

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 26 July and 11 September 2012. Attendances:

Councillor Jones (Chairman) (2)
Councillors Birch (1), Elkin (2), Field (1) Glazier (2), Tutt (1) and Webb (1)

1. Senior Officer Structures

1.1 The changes to the senior structures agreed by the Governance Committee in March 2011 delivered savings of over £400,000/pa. These proposals build on those savings and will help deliver the 20% reduction in support costs over 3 years proposed to Cabinet as the basis for modelling at its meeting on 24 July 2012. The exact figures will not be known until the detailed work on consolidation and grading of posts is completed and will be built into the development of the 2013/14 budget and medium term financial plan through Reconciling Policy, Performance and Resources.

1.2 The final allocation of the ring fenced public health grant is not yet known. Once confirmed by Government the allocation of resources to priorities will be agreed through the Reconciling Policy, Performance and Resources round.

1.3 The cost of external support for the recruitment is expected to be in the order of £10-20,000 but will not be confirmed until procurement is completed. It is anticipated that by combining the various elements the overall cost will be reduced.

Our Objectives

1.4 The state of the County report considered by Cabinet on 24 July 2012 set out the policy context and the scale of the financial challenge in which the Council will need to work within in the medium term. The Council is clear about the priorities:

Our Promise

We will, in partnership, make the best use of resources to:

- help make East Sussex prosperous and safe;
- support the most vulnerable people;
- improve and develop roads and infrastructure;
- encourage personal and community responsibility;
- deliver the lowest possible council tax; and
- be a voice for East Sussex, listening and answering to local people.

1.5 Council has also agreed the approach we will take to delivering the Promise. In essence it requires us to:

- strengthen the way the council works as a single entity with strong political and managerial leadership building and delivering a collective endeavour which uses all our resources to deliver our priorities
- embed our approach to commissioning to deliver the priority outcomes our residents and business need
- strengthen our partnership working in all we do
- take a businesslike approach

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- ensure we have effective support services and maximise the opportunities of partnership working across the local public sector
- engage effectively with the residents, communities and businesses.

1.6 Reconciling Policy, Performance and Resources (RPPR) will continue to be our core business planning process and it is supported by a number of key work streams that are in place to underpin this approach. These include developing an East Sussex approach to strategic commissioning, service reviews, agile working, customer focus work, SE7, Thrive, Families with Multiple Problems and a range of other service specific programmes detailed in the Council Plan.

Officer Structures

1.7 In March 2011 the Committee agreed a revised senior officer structure and recognised the scale of the changes that were expected over the following months in relation to schools, health reforms, Police and Crime Commissioners (PCC) and the planning system would make any structure time limited. The changes continue to evolve, some at the pace expected and others, including decisions by schools about future structures and the election of the PCC, at a slower pace. What has become increasingly clear locally, and across both the counties and local government more widely, is that there is no single optimal officer structure. Each authority needs an arrangement that reflects local circumstances and priorities and that what is crucial to success is behaviour, values, resilience and the flexible deployment of skills, tools and expertise to the priorities.

1.8 Significant structural change inevitably has a major impact on any organisation and has the potential to divert attention, resource and energy away from both service delivery and key change work. The proposals agreed by the Committee seek to strike the balance between the need for change to ensure officer structures support the work needed and the potential disruption any restructuring causes. Managing the changes at the same time as developing our plans through RPPR and maintaining support services will be a key focus of the design and delivery of the implementation programme.

1.9 For East Sussex, the key building blocks remain effective Children's Services, Adult Social Care and Economy, Transport and Environment with a strong corporate entity, combined with clear strategic management and effective support services. These three service blocks provide clear accountability. It is proposed to retain the leadership of these three areas at Chief Officer level as part of a strong managerial team for the whole authority.

1.10 The transfer of Public Health is well advanced in East Sussex and once the resources to be transferred to East Sussex County Council (ESCC) are confirmed, arrangements for public health contracts currently with East Sussex Health Trust (ESHT) are resolved and the Public Health England architecture clear the preparatory work already underway, RPPR will be used, through joint work with the Public Health Partnership and SE7, to consider the most appropriate structural arrangements.

1.11 Given the scale of both the financial and organizational challenge laid down in the State of the County report we need to improve our core support services to:

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- provide better strategic finance capacity. The commissioning approach means we need to be able to develop new financial models to support new approaches to delivering services;
- provide high quality specialist and strategic resource support to the business. We will have less resource and need to manage it even more tightly. This requires accurate, timely resource information;
- reduce the effort put in to 'routine' financial processes (transactions/delivering budget monitoring);
- streamline business processes to avoid duplication;
- improve our ability to trade effectively; and
- reduce cost

1.12 The service reviews of Finance, ICT and Property that are being undertaken by the Interim Director of Corporate Resources, have identified the need for a radical change to the way we organise our support services if the commissioning discipline and, where we are the best providers, service delivery are to be effectively supported. The Personnel and Training service is subject to a service review (being led externally) and it was agreed to await the outcome of the review to see what changes, if any, are needed. Therefore, the only change agreed at this time is that the management of Personnel and Training will be integrated with the other corporate resources.

1.13 Careful consideration has been given to the different options for management and leadership of the support services and we are currently consulting on the proposal to consolidate:

- the services currently in the Corporate Resources Department (Finance and Assurance, Property, ICT and the procurement function shared with Surrey CC);
- the support services currently based in departments; and
- Personnel and Training into a new single department called Support Services.

1.14 The detailed timelines will need to be developed, but the aim, should the proposals go ahead, is to have the new structures in place by the end of the calendar year. The line management of Personnel and Training would remain with the Assistant Chief Executive until the new department is created.

1.15 The consolidation work is not just about officer structures. It is equally about ensuring we have the right infrastructure (the reprocurement of SAP and Carefirst are key strands) and streamline our complex and, in places, duplicated processes. The programme will deliver improved quality of support services and our capacity and ability to deliver core strategic advice at the right time and place. Therefore, we have a wider programme to deliver these objectives:

- a) Service reviews for Finance, ICT, Property, and Personnel and Training – using a Commissioning approach to focus first on the outcomes we need to deliver. Finance, ICT and Property are well underway. Personnel and Training will commence later in the year (scoping now). Where these reviews have identified action to deliver improvement it is being implemented.
- b) Improving tools - systems investment and development – this must take place in parallel to support the necessary changes. We are taking opportunities to reprocure systems that support the outcomes we need to

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deliver. The SAP development to provide more effective analysis of financial information is underway and will ensure there will be less effort needed to produce financial reports and modeling information.

1.16 As Members are aware there is now a vacancy in the Economy Transport and Environment management team as the Assistant Director - Environment has left the County Council to take up a new post. Given the key role in delivering the Link Road, revised Waste & Minerals Strategy and road safety it is intended that recruitment to the post will reflect the financial context, and be made on a fixed term contract after which the need for senior management capacity will be reassessed.

Leadership of Support Services and Partnership Working

1.17 Given the scale of the proposed consolidation, the importance of effective support services and robust partnership working and strengthened corporate overview, the Committee agreed to delete the existing Director of Corporate Resources post and create a Chief Operating Officer to lead the new Support Services department. This new role will underline the change in approach to both support services and partnership working in future. The postholder will need to have strong business, commissioning and partnership skills and a good understanding of local authority business and local markets. The remit will have a strong external role to drive partnership working within East Sussex County Council and with local public sector partners and SE7. This will require a broad skill set and, although financial ability will be a key skill, it is proposed to recruit without requiring the candidates to be accredited accountants. If a decision is made to appoint someone who cannot be the s151 officer, that responsibility can be located at Deputy Director or Assistant Director level, as others' and our own recent experience has shown can work effectively.

1.18 Given the involvement of Personnel and Training in these changes, and the nature of the appointment, it was agreed, through usual procurement arrangements, to appoint external specialist recruitment consultants to recruit to the new post and provide any external support needed for the consolidation work.

Appointment Processes

1.19 The County Council has well established and effective recruitment processes which include Member involvement in both Chief Officer and Assistant Director posts. The Committee agreed that this will remain the position where there is a competitive process involved and/or external candidates. In relation to potential changes to roles of already appointed Assistant Directors where no competitive process is involved, the Committee agreed to recommend the County Council to delegate authority to the Chief Executive to appoint to Assistant Director posts. There will be a technical assessment involved in the recruitment to all the consolidated resources senior posts.

1.20 The Localism Act introduced measures which are intended to ensure that Members take decisions on pay policies, particularly those affecting senior pay. The guidance note to the Act sets out that Members should be offered the opportunity to vote before remuneration packages of a certain level are offered. The County Council in March 2012 delegated this function to the Governance Committee, and set the level at packages of over £100k, provided that the existing grade bands and terms and conditions are applied. The Committee has resolved that the Chief

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Operating Officer post will be Band B, Chief Officer Grade and therefore in accordance with the existing grade bands and terms and conditions.

Next steps

1.21 The implementation of the structure will be subject to the Council's formal processes including, where appropriate, consultation with staff and operation of our "Managing Change" suite of personnel policies. It is not intended to consult further on the proposed changes in relation to the Chief Officer structure.

1.22 Detailed implementation plans will be developed and, subject to the results of the consultation, it is anticipated that the whole change will be completed by December 2012.

1.23 The Committee **recommends** the County Council to

- ☆ delegate authority to the Chief Executive to appoint to Assistant Director posts where there is no competitive process involved.

2. Review of Flexible Retirement Policy

2.1 The Flexible Retirement Policy was introduced in 2008 with the aim of enabling employees to phase into retirement, both financially and socially, making a gradual adjustment at the end of their working lives to avoid the "cliff edge" of compulsory retirement at age 65.

2.2 For the organisation, the main aims were to enable retention of experienced staff and to improve succession planning. At that time there was a concern that the combination of a rapidly maturing workforce, a compulsory retirement age and a shortage of skills in some key areas would result in a sudden loss of skills and experience which would not be adequately replaced by recruitment from the market. Savings generated could be used to offset pension strain costs in the short term and to remodel jobs and service provision in the medium term to improve resilience.

2.3 The abolition of the default retirement age (DRA) on 1 October 2011 prompted the policy review, because it removed the County Council's ability to enter into flexible retirement agreements with an enforceable end date.

2.4 With the removal of a compulsory retirement age, both the "cliff edge" and succession planning arguments in support of the original policy have been undermined. There is no longer any certainty regarding an employee's planned retirement date, whether they are on a flexible retirement agreement or not.

The Policy Review

2.5 The policy review comprised a survey of the 52 employees currently on flexible retirement agreements and their managers, an Equality Impact Assessment (EqIA) and consultation with Personnel and Training (PAT) personnel officers with experience of helping managers to implement the policy.

2.6 The key findings of the policy review were as follows:

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- a) overall, the policy has worked well for both employees and managers to date, although the latter have more reservations, particularly about the business case viability of these agreements following the abolition of the DRA
- b) flexible retirement is a more attractive option to the employees surveyed following the abolition of the DRA, suggesting those already on flexible retirement agreements may seek to prolong them
- c) of the reasons given for opting for flexible retirement, employees ranked financial adjustment fourth after improving work/life balance, adjusting socially to retirement and coping better with caring responsibilities respectively
- d) PAT personnel officers reported that a reduction of 20% from 5 to 4 working days per week was common, but not really in the spirit of flexible retirement because it does not:
 - prepare an individual for retirement, either socially or financially, and
 - it has the potential for individual employees to gain financially, as pension plus part time earnings could exceed former salary ;
 - deliver much in the way of savings for the organisation to remodel jobs or services in the medium term, thus undermining the ability to build a sound business case
- e) the EqIA concluded that the policy discriminates against those who form the majority of the Council's workforce

Other Relevant Factors

2.7 The economic climate has changed significantly since 2008 with corresponding changes to the Council's organisational priorities and, in view of rising unemployment, it is better able to recruit from the market to fill skills gaps.

2.8 Since 2008, the Voluntary Severance Scheme has been introduced and is now permanently available to all employees. It provides another option for employees over 55, who are reviewing their social and financial priorities as they approach retirement, to access their pension benefits.

2.9 The suite of Flexible Working Policies was reviewed recently and, as part of the Council's strategy to support those with caring responsibilities, the right to request flexible working was extended to employees who do not have a statutory right to request it.

2.10 The Committee **recommends** the County Council:

☆ to cease to operate a Flexible Retirement Policy with immediate effect.

3. The School Governance (Constitution) (England) Regulations 2012

3.1 The School Governance (Constitution) (England) Regulations 2012 came into effect from 1 September 2012. This means:

- (a) Governing Bodies being established after 1 September 2012 will have to constitute under the new regulations.
- (b) Existing Governing Bodies can choose to reconstitute under the new regulations but do not have to *unless* they are making changes which require a new Instrument of Government which takes effect after 1 September 2012.

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3.2 The Regulations enable smaller Governing Bodies, with a large proportion of Governors able to be appointed on the basis of their skills rather than who they represent.

3.3 The key changes are:

(a) Governing Bodies now need to be a minimum of only seven members, to include:

- At least two parent governors
- The head teacher (unless they choose to resign the office of governor)
- One staff governor
- One local authority (LA) governor

(b) Community governors no longer exist in the same way. Instead, Governing bodies may “co-opt” as many governors, from whatever background, as they consider necessary (as long as certain rules are met on the proportionality of staff governors and for Foundation and Voluntary Schools – see paragraphs 13(5) and 14 of the Regulations). Co-opted Governors have the same status and voting rights as other Governors. This change provides an opportunity for Governing bodies to appoint Governors on the basis of their skills and experience.

3.4 All Governing Bodies constituted under the new Regulations can only have one LA Governor, whereas Community School Governing Bodies constituted under the previous regulations had to have one fifth of their Governors from the LA and other schools could choose to have as many as they wished as long as the total did not exceed one fifth (apart from Voluntary Aided Schools which could only have up to one tenth).

3.5 Where an existing Governing Body is reconstituting and currently has more than one LA Governor wishing to continue, the Regulations provide that the one with the longest continuous service will automatically retain the office (if the governors were appointed at the same time, they will draw lots). The Governing Body could retain any other LA Governor(s) if it wished by co-opting them, but the formal link with the Local Authority would have ceased.

3.6 There is no change to the Local Authority’s powers to remove an LA Governor from a Governing Body if it wishes.

Changes affecting the Governors’ Panel

3.7 For Governing Bodies that have not yet reconstituted under the new Regulations, the power of the Local Authority to appoint an LA Governor remains unchanged.

3.8 For Governing Bodies constituted under the new Regulations, the Local Authority will no longer have the power to appoint the LA Governor. Instead the LA must nominate a candidate and the Governing Body will make the appointment.

3.9 This will necessitate a change to the Terms of Reference of the Governors Panel’s as set out in paragraph 3.13 to the report which has been circulated separately to Members. Also, in practical terms, when applications are put before the

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Panel from the November 2012 meeting onwards, Governor Services will indicate whether the Panel is being asked to appoint or nominate the candidate. Where the Panel is making a nomination, Governor Services will submit the name of the candidate to the Governing Body for it to decide whether to appoint or not.

3.10 It is not considered likely that a Governing Body would not appoint a nominee from the local authority as, in practice, Governor Services works in a collaborative way with schools to ensure that potential candidates have met with the approval of the Head Teacher and the Chair of Governors before the application is put before the Panel. However, if a nomination was rejected, the Panel would be asked to bring forward a further nomination. The 2012 Regulations do not specify any limit to the number of times this could occur.

Next Steps

3.11 The powers, roles and responsibilities of the Local Authority in relation to schools, and the potential consequences of failure to both schools and the authority, were considered by a Joint Member Reference Group on the 16 July 2012. In particular, they looked at how the Local Authority could work with and support school governors to mitigate risk. The Reference Group concluded that LA governors had a particularly important role to play. Accordingly, the Panel might want to consider, alongside Governor Services, how the authority could be more proactive in recruiting and supporting LA Governors. This could mean matching LA Governors to schools based on skills rather than on existing relationships and/or developing a pool of approved candidates from which nominations could be made. A discussion paper will be brought to the Governors Panel in due course.

3.12 There are no financial implications arising from this report. The appointment of Authority Governors is a statutory function of the Local Authority (LA) and falls within the remit of Governor Services.

3.13 The Committee **recommends** the County Council to:

☆ approve the amended the Terms of Reference of the Governors Panel as set out below:

Terms of reference

- i) For School Governing Bodies constituted under The School Governance (Constitution) (England) Regulations 2007, to appoint and remove governors to those places allocated to the Local Authority;
- ii) For School Governing Bodies constituted under The School Governance (Constitution) (England) Regulations 2012, to nominate and remove governors to those places allocated to the Local Authority;
- iii) To consider and make decisions relating to the recruitment of governors; the payment of expenses to governors; the training of governors; and any other matters that may be referred to the Panel by the Cabinet or the Governance Committee.

4. Non Attendance at Meetings

4.1 Section 85 of the Local Government Act 1972 provides that if a Member fails, throughout a period of six consecutive months to attend a meeting of the authority then they cease to be a member of the authority unless the failure was due to some reason approved by the Authority before the expiration of the period.

4.2 Councillor Gadd is incapacitated due to poor health and has therefore been unable to attend any meeting of the authority for a period in excess of four months. Councillor Gadd is unlikely to be in a position to attend a meeting in the near future and has requested that the Council considers granting him a dispensation.

4.3 As a result of Councillor Gadd's ill health it is unlikely that he will be able to attend a meeting in the coming months.

4.4 The Committee **recommends** the County Council:

☆ to grant a dispensation to allow Councillor Gadd to remain qualified until such time as he is recovered and is able to attend a meeting of the Council

Peter Jones
Chairman

11 September 2012

