplinary processes should be completed more quickly	Steps being taken (described above) will result in shorter timescales.
<p>More care should be taken in the presentation of appeal documents and in the presentation of the case.</p> <p>Review the role of HR (HRMA) in the appeal hearing process.</p> <p>Review the role of the dismissing manager/head of service in the appeal process.</p>	Steps being taken (described above) will result in an improvement in the presentation of appeals. The way in which appeals are presented, including roles, is under review and the management case will in future be presented by more senior HR professionals than has recently been the case.
To ensure that rules on late papers are clear and adhered to.	Noted.
Management of children's homes should be improved.	<p>A wide range of improvement measures has been put in place, including:</p> <ul style="list-style-type: none"> <li>• The creation of 12 new staff positions;</li> <li>• Management training;</li> <li>• Additional, dedicated HR resource;</li> <li>• Teambuilding workshops;</li> <li>• Secondment of an experienced manager to the Service Manager role;</li> <li>• All staff receiving training in record keeping;</li> <li>• CCTV retention policy updated in line with GDPR.</li> </ul>
Use of agency staff in children's homes should be reduced.	Measures have been taken which resulted in a 26% reduction in agency usage in 2017 compared to 2016.
FRS to review their practice of allowing social functions with alcohol present on FRS premises which are also operational.	The policy has been changed. Social functions are no longer permitted on operational premises.

4. **Options for Changes to the Staff Appeals Panel**

4.1 Following one of the dismissal hearings which resulted in a reinstatement, the Chief Executive met the members of that Board of Appeal to consider the constitutional, HR, management responsibilities and member roles and expectations in connection with HR practice policy and procedure. This

led to a discussion about options to revise the Member Appeal Panel arrangements in relation to staff dismissal and grievance appeals.

- 4.2 Those options were further considered at the annual meeting of the Appeals Panel on 15 May 2018. A separate report on this agenda addresses the conclusions and recommendations arising from that discussion.

5. **Risk Management Implications**

None identified.

6. **Equality Duty**

An Equality Impact Report is not required for this decision for the following reason:

It is a report dealing with internal or procedural matters only.

7. **Crime and Disorder Act Implications**

None identified.

8. **Human Rights Implications**

None identified.

**Heather Daley**

Director of Human Resources and Organisational Change

**Tony Kershaw**

Director of Law and Assurance

**Appendices**

Appendix 1 – Member attendance during 2017/18

Appendix 2 – Table of 2017/18 Appeal Hearings (Part II – not for publication)

By virtue of the paragraph(s) of Part I of Schedule 12A of the Local Government Act 1972, having agreed that, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighed the public interest in disclosing the information.

Exempt: paragraph 2, Identity of an individual

**Contact:** Joanne Carpenter, Senior HR Business Partner, 033022 22451

**Background Papers**

None

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### Member attendance during 2017/18

Prior to the election in May 2017 there was one staff appeal which was heard by three former members: Mr P Circus, Mr G Jones and Mr G Tyler, and one returning member Mr L. Barnard

Member	18.09.17	<sup>1</sup> 25.01.18	05.02.18	No. of appeals heard in 2017/18
Mrs Arculus	✓			1
Mr Barnard		✓		1
Lt Col Barton			✓	1
Mr Bradbury				0
Mr Bradford	✓			1
Mrs Dennis		✓		1
Mrs Duncton		✓		1
Mr Fitzjohn				0
Mr High	✓	✓		2
Mr Marshall				0
Mrs Millson			✓	1
Mrs Mullins			✓	1
Mr R J Oakley				0
Mrs Pendleton				0
Mrs Purnell			✓	1
Mr Smytherman				0
<b>2 vacancies</b>				

Of the 14 dates allocated to hear appeals between May 2017 and March 2018, the first one post-election (23 June 2017) was used for the annual meeting and to provide Panel members with induction training; three were utilised to hear appeals (Appendix 2 refers) and ten were not required and therefore cancelled. Of the 16 members on the Board of Appeal, six have not had the opportunity to hear an appeal during 2017/18.

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<sup>1</sup> School Transport Appeal

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## **Governance Committee**

**25 June 2018**

### **Review of Financial Regulations and Financial Procedures**

#### **Report by Director of Finance, Performance and Procurement and Director of Law and Assurance**

##### **Recommendations**

- (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.

#### **1. Introduction**

- 1.1 The Financial Regulations and Financial Procedures are part of the authority's Constitution. They are intended to help the County Council exercise its statutory financial responsibilities, safeguard its finances and assets, and ensure the proper record keeping and reporting of its financial accounts.

#### **2. Review of Financial Regulations and Procedures**

- 2.1 In line with good practice the Financial Regulations and Financial Procedures are now reviewed every three years, with the last review carried out in 2015. The Financial Regulations set out the financial policies and the framework for managing the Council's financial affairs. They seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting principles and professional good practice. The Financial Procedures set out the controls in place for the key areas covered in the Financial Regulations, along with the responsibilities of the Directors in respect of each the key areas. There is currently a review of the Council's Constitution underway and in line with this it is proposed that the Treasury Management Policy Statement, which is currently part of the Financial Regulations, and the Financial Procedures should be held outside of the Constitution.

- 2.2 An exercise has recently been undertaken to review both documents and updated regulations are attached as Appendix 1. These reflect the current organisational structure and the changes include the inclusion of the Council's capital governance process, updates to the Treasury Management governance arrangements along with minor changes to reflect updated regulations and to clarify the Council's current processes.

3. **Resource Implications and Value for Money**

- 3.1 None arising from this report.

4. **Equality Duty**

- 4.1 An Equality Impact Report is not required for this decision as it is a report dealing with internal or procedural matters only.

5. **Risk Management Implications**

- 5.1 There are financial risks associated with the organisation not having adequate regulations and procedures in place.

6. **Crime and Disorder Act Implications**

- 6.1 None arising directly from this report.

7. **Human Rights Act Implications**

- 7.1 None arising directly from this report.

**Katharine Eberhart**  
Director of Finance, Performance  
and Procurement

**Tony Kershaw**  
Director of Law and  
Assurance

**Contact:** Vicky Chuter, Financial Reporting Manager, 033022 23414

**Appendix 1** - Financial Regulations

**Background Papers**

None

# Part 4 Section 5

## **Financial Regulations**

Approved by the Regulation, Audit and Accounts Committee  
at its meeting on 23 July 2018

July 2018

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## **Part 4 Section 5**

### **Financial Regulations**

#### **Financial Regulation A - General**

##### **1. General Introduction**

- 1.1 The Financial Regulations and Financial Procedures of the County Council are intended to help the County Council exercise its statutory financial responsibilities, safeguard its finances and assets, and ensure the proper record keeping and reporting of its financial accounts. The Financial Regulations form part of the Council's Constitution while the Financial Procedures are held outside of the Constitution.
- 1.2 Any changes to Financial Regulations will be drawn up jointly by the Director of Finance, Performance and Procurement and Director of Law and Assurance and approved by the Regulation, Audit and Accounts Committee in the light of advice from the Governance Committee.
- 1.3 Any employee who knowingly or by negligence breaches the Financial Regulations may be subject to disciplinary action and in some instances may incur criminal liability.
- 1.4 The regulations also apply to persons who are carrying out the business of the County Council but are employed by any contractor, partner or other organisation acting for the County Council.
- 1.5 The Director of Finance, Performance and Procurement, in consultation with the Director of Law and Assurance, may approve a departure from Financial Regulations, where he or she concludes that such action is appropriate to safeguard the interests of the County Council.
- 1.6 It is the responsibility of all Executive Directors and Directors to make all employees and other persons carrying out Council business aware of Financial Regulations.

##### **2. Financial Management**

###### **2.1 Introduction**

- 2.1.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the Policy Framework, revenue and capital budgets and treasury management.

###### **2.2 The County Council**

- 2.2.1 The County Council is responsible for adopting the authority's Constitution and for approving the Policy Framework and budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the County Council's overall framework of accountability and

control, and for monitoring compliance with the agreed policy and related executive decisions. The functions of the County Council are listed in Responsibility for Functions, Part 3.

## **2.3 The Cabinet**

2.3.1 The Cabinet is the principal Executive body of the County Council. The Cabinet is responsible for proposing the Policy Framework and budget to the County Council, and for discharging Executive functions in accordance with the Policy Framework and budget including Standing Orders and the Scheme of Delegation. The role of the Cabinet is described in the Description of the Constitution, Part 2 Chapter 7.

2.3.2 Executive functions can be delegated to the Cabinet, individual Cabinet Members, County Local Committees, officers or through joint arrangements with other public bodies. The County Council's Scheme of Delegation is set out in Appendices 1-4 of the Constitution.

## **2.4 Regulation, Audit and Accounts Committee**

2.4.1 The Regulation, Audit and Accounts Committee is responsible for reviewing the external auditor's reports including the Audit Plan and Audit Results Report. Additionally, it is responsible for reviewing internal audit's work plan and progress and can consult directly with internal and external auditors. The Committee also deals with the approval of the statutory Statement of Accounts of the County Council and the review of the Governance Framework including the system of internal control.

## **2.5 Director of Finance, Performance and Procurement**

2.5.1 The Director of Finance, Performance and Procurement is responsible for:

- Promoting and maintaining high standards of financial conduct
- The provision of proactive advice to both Cabinet and the County Council, informing them of the financial implications of all new policies and changes of policy
- The provision of strategic financial planning and advice to the Executive and Corporate Leadership Teams, the Cabinet, other committees and member task groups
- Ensuring proper administration arrangements are in place for the Council's financial affairs
- Reporting to members on the overall budget performance and recommending corrective action
- Ensuring that the council or any officer of the council does not make any unlawful financial transaction or action
- Complying with the relevant accounting and financial procedures and standards in accordance with best accounting practices
- Agreeing and ensuring those locally managed schools and other local financial management arrangements are aligned to these regulations
- Preparing the revenue budget and capital programme
- Securing an effective internal audit function
- Treasury management and banking arrangements
- Maintaining a continuous review of the Financial Regulations and

submitting any additions or changes necessary to the Regulation, Audit and Accounts Committee

- Issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow
- The maintenance of reserves, accounting policies, records and returns and the annual statement of accounts

2.5.2 The Director of Finance, Performance and Procurement has statutory duties in relation to the financial administration and stewardship of the County Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Act 2003
- The Accounts and Audit Regulations 2015
- Local Government Pension Scheme Regulations 2013 and The Local Government Pension scheme (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006

2.5.3 Section 114 of the Local Government Finance Act 1988 requires the Director of Finance, Performance and Procurement to report to the County Council, the Cabinet and external auditor if the County Council or one of its officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- Is about to make an unlawful entry in the County Council's accounts.

Section 114 of the 1988 Act also requires:

- The Director of Finance, Performance and Procurement to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- The authority to provide the Director of Finance, Performance and Procurement with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under section 114.

## 2.6 **The Chief Executive and Executive Directors**

2.6.1 The Chief Executive and Executive Directors are responsible for:

- Ensuring that Cabinet Members are advised of the financial implications of all proposals and that they have been agreed by the Director of Finance, Performance and Procurement.
- Consulting the Director of Finance, Performance and Procurement and seeking approval on any matter liable to affect the County Council's finances materially, before any commitments are incurred.

### 3. **Other Financial Accountabilities**

#### 3.1 **Budget Transfer**

3.1.1 The Cabinet Member for Finance and Resources is responsible for agreeing procedures for the transfer of budget between budget headings.

3.1.2 Directors (or Executive Directors if appropriate) are responsible for agreeing in-year budget transfers within delegated limits, as set out below, in consultation with the Director of Finance, Performance and Procurement where required.

Minimum approval required	Limit for budget transfer
Key decision process applies	Over £500,000
Director(s) and Director of Finance, Performance and Procurement	Below £500,000
Director of Finance, Performance and Procurement	Technical budget transfers (eg, budget transfers to comply with proper accounting practice)
Director of Finance, Performance and Procurement	Administrative budget transfers (eg, already approved by County Council or Schools Forum)

#### 3.2 **Contingency Allocations**

3.2.1 Revenue budgets and capital programmes are approved as cash-limited allocations. The presumption is that service budgets and capital programmes will not be supplemented. Any exception to that presumption is the responsibility of the Cabinet Member for Finance and Resources on receiving advice from the Director of Finance, Performance and Procurement.

#### 3.3 **Treatment of Year-end Balances**

3.3.1 The Cabinet Member for Finance and Resources is responsible for agreeing the carrying forward of underspendings on budget headings, on advice from the Director of Finance, Performance and Procurement.

#### 3.4 **Accounting Policies**

3.4.1 The Director of Finance, Performance and Procurement is responsible for selecting accounting policies and ensuring that they are applied consistently.

#### 3.5 **Accounting Records and Returns**

3.5.1 The Director of Finance, Performance and Procurement is responsible for determining the accounting procedures and records for the authority.

### **3.6 The Annual Statement of Accounts**

3.6.1 The Director of Finance, Performance and Procurement is responsible for ensuring that the annual statement of accounts is prepared in accordance with the 'Code of Practice on Local Authority Accounting in the United Kingdom' (CIPFA/LASAAC). The Regulation, Audit and Accounts Committee is responsible for approving the annual statement of accounts.

### **3.7 Write Off of Debts**

3.7.1 The Director of Finance, Performance and Procurement can approve the write-off of irrecoverable debts up to £15,000, in consultation with the Director of Law and Assurance.

3.7.2 Any irrecoverable debt in excess of £15,000 will require the approval of the Cabinet Member for Finance and Resources.

## **Financial Regulation B - Financial Planning**

### **1. Introduction**

- 1.1 The County Council is responsible for agreeing the authority's Policy Framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- the West Sussex Plan
  - Directorate Business Plans
  - annual service business plans
  - the revenue budget
  - the capital programme.
- 1.2 The County Council is also responsible for approving procedures for the budgets, plans and strategies forming the Policy Framework and for determining circumstances in which a decision will be deemed to be contrary to the budget or Policy Framework. Such decisions should be referred to the County Council by the Monitoring Officer.
- 1.3 The Cabinet Members are responsible for taking in-year key decisions on resources and priorities in order to deliver the Policy Framework and services within the annual budget set by the County Council.

### **2. Budgeting**

#### **2.1 Budget format**

- 2.1.1 The general format of the budget will be approved by the County Council and proposed by the Cabinet on the advice of the Director of Finance, Performance and Procurement. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

#### **2.2 Budget and Capital Programme Preparation**

- 2.2.1 The Cabinet is responsible for issuing guidance on the general content of the budget and capital programme in consultation with the Director of Finance, Performance and Procurement.
- 2.2.2 It is the responsibility of Executive Directors to ensure that budget and capital programme estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.
- 2.2.3 The Director of Finance, Performance and Procurement is responsible for ensuring that an overall revenue budget and capital programme summarising service budget estimates is prepared on an annual basis for consideration by the Cabinet, before submission to the County Council, along with a forward financial forecast in line with Government funding notifications. The Performance and Finance Select Committee considers strategic issues relating to the budget including comment on individual portfolio budgets.

The County Council may amend the budget or ask the Cabinet to reconsider it before approving it.

### **2.3 Budget and Capital Programme Monitoring and Control**

2.3.1 The Director of Finance, Performance and Procurement is responsible for providing appropriate financial information to enable both the revenue budgets and the capital programme to be monitored effectively. He or she must monitor expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis, as part of an overall performance management reporting process. The Director of Finance, Performance and Procurement will collate and present the Total Performance Monitor to the Executive Leadership Team and Cabinet each month, including a forecast of the financial outturn at year end. This report will cover both financial and performance reporting.

2.3.2 It is the responsibility of Executive Directors and Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Finance, Performance and Procurement. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance, Performance and Procurement to any problems. Any new proposal containing significant financial implications must take note of the Director of Finance, Performance and Procurement's advice as well as that of the relevant Executive Director or Director and Cabinet Member.

### **2.4 Capital Governance**

2.4.1 The Council has an established officer governance process which ensures transparency and gives assurance to members. Officer panels receive and consider proposals and business cases, which are supported by a set of tools and procedures ('the officer handbook') to define the process for getting capital schemes approved and to manage subsequent variations, including how officers provide members with information and assurance that controls are in place alongside an audit trail that meets member expectations.

2.4.2 The same process for considering and approving projects and business cases applies whether the decision is for an officer or a Cabinet Member. A model for business cases is used, which is streamlined for less complex projects, to ensure the input is proportionate. Where a decision relating to the capital programme is also a 'key decision' (investment exceeds £500,000 or significant impact on more than one division), it will be published in the Forward Plan. The quarterly review of the capital programme will be published in the Members' Information Service and linked to the Members' Information Network database.

2.4.3 All projects have a business justification through an initial business case (for schemes that require resources to develop a detailed business case) or outline business case (where the scheme is more straightforward). These are considered for prioritisation each year ahead of recommendation to the Council for approval of the programme. Individual projects may be

considered by the Performance and Finance or relevant service Select Committees.

2.4.4 In addition to the large schemes and development projects that make up much of the capital programme, there will be routine investment plans for the core business of the Council that have block allocations. These include the schools maintenance programme, the maintenance of the Council's operational buildings, highways maintenance, the replacement of vehicles and other essential service assets. These are planned and budgeted for through asset management plans within the capital programme and will operate within the approved control totals. Their implementation is delegated to the relevant Executive Director or Director.

2.4.5 All significant or cross-portfolio changes are taken through the Total Performance Monitor and published as Cabinet Member decisions in accordance with their portfolio. The Performance and Finance and service Select Committees sees the Forward Plan, notice of capital schemes on the programme register and has access to the business cases which may therefore be subject to preview as required.

2.4.6 The monitoring of the capital programme is part of the core business of Cabinet Board on a quarterly basis with formal decisions published in accordance with constitutional arrangements. The Performance and Finance Select Committee has the same quarterly programme review.

## 2.5 **Resource Allocation**

2.5.1 The Director of Finance, Performance and Procurement is responsible for developing and maintaining a resource allocation process that ensures due consideration of the County Council's Policy Framework.

## 2.6 **Guidelines**

2.6.1 Guidelines on budget preparation are issued to Executive Directors and Directors, following advice from the Director of Finance, Performance and Procurement. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- West Sussex Plan available resources
- spending pressures
- other relevant government guidelines
- other internal policy documents
- cross-cutting issues (where relevant)
- the role of the Performance and Finance Select Committee in strategic budget issues.

## 2.7 **Maintenance of Reserves**

2.7.1 It is the responsibility of the Director of Finance, Performance and Procurement to advise the Cabinet and/or the County Council on prudent

levels of reserves for the authority. This duty is set out in Section 25 of the Local Government Act 2003.

## **2.8 Budgets Delegated to Schools**

2.8.1 Revenue budgets delegated to schools under DfE Regulations are outside the scope of these regulations and are subject to the conditions set out in the Scheme for Financing Schools – Statutory guidance for local authorities - March 2018.

## **2.9 Fees and Charges**

2.9.1 A schedule of fees and charges must be reviewed annually as part of the business planning and budget setting cycle and agreed by Cabinet Members, guided by the Director of Finance, Performance and Procurement.

2.9.2 All income properly due to the Council must be collected promptly and recorded to the Council's benefit, unless specific authority to waive, discount or write-off such income is approved through Cabinet, Cabinet Members or under delegated powers to officers.

2.9.3 Proposals to commence charging for or trading in goods or services not previously subject to charging or trading must be agreed by the relevant Cabinet Member (external charging/trading only).

## **Financial Regulation C - Risk Management and Control of Resources**

### **1. Introduction**

- 1.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

### **2. Risk Management**

- 2.1 The Chief Executive is responsible for approving the County Council's corporate risk management strategy and for reviewing the effectiveness of risk management.
- 2.2 The Regulation, Audit and Accounts Committee provides assurance of the adequacy of the risk management framework and the associated control environment and scrutiny of the County Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk.
- 2.3 The Performance and Finance Select Committee considers existing policies and the effectiveness of their delivery relevant to the Select Committee's specific portfolio and to issues of major strategic importance to the County Council. It also considers the effectiveness of the Council's arrangements and systems for the management of contracts and for the scrutiny of the achievement of such commissioning outcomes as have been determined, as well as the annual budget and performance framework on a strategic basis at each meeting.
- 2.4 Risk management must complement and build on the existing integrated service planning and performance management processes. All significant risks must be managed to, or maintained at, an acceptable level.
- 2.5 The Executive Leadership Team is responsible for promoting the County Council's risk management policy statement throughout the County Council with Executive Directors responsible for ensuring there are sufficient processes in place to identify, assess and capture risks within their directorates.
- 2.6 The Director of Finance, Performance and Procurement is responsible for monitoring and reporting all significant risks and the Director of Law and Assurance is responsible for maintaining proper insurance cover where appropriate, in pursuant with paragraph 7 of this section.

### **3. Internal Control**

- 3.1 Internal control refers to the systems of control devised to help ensure that the County Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that its assets and interests are safeguarded.

3.2 The Director of Finance, Performance and Procurement is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

3.3 It is the responsibility of Executive Directors and Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their business objectives and performance targets.

#### **4. Audit Requirements**

4.1 The Accounts and Audit Regulations 2015 require every local authority to "undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance". Accordingly, internal audit is a separate, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

4.2 The Local Audit and Accountability Act 2014 requires the County Council to prepare an annual Statement of Accounts, and for these accounts to be subject to an external audit. The general duties of the auditor are set out in section 20 of the Act. The Council has opted into the national auditor appointment provisions of the Local Audit (Appointing Person) Regulations 2015. Under these provisions, an external auditor was appointed to the authority by Public Sector Audit Appointments Ltd for a five year period commencing 2018/19.

4.3 The County Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

#### **5. Preventing Fraud and Corruption**

5.1 The Director of Finance, Performance and Procurement is responsible for the development and maintenance of the Anti-Fraud Strategy (Part 5, Section 10). This is reviewed every three years and approved by the Regulation, Audit and Accounts Committee.

5.2 Where financial irregularity is suspected or discovered, Executive Directors are to notify the Director of Finance, Performance and Procurement (represented by the Head of Internal Audit) immediately, who in turn is to inform the Director of Law and Assurance. Detailed procedures for such action are contained in the Anti-Fraud Strategy.

6. **Assets**

- 6.1 Executive Directors should ensure that assets, including property, vehicles, equipment, furniture and stocks/stores, are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place, as set out in the council's Asset Strategy and Business Continuity policies.

7. **Insurance**

- 7.1 The Director of Law and Assurance shall effect all necessary cover for liability (including employer, third party, personal accident and fidelity guarantee), motor and property (including terrorism) insurance and negotiate all claims, in consultation with other officers where necessary.
- 7.2 Executive Directors shall notify the Director of Law and Assurance immediately of:
- All new risks and liabilities which may require to be insured
  - Any change which may affect existing insurance
  - Any loss, damage, claim or event which might give rise to a claim by or against the Council
  - Any acquisition or disposal of interests in property which involves an amendment to insurance cover.
- 7.3 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 7.4 The Director of Law and Assurance shall, at least annually, review all insurance in consultation with Executive Directors.

8. **Treasury Management**

- 8.1 The County Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Services: Code of Practice (the Code) as detailed in Section 5 of the Code. Accordingly, the County Council will maintain, as the cornerstones for effective treasury management:
- a Treasury Management Policy Statement, stating the policies, objectives and approach to risk management of its treasury management activities (held outside of the Constitution)
  - suitable Treasury Management Practices (TMPs), setting out the manner in which the County Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 8.2 The content of the Policy Statement and TMPs follows the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the County Council materially deviating from the Code's key recommendations.

- 8.3 The County Council will receive reports on its treasury management policies, practices and activities, including as a minimum an annual Treasury Management Strategy Statement in advance of the year, a mid-year review and an annual report after its close (see 8.4 below), in the form prescribed by its TMPs.
- 8.4 The County Council delegates to the Performance and Finance Select Committee responsibility for ensuring effective scrutiny of the treasury management strategy and policies. In accordance with the Constitution, a mid-year and year end treasury management report benchmarking security and liquidity, in addition to the actual yield achieved on County Council investments, will be submitted to this Committee.
- 8.5 The County Council in its Constitution delegates responsibility for monitoring compliance with its treasury management policies and practices against planned parameters to the Regulation, Audit and Accounts Committee
- 8.6 The County Council delegates responsibility for the execution and administration of treasury management decisions to the Director of Finance, Performance and Procurement.
- 8.7 The County Council will act in accordance with the Policy Statement, TMPs and CIPFA's Standard of Professional Practice on Treasury Management in the implementation and administration of all treasury management decisions.

9. **Prudential Code**

- 9.1 Interlinked with the CIPFA Code of Practice for Treasury Management is the Prudential Code for Capital Finance in Local Authorities; furthermore, the Council is required by regulation to have regard to the code when carrying out its duties under Part 1 of the Local Government Act 2003.
- 9.2 The Director of Finance, Performance and Procurement will be responsible for ensuring that all matters required to be taken into account are reported to the full Council for consideration, and for establishing procedures to monitor performance.

10. **Banking Arrangements**

- 10.1 All arrangements with bankers must be made only by the Director of Finance, Performance and Procurement, who is authorised to operate any bank accounts considered necessary.

11. **Staffing**

- 11.1 The Chief Executive as head of paid service is responsible for providing overall management to staff and is responsible for the arrangements for determining how officer support for Executive and non-Executive roles within the authority will be organised.
- 11.2 Executive Directors and Directors are responsible for controlling total staff numbers by:

- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
- managing the staffing numbers within approved budget provision and, where necessary, adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
- the proper use of appointment procedures, workforce plans and verified personnel information.

**12. Information Technology and Data and Information Management**

- 12.1 The Director of Finance, Performance and Procurement shall ensure there is sufficient provision for all Information Technology and data and information management requirements.

## **Financial Regulation D - Systems and Procedures**

### **1. Introduction**

- 1.1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **2. General**

- 2.1 The Director of Finance, Performance and Procurement is responsible for the operation of the County Council's accounting systems, the form of accounts and the supporting financial records. Any changes to the existing financial systems or the establishment of new systems must be approved by the Director of Finance, Performance and Procurement. However, Directors are responsible for the proper operation of financial processes in their own service areas, including those activities which are delivered by an external party.
- 2.2 Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Director of Finance, Performance and Procurement.
- 2.3 Executive Directors and Directors should ensure that their staff receive relevant financial training that has been approved by the Director of Finance, Performance and Procurement. This will also apply to external parties.
- 2.4 Executive Directors and Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Executive Directors and Directors must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **3. Income and Expenditure**

- 3.1 It is the responsibility of Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Director's behalf, or on behalf of the Council, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet Member for Finance and Resources is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **4. Payments to Employees and Members**

- 4.1 The Director of Human Resources and Organisational Change is responsible for the payments of salaries and wages to all staff, including payments for overtime, as well as payment of expenses and any loans and for payment of allowances to members. The Director of Finance, Performance and Procurement is responsible for ensuring there are appropriate financial systems in place to make these payments.

**5. Taxation**

- 5.1 The Director of Finance, Performance and Procurement is responsible for advising Executive Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on VAT taxation issues that affect the County Council. The Director of Human Resources and Organisational Change is responsible for advising Executive Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all employee related taxation issues.
- 5.2 The Director of Finance, Performance and Procurement is responsible for maintaining the County Council's VAT records, making all VAT payments, receiving VAT credits and submitting VAT returns by their due date as appropriate.

**6. Service Providers**

- 6.1 It shall be a condition of engagement of any service provider (including consultants, contractors, agency staff and joint committees) for purposes within the scope of these Financial Regulations that they shall have a comprehensive knowledge of these Regulations and abide by them throughout the duration of their engagement. The relevant Director with responsibility for engaging and managing the service provider shall ensure that this requirement is met.

## **Financial Regulation E - External Arrangements**

### **1. Introduction**

- 1.1 The County Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It has the power to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **2. Partnerships**

- 2.1 The County Council is responsible for approving delegations (Part 3, Section 2 of the Constitution), including frameworks for partnerships. The Cabinet is the interface in forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 2.2 Cabinet Members can delegate functions to officers. These are set out in the Scheme of Delegation that forms part of the County Council's Constitution. Where functions are delegated, the Cabinet remains accountable for them to the County Council.
- 2.3 The Chief Executive represents the County Council on partnership and external bodies, in accordance with the scheme of delegation.
- 2.4 The Director of Finance, Performance and Procurement is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the County Council.
- 2.5 The Director of Finance, Performance and Procurement must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider, in consultation with the Director of Law and Assurance, the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 2.6 Executive Directors and Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **3. External Funding**

- 3.1 All external funding granted to the County Council is to be notified to the Director of Finance, Performance and Procurement and he or she is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the County Council's accounts.

### **4. Work for Third Parties**

- 4.1 The Cabinet Members for a service and the Cabinet Member for Finance and Resources shall be consulted before the completion of any contractual arrangements for any work for third parties or external bodies.

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## **Governance Committee**

**25 June 2018**

**Part I**

### **Pension Advisory Board Update**

#### **Report by Director of Finance, Performance and Procurement**

##### **Summary**

The Pension Advisory Board is required to submit a work programme and budget for 2018/19 and a review of its performance over the past year to the Governance Committee.

Part of the work over the last year has included a review of the Board and its Terms of Reference and agenda items.

##### **Recommendations**

- (1) That the work of the Pension Advisory Board be noted and the work programme and budget for 2017/18 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.

##### **Proposal**

#### **1. Background and Context**

- 1.1 The Pension Advisory Board was created as a result of the Public Services Pension Act 2013 and commenced its role from 1 April 2015. Its role is essentially to perform a broad scrutiny role over the pension fund and to secure compliance with the Regulations and the Pension Regulator's requirements.

#### **2. Annual Work Programme and Budget**

- 2.1 Business Plan performance report for 2017/18  
The draft report set out in Appendix A provides a brief summary of the Board's operations and activities over the past year. The summary includes an assessment of the Board itself and identifies a number of key achievements.
- 2.2 Key tasks and activities  
The Schedule in Appendix B is based on the core programme of activities agreed for 2017/18 and provides an indication of what the Board has achieved.

2.3 Budget Statement

Appendix C shows forecast spending against budget in 2017/18 and the proposed budget for 2018/19.

2.4 Need for advisors

It was agreed in 2015/16 that there was no recurring need for external advisors but that provision should be made in the annual budget in case specific advice was required (e.g. legal advice) at any stage. It is likely that any external advisory input, as agreed previously, would be for the provision of training and not formal advice. No such advice was required in 2017/18 and is not anticipated to be required in 2018/19.

**3. Update to Pension Advisory Board Terms of Reference**

3.1. The Pension Advisory Board received a report at its meeting in April following a review of the Boards Terms of Reference and its composition. The Boards views were sought on increasing the number of members on the Board and increasing the number of meetings per year to bring it into alignment with the Pension Panel. The Board welcomed the proposals for the reasons below.

3.2. The number of members on the Board

3.2.1. The Board currently consists of five members as below:

Number	Constituency	Definition/Constraints	Voting Rights
2	Employer	Must represent all employers within the scheme. This must be a named individual on behalf of an employer and not an employer with a variable representative.  <i>Must represent an employer within the West Sussex Local Government Pension Scheme.</i>	Yes
2	Scheme members	To cover all members of the scheme (active, deferred, pensioners)  <i>Must be a member of the West Sussex Local Government Pension Scheme.</i>	Yes
1	Independent	To act as Chairman	No

3.2.2. Three of the members of the Pension Advisory Board, including at least one Employer and one Scheme representative will be a quorum for Board meetings to discharge business.

3.2.3. Recently whilst recruiting to a vacancy, there was a high level of interest from applicants wanting to be a member representative on the Board. If the member representative numbers were to be increased there would also have to be an increase employer representation. Employer numbers in the West Sussex Fund have risen significantly since the Board was created in 2015.

- 3.2.4. Increasing board membership may also help the Board in being more effective in carrying out its duties as it could increase the breadth of experience and views of members. It would also help mitigate the risk of the Board being in-quorate.
- 3.2.5. The Pension Advisory Board agreed to increase their membership from five to seven. This will comprise of three employer representatives, three member representatives and one independent Chairman.
- 3.3. The number of meetings per year of the Pension Advisory Board
  - 3.3.1. Currently the Pension Panel have four meetings a year and the Board have three meetings. This can create a misalignment of information and make some agendas fuller than others due to the number of Panel meetings between Board meetings.
  - 3.3.2. Increasing the number of Board meetings and aligning them with Panel meetings would enable clearer planning and ensure that information is received in a timely manner.
  - 3.3.3. The Pension Advisory Board agreed to increase the number of meetings from three to four. The Board requested that the meetings were scheduled in between the Pension Panel meetings.

#### **4. Equality Impact Report**

- 4.1. An Equality Impact Report is not required for this decision as it concerns the Council's internal arrangements.

#### **5. Resource Implications and Value for Money**

- 5.1. Not applicable.

#### **6. Risk Management/ Crime and Disorder/Human Rights Implications**

- 6.1. Not applicable.

#### **Katharine Eberhart**

Director of Finance, Performance and Procurement

**Contact:** Steve Harrison 03302223391

#### **Appendices**

**Appendix A** - Business Plan Performance Report for 2017/18

**Appendix B** - Schedule of key tasks and activities 2017/18

**Appendix C** - Budget Statement

**Background Papers:** None

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## **West Sussex Pension Advisory Board**

### **Business Plan 2017/18 performance report**

#### **Board establishment**

One Board member, a scheme member representative, resigned during the year due to a change of employer (to non-LGPS) but was replaced within two months following a process of advertisement and interview. The new member is employed by West Sussex County Council and has past experience of managing the pension fund.

The Board reviewed the appointment process and decided that the Terms of Reference should state clearly that it is a requirement that scheme member representatives should be members of the West Sussex Pension Fund and employer representatives should represent an employer in the Fund. A formal proposal put to the Governance Committee was agreed and the Terms of Reference amended accordingly.

#### **Board meetings**

The Board held three meetings during the year with attendance as follows: Peter Scales (3); Kim Martin (2); Richard Cohen (3); Andy Elder (1); Christopher Scanes (3); and Tim Stretton (2). Relevant interests are recorded and any changes declared at each meeting. There have been no conflicts of interest potential or otherwise.

The business for each meeting has been in line with the Business Plan agreed in March and is based on the responsibilities of the Board and guidance issued about key issues to cover, and on 'live' issues arising during the year.

In terms of the organisation of meetings:

- Each meeting has been preceded by a pre-meeting between the Chairman, officers and service providers held about two weeks before the Board meeting.
- The papers for each meeting have been despatched at least one week before the meeting
- Members have read and digested the various reports
- Discussions have focused on the main issues relating to the Board's responsibilities
- The relevant officers and service providers have been present at each meeting providing clear and helpful advice
- The meetings have been effective in developing the Board's involvement, knowledge and skills, and any necessary decisions have been taken on a unanimous basis.

#### **Progress of business**

The Board has covered all items of business in the Business Plan over the course of the year as described in the schedule of key tasks and activities, and no significant items have been unnecessarily delayed or missed. A progress report was made to each meeting to monitor the implementation of actions and decisions from previous meetings. There is a standing agenda item to notify members of any changes in regulations or guidance.

### **Training**

The Board has developed its training plan to cover the individual requirements of each member based on guidance issued by CIPFA, and has used their framework to ensure coverage of all items over a reasonable period of time. The plan is under review to incorporate the needs of new members and to reflect updated guidance.

Training sessions were held to cover the pooling process outcomes and governance, and risk management. In addition, each meeting provides members with a broad update on key issues.

Each member is progressing with the Pensions Regulator's on-line modular training toolkit and updates to this are being assessed. Progress on training was monitored and discussed at each meeting.

### **Indicators of performance and achievement**

As the Board's work is generally subjective in nature, it is not practicable to measure performance against 'hard' indicators. However, performance has been good in monitoring compliance and effectiveness in the administration procedures throughout the year. These are some of the highlights:

*Business planning* - The Plan has been reviewed and modified based on experience over the past year and has proved an effective means of managing the business for each Board meeting. The Plan includes a self-assessment of performance.

*Compliance checks* - The main focus was on the implementation process for changes in procedures required in relation to MiFID II and GDPR, on the voluntary code for cost transparency and on monitoring breaches.

*Administration* - The Board has challenged performance on a number of key indicators and sought improvements in procedures to ensure greater efficiency and effectiveness. Key issues include data quality, the production and distribution of Annual Benefit Statements, the recording and reporting of breaches, and action taken on late payments by employers.

Board members were also able to contribute to efforts to improve employer performance in providing data and seek better training and information to improve matters. Raising the awareness of employers is an important function of the Board. The roll-out and effectiveness of electronic communications has been monitored with members offering suggestions for improvements from the employer/member perspective.

The risk register is kept under review and suggestions made to ensure risks are effectively monitored and mitigation action implemented. On many of these issues, the Board can raise the awareness of the Panel and officers - in effect operating as a 'double check'.

*Communications* - The Board continues to seek improvements to newsletters and this is now having a positive impact. Members press for greater clarity, simplicity and timeliness of communications. The web portal has also been improved by Capita and reviewed from the perspective of 'user friendliness', both for employers and members.

*Pooling arrangements* - The Board has monitored progress on the developing arrangements recognising their complexity and the time commitment required from both officers and Panel members. Assurances have been given and will be reviewed regarding new governance arrangements with the pool as these are finalised. As the final implementation comes to fruition during 2018/19, the Board will seek to ensure that the new arrangements are both compliant and effective in governance terms

*General* - The Board's operations over the past three years have brought compliance and performance into sharper focus and with an employer/member perspective. In addition, the Board is enabling the Scheme Manger to demonstrate compliance with regulations and guidance, and helping ensure the Fund is administered efficiently and effectively.

### **Chairman's comments**

In my view the Board has continued to operate well in developing circumstances, particularly as regards the new pooling arrangements and other changes taking place. Each member continues to demonstrate their commitment to meeting their responsibilities, to gaining new knowledge and understanding of the issues, by preparing for each meeting and by participating effectively in discussion.

Board members are keenly aware of the need not to duplicate the work of the Pensions Panel or officers, nor to generate unnecessary demands for monitoring information for meetings. At the same time, members do not hesitate to challenge decisions or practices when it is appropriate to do so, to seek improvements where beneficial, or to expose non-compliance.

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**Pension Advisory Board**  
**Work programme 2017/18**

<b>Key tasks and activities</b>	<b>Action in 2017/18</b>
<p><b>Business planning and performance</b></p> <ul style="list-style-type: none"> <li>• Agree work programme, budget and resources for coming year</li> <li>• Review advisor requirements</li> <li>• Review performance against work programme and budget for report to committees *</li> <li>• Board self-assessment</li> <li>• Report for Fund Annual Report</li> <li>• Report to Employer Annual Meeting</li> <li>• Report to Scheme Advisory Board/DCLG/tPR</li> </ul>	<p>Report considered and agreed on 1 March</p> <p>Reviewed on 1 March</p> <p>A progress report on outstanding action is considered at each meeting</p> <p>Report considered and agreed on 1 March</p> <p>Report considered and agreed on 1 March</p> <p>Report considered and agreed on 1 March</p> <p>Attended by Richard Cohen to represent the Board and feedback given to meeting on 29 November</p> <p>No report required</p> <p>Response to Scheme Advisory Board survey agreed on 5 July</p> <p>Response to tPR survey considered on 29 November</p>
<p><b>Compliance checks</b></p> <ul style="list-style-type: none"> <li>• Annual review of conflicts of interest</li> <li>• Review relevant Pension Panel decisions</li> <li>• Annual Report &amp; Accounts</li> <li>• Review of policy statements</li> <li>• Review of risk register</li> <li>• Internal controls/audit reports</li> <li>• Regulations and guidance</li> </ul>	<p>Reviewed on 1 March</p> <p>Reviewed at each meeting</p> <p>Reviewed by chairman</p> <p>'Desk top' review by Chairman</p> <p>Monitored reviews by Pensions Panel</p> <p>Noted audit assurances</p> <p>Reviewed MiFID II requirements and progress</p>

<b>Key tasks and activities</b>	<b>Action in 2017/18</b>
	<p>Monitored progress on GDPR</p> <p>Reviewed cost transparency voluntary code requirements</p>
<p><b>Administration procedures and performance</b></p> <p>Admin report to cover:</p> <ul style="list-style-type: none"> <li>• Notifiable events</li> <li>• Data quality and integrity</li> <li>• Disclosure of information</li> <li>• Contribution monitoring</li> </ul>	<p>The Board received a report on administration procedures and performance at each meeting. A number of issues have been queried and concerns raised about poor performance against KPIs, the Annual Benefits process, the management of late payment of contributions and monitoring breaches. The customer satisfaction survey results were reviewed.</p>
<p><b>Communications</b></p> <ul style="list-style-type: none"> <li>• Newsletters and annual statements</li> <li>• Website and portal</li> </ul>	<p>Board members continue to review individual newsletters and make comments under the revised procedures agreed in 2016.</p> <p>Reviews have been undertaken and comments taken on board</p> <p>A new generic email address for the Board has been set up</p>
<p><b>Training</b></p> <ul style="list-style-type: none"> <li>• Review training log and plan needs</li> </ul>	<p>Reviewed at each meeting and focused training provided. Members are completing tPR's on-line training modules and external training sessions have been attended and recorded.</p>
<p><b>Special items and reviews</b></p> <ul style="list-style-type: none"> <li>• Board governance arrangements</li> <li>• Valuation assumptions and outcomes</li> </ul>	<p>Terms of Reference revised to reflect requirements on Board membership</p> <p>No action required</p>

<b>Key tasks and activities</b>	<b>Action in 2017/18</b>
<ul style="list-style-type: none"> <li>• Investment pooling arrangements including governance arrangements</li> <li>• New investment regulations and guidance</li> </ul>	<p>Reports to the Pensions Panel and Governance Committee have been reviewed and the Board has been kept informed on progress</p> <p>Chairman undertook compliance review in relation to DCLG guidance</p>

\* Pensions Panel and Governance Committee

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**Pension Advisory Board Budget Statement**

<b>Budget item</b>	<b>Budget 2017/18 £</b>	<b>Spend * 2017/18 £</b>	<b>Budget 2018/19 £</b>
Allenbridge fee for independent chairman	15,000	15,000	15,000
Travel expenses/subsistence	3,500	275	2,000
Training provision	10,000	800	5,000
Democratic Services Support (0.2 FTE)	11,000	6,500	7,000
Meetings (incl. refreshments)	500	50	1,000
Provisional sums:			
• Legal and other external advice	3,000	0	3,000
• Contingency	2,000	0	2,000
<b>Total Budget</b>	<b>45,000</b>	<b>22,625</b>	<b>35,000</b>

\* Provisional actuals pending closure of accounts

N.B. VAT excluded

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## **Governance Committee**

**25 June 2018**

**Part I**

### **Change to Pensions Panel Terms of Reference**

#### **Report by Director of Finance, Performance and Procurement**

##### **Summary**

West Sussex has formed the ACCESS group with ten other Pension Funds in order to collaborate in the pooling of invested assets in accordance with the Government's expectation to save on investment costs. All of the authorities have signed an Inter-Authority Agreement and formed a Joint Committee to oversee the implementation of the Pooling proposals submitted to the Government in July 2016.

The terms of reference of the Pensions Panel do not currently contain any reference to the ACCESS Joint Committee or the Panel's role in the governance structure of ACCESS.

##### **Recommendation**

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.

##### **Proposal**

#### **1. Background and Context**

- 1.1 West Sussex has formed the ACCESS group with ten other Pension Funds in order to collaborate in the pooling of invested assets in accordance with the Government's expectation that Funds should pool their assets to secure savings on investment costs.
- 1.2 The Inter Authority Agreement between the ACCESS funds was approved at full Council on 24 March 2017. The agreement has been approved and signed by all administering authorities and the inaugural Joint Committee meeting of the ACCESS Pool was held on 31 July 2017.
- 1.3 The Constitution of the Joint Committee sets out that each Council will be represented by an elected councillor who serves on the Committee which discharges the pension functions for the administering authority. The Pensions Panel Chairman has been appointed to the ACCESS Joint Committee, to sit alongside representatives from the other participant Pension Funds.
- 1.4 The Joint Committee elected the Suffolk Pension Fund representative to be the Joint Committee Chairman and the East Sussex Pension Fund representative to be the Vice-Chairman.

- 1.5 In the pooled investment structure individual funds, like West Sussex, will still be responsible for their own investment strategy and asset allocation decisions. The pool will be responsible for selecting a suitable number of Investment Managers in order to meet the requirements of all of the funds' investment strategies. This is set out in Schedule 1-3 of the IAA.
- 1.6 The terms of reference of the Pensions Panel do not currently reflect the addition of the ACCESS Joint Committee to the Pension Fund governance structure.

## **2. Proposal**

- 2.1 In order to reflect the ACCESS Joint Committee in the Pensions Panel terms of reference it is proposed that the County Council be recommended that the amendments set out below are made:

### **Terms of Reference**

To be responsible to the Governance Committee for:

1. Appointment of professional and specialist investment advisers and managers on a consultancy basis.
2. Consideration of the recommendations of the advisers and managers including the Fund's investment strategy.
- 3. Determination of and overseeing the County Council's *Pension Fund's* investment policy **strategy and oversight of the delivery of the strategy by the Local Government Pension Scheme (LGPS) ACCESS Joint Committee.****
- 4. *Consideration of and response to the recommendations of the LGPS ACCESS Joint Committee.***
5. Consideration of and response to key scheme governance, funding and administration issues, including responses to statutory consultations.
6. Overseeing the management of the Pension Fund investments.
7. Monitoring the Fund's performance.
8. Ensuring that arrangements are in place for consultation and communication with stakeholders as necessary.
9. Establishing member groups to review aspects of investment strategy or to undertake work on key themes and to report back to the Panel.

## **3. Equality Impact Report**

- 3.1. An Equality Impact Report is not required for this decision as it concerns the Council's internal arrangements.

## **4. Resource Implications and Value for Money**

- 4.1. Not applicable.

**5. Risk Management/Crime and Disorder/Human Rights Implications**

5.1. Not applicable.

**Katharine Eberhart**

Director of Finance, Performance and Procurement

**Contact:** Steve Harrison 03302223391

**Background Papers**

None

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