GOVERNANCE COMMITTEE



TUESDAY, 2 MARCH 2021

10.00 AM (OR AT THE CONCLUSION OF THE CABINET, WHICHEVER IS THE LATER) ROOM CC2 – COUNTY HALL, LEWES

++Please note that this meeting will be taking place remotely++

MEMBERSHIP - Councillor Keith Glazier (Chair)
Councillors Nick Bennett, Godfrey Daniel, Rupert Simmons and David Tutt

AGENDA

- 1 Minutes of the meeting held on 26 January 2021 (Pages 3 4)
- 2 Apologies for absence
- 3 Disclosures of interests

Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.

4 Urgent items

Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.

- 5 Coronavirus meeting arrangements (to follow) Report by Assistant Chief Executive
- 6 Pay Policy Statement (Pages 5 14) Report by Chief Operating Officer
- 7 Staff Leave Policy Election Duties (Pages 15 16) Report by Chief Operating Officer
- 8 Local Manager Group Pay Offer (Pages 17 18) Report by Chief Operating Officer
- 9 Any other items previously notified under agenda item 4

PHILIP BAKER
Assistant Chief Executive
County Hall, St Anne's Crescent
LEWES BN7 1UE

22 February 2021

Contact Andy Cottell, 01273 481955, Email: andy.cottell@eastsussex.gov.uk

NOTE: As part of the County Council's drive to increase accessibility to its public meetings, this meeting will be broadcast live on its website. The live broadcast is accessible at: www.eastsussex.gov.uk/yourcouncil/webcasts/default.htm

Agenda Item 1

GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held at Committee Room, County Hall, Lewes on 26 January 2021.

PRESENT Councillors Keith Glazier (Chair), Nick Bennett, Godfrey Daniel, Rupert Simmons and David Tutt

Councillor Bentley spoke on item 5 (minute 35)

34 MINUTES OF THE MEETING HELD ON 8 DECEMBER 2020

34.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 8 December 2020 be confirmed and signed as a correct record.

35 BYLAWS FOR LOCAL NATURE RESERVES

- 35.1 The Committee considered a report by the Director of Communities, Economy and Transport regarding the delegation of powers to make bylaws in relation to land at Church Wood, Ninfield.
- 35.2 The Committee RESOLVED to recommend the County Council to:
- (1) agree the delegation to Ninfield Parish Council of the Council's power under sections 20 and 21(4) of the National Parks and Access to the Countryside Act 1949 to make bylaws in relation to land at Church Wood designated as a local nature reserve; and
- (2) delegate authority to the Director of Communities, Economy and Transport to enter into agreements and to take any necessary actions in respect of the above recommendation.



Agenda Item 6

Report to: Governance Committee

Date of meeting: 2 March 2021

By: Chief Operating Officer

Title: Pay Policy Statement

Purpose: To consider the pay policy statement for 2021/22

RECOMMENDATIONS

The Governance Committee is recommended to recommend to the County Council the updated pay policy statement for 2021/22 as set out in Appendix 1.

1 Background

- 1.1 The Localism Act 2011 requires local authorities to formulate and publish a pay policy statement on the pay of its Chief Officers and the relationship between these pay levels and the rest of the workforce, excluding schools. This policy statement has to be approved annually by full Council by 31 March.
- 1.2 At its meeting on 27 March 2012, County Council agreed that the Governance Committee should have formal responsibility for the approval of posts at Chief Officer, Deputy Chief Officer and Assistant Director level with a remuneration package of £100,000 or more, provided the existing grade bands and terms and conditions are applied and any proposed exceptions to these are reported to full County Council. The actual appointment decision will continue to be made using existing delegations. Any proposed exceptions to this would require the approval of the full County Council.

2 Pay Policy Statement

- 2.1 The Localism Act 2011 requires local authorities to prepare an annual pay policy statement relating to the remuneration (total pay package) of its Chief Officers, as defined by statute, Deputy Chief Officers (and, by definition, Assistant Directors), the Monitoring Officer and its lowest-paid employees, excluding schools. The pay policy also has to state the relationship between the remuneration of Chief Officers and the remuneration of its employees who are not Chief Officers.
- 2.2 The Hutton report of Fair Pay in the Public Sector recommended the publication of an organisation's pay multiple as a means of illustrating the relationship between the remuneration arrangements for Chief Officers in comparison with the rest of the non-schools workforce in the form of a ratio. The ratio is currently (March 2020) 6.89 to 1 (down from 7.14:1 previously). The pay multiple is published on our website with the Pay Policy Statement and will be updated in March 2021.
- 2.3 It is necessary to include definitions and the authorities' policies relating to levels and elements of remuneration including all additional payments and benefits in kind. The statement must also indicate the approach to the payment of Chief Officers on ceasing employment, including eligibility for the award of additional pensionable service and on the engagement or re-engagement of Chief Officers previously made redundant or accessing a local government pension.
- 2.4 The Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 placed a new requirement on all employers with 250 or more employees to publish gender pay data on the gov.uk website by 30 March each year. The median gender pay gap for 2020/21 is 10.7%; the gender pay report for East Sussex County Council is published on our website, along with the Pay Policy Statement.

- 2.5 The statutory provisions governing exit paypayments to local government workers are in the process of reform. There are three separate elements:
- (i) Exit payment cap the Restriction of Public Sector Exit Payments Regulations 2020 came into force on 4 November 2020, limiting the total value of exit payments to£95,000. However, on 12 Fenruary 2021 HM Treasury published a Treasury Directive revoking the legislation implementing the cap with immediate effect;
- (ii) Proposals to require high earners to repay severance payments if they secure re-employment in the public sector within 12 months these proposals have previously been consulted on but there has been no further indication of if and when this proposal will be implemented, and;
- (iii) Reform of the Discretionary Compensation Payments Regulations and Local Government Pension Scheme Regulations to place additional restrictions on severance payments and limit the amounts an employer can contribute to pension strain costs where an employee aged 55 or over draws their pension early as a result of exiting. These include capping severance payments at a maximum of 3 weeks' pay per year of service or 15 months' salary and imposing a maximum salary level on which calculations for severance pay can be based (currently £80,000). The consultation closed on 9 November 2020.
- 2.6 The existing pay policy statement is a valid statement of the County Council's remuneration arrangements at present. It will need to be updated to reflect the outcomes of the above consultations once known. Attached at Appendix 1 is a copy of the pay policy statement for 2021/22.

3. Recommendations

3.1 The Governance Committee is recommended to recommend to the County Council the updated pay policy statement for 2021/22 as set out in Appendix 1.

Phil Hall Chief Operating Officer

Contact Officers: Sarah Mainwaring, Head of HR & OD

Tel. No. 01273 482060

Email: sarah.mainwaring@eastsussex.gov.uk

Ruth Wilson, Lead Consultant – Pay and Reward Tel No 01273 481762

Email: ruth.wilson@eastsussex.gov.uk

Pay Policy Statement



Date: February 2021

Approved by East Sussex County Council at its meeting on

Document summary

Policy on the pay of Chief Officers, Deputy Chief Officers and Assistant Directors in relation to the rest of the local government workforce, excluding schools.

Enquiries

HR Transition Team, 01273 481867

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Key points

- The annual pay policy statement will be approved by full Council each year and published on the Council's website by 31 March.
- Elected members will take decisions on all matters concerning the pay of Chief Officers and Deputy Chief Officers through the Governance Committee including approval of any annual pay award. This Committee also approves any annual pay award offered to managerial staff employed on local pay and conditions.
- The Chief Officer salary bands are published on the County Council's website, along with the salary scales for all other staff groups.
- The County Council uses job evaluation to determine the grade of its posts and has adopted two schemes; the HAY scheme for managerial posts and the NJC (local government) Single Status scheme for staff below management level.

1. Background to the pay policy statement

- 1.1. The Localism Act 2011 requires local authorities to prepare a pay policy statement for each financial year. This statement has to be approved by the full County Council, annually.
- 1.2. The statement must set out the authority's policies for the financial year relating to the remuneration of its Chief Officers, the remuneration of its lowest paid employees and the relationship between the remuneration of its Chief Officers and the remuneration of its employees who are not Chief Officers.

2. Definitions

- 2.1. **Chief Officers:** Statutory and non-statutory Chief Officers of the County Council, all of whom report to the Chief Executive as the Head of the Authority's paid service. This definition is based on the interpretation provided in the Localism Act with reference to the Local Government and Housing Act 1989.
- 2.2. The Localism Act specifies that the **Monitoring Officer** is also included. This Officer is paid at Assistant Director level. (See paragraph 2.3, below).
- 2.3. **Deputy Chief Officers**: All posts reporting directly to a Chief Officer, whether paid on Deputy Chief Officer pay bands or Assistant Directors paid on Local Managerial Grades. This definition is based on the interpretation provided in the Localism Act with reference to the Local Government and Housing Act 1989.
- 2.4. **Lowest paid employees**: all staff paid on the lowest salary point of the local single status pay spine; currently (March 2021) £17,842 per annum for full time staff. All non-managerial employees are paid on a pay spine which commences at this level, hence the selection of this point as the lowest salary point.
- 2.5. The Localism Act defines **remuneration** as including; salary under a contract of employment or payments made under a contract for services, bonuses, charges, fees or allowances, any benefits in kind, any enhancement to pension entitlement and any amounts payable on the Chief Officer ceasing to hold office.

2.6. The publication of the 'pay multiple' as a determinant of the relationship between the pay of Chief Officers and that of the rest of the workforce was recommended by the Hutton report on Fair pay. This is a calculation in the form of a ratio between the median average earnings across the organisation and the highest paid employee. The pay multiple will be published on the County Council website and monitored annually.

3. Remuneration of Chief Officers

- 3.1. The Chief Executive, Directors and Deputy Directors of the County Council are paid on local pay bands for Chief Officers and Deputy Chief Officers. These posts are evaluated using the Hay job evaluation scheme and are paid on the relevant band according to the size of their job as determined on the job evaluation scheme.
- 3.2. Assistant Directors are defined as 'Deputy Chief Officers' for the purposes of the Localism Act as they report directly to Chief Officers. These posts are also evaluated using the HAY job evaluation scheme and paid on the County Council's Local Managerial Grades (LMG). All the County Council's managers are paid on these scales and have a common scheme of terms and conditions of service.
- 3.3. The County Council's salary scales are published on the County Council website https://www.eastsussex.gov.uk/jobs/benefits/pay/
- 3.4. In accordance with standard council policy, new employees are normally appointed to the minimum point of the pay scale unless there is a good reason for appointment at a higher point on the scale. This would be approved at a senior level and, in the case of Chief Officer appointments, by the Chief Executive in consultation with the Lead Member.
- 3.5. Incremental progression within a salary band would normally take place on 1 April each year until the maximum point of the scale is reached and is subject to the achievement of agreed operational targets. This is standard policy for all managers across the County Council.
- 3.6. Annual pay awards for Chief Officers and Deputy Chief Officers are subject to local pay determination by the Governance Committee. Annual pay awards for managers paid on Local Managerial Grades, including Assistant Directors, are negotiated with UNISON annually and approved by the Governance Committee. These pay awards are determined with reference to economic indicators including the rate of inflation (CPI), turnover rates, level of other public sector pay awards and market position. The local pay award for these staff groups was 2.75% in 2020/21. The pay award for 2021/22 will be determined by the Governance Committee following negotiations with UNISON.

4. Remuneration of employees who are not Chief Officers

4.1. The remuneration of employees below management level is subject to the 'National Agreement on Pay and Conditions of Service of the National Joint Council for Local Government Services' commonly known as the 'Green Book'.

- 4.2. The 'Green Book' contains a national basic framework for conditions of service but also allows for local variation on certain specified conditions of service, including the pay structure. The County Council and the local trade unions have been working closely together over a number of years to implement these local variations via Local Collective Agreements. In broad terms, these have provided for a range of changes to terms and conditions of employment, including the following:
 - the adoption of the National Joint Council Job Evaluation Scheme for determining the grade of posts on the local single status pay spine;
 - the implementation of local East Sussex Single Status pay scales containing 13 non-overlapping grades with consistent incremental steps. A copy of the current set of pay scales is published on the County Council's website.
 - a harmonised arrangement of paying up to two additional increments for work undertaken at weekends within the normal working week.
- 4.3. The locally negotiated pay awards, which mirror the nationally negotiated pay awards, have been applied to the local single status pay scales since their introduction in 2003. Consequently, a pay award of 2.75% was applied to the local Single Status pay scales in 2020/21. This also takes account of the National Living Wage.
- 4.4. Staff, who are not Chief Officers, working in Education Advisory roles or as Educational Psychologists are paid according to the national salary framework for Soulbury staff with associated terms and conditions.

5. Other elements of remuneration

- 5.1. The County Council does not operate a formal performance-related pay system and therefore there are no bonus payments, earn back systems or other regular payments paid to Chief Officers beyond the annual increments referred to in paragraph 3.5 above.
- 5.2. The County Council's honorarium scheme applies to all staff, including Chief Officers, and rewards the performance of additional duties and responsibilities over and above an employee's normal workload for a temporary period. It includes reward for an exceptional contribution to a project or piece of work and for high standards of personal achievement and quality of work. There are three levels of payment against specified criteria and a payment of 2.5%, 5.0% and 7.5% of salary may be awarded for the period during which the additional duties/responsibilities were undertaken. The decision to award an honorarium payment to a Chief Officer would be taken by the Chief Executive and in the case of the Chief Executive, the Leader of the Council.
- 5.3. The County Council does not award additional fees to Chief Officers for undertaking local election duties.
- 5.4. The County Council's special merit payment scheme, which allows a flat rate payment of up to £1000 in recognition of a particular "one-off" contribution or a substantially increased workload, applies to all staff, including Chief Officers. The decision to award a merit payment to a Chief Officer would be taken by the Chief Executive and in the case of the Chief Executive, the Leader of the Council.
- 5.5. Out of pocket expenses incurred during the course of employment will be met by the County Council provided that the expenses are directly related to employment and are approved as reasonable. This is in line with standard County Council policy.

- 5.6. The standard County Council mileage payments are also paid to Chief Officers for mileage travelled on Council business. These are 45p per mile for contracted car users, 25p per mile for optional car users, 20p for travel in connection with training and 12p per mile for leased car users.
- 5.7. The County Council operates a car leasing scheme which is open to all employees but only attracts an employer contribution for staff who are expected to travel at least 4000 business miles per annum and leased car users are then reimbursed the 'fuel' element of their business travel. The employer contribution is £1600 per annum and the higher contribution for travel in excess of 7500 miles per annum is £2675.
- 5.8. The County Council has a market supplements policy that provides for an additional payment to aid the recruitment and retention of staff that work in areas where there is evidence of a skills shortage. These are rarely applied and have to be approved by the Chief Executive and relevant Chief Officer.

6. Relationship between the remuneration of Chief Officers and that of the wider workforce

- 6.1. Apart from the differences in pay scales as described in paragraph 3 above, there are minimal differences in entitlement to remuneration between Chief Officers, Deputy Chief Officers and the rest of the workforce as the County Council is working towards harmonisation of terms and conditions of service between staff groups. The main differences between the remuneration of employees below managerial level and the local managerial grades are:
 - i) Managers employed on local terms and conditions are not entitled to payment of any additional allowances beyond the basic rate of pay whereas employees below management level are able to claim for regular working outside standard working hours, for example, overtime or weekend working increments.
 - ii) Managers employed on local terms and conditions have their annual pay award approved locally by the Governance Committee, as described in paragraph 3.6, whereas employees below management level usually receive an award in line with the national pay award for local government staff.
- 6.2. The 'pay multiple' will be calculated each year and will be published on the County Council's website with other pay information suggested in the code of recommended practice on data transparency. Historical information will be retained in order to monitor the pay multiple over time.

7. Tax Avoidance

7.1. The Council is committed to tackling all forms of tax avoidance and therefore encourages the direct employment of staff and pays them via the payroll system. In a few circumstances where it is more appropriate to engage people on a self-employed basis, the Council offers a contract for services and follows guidelines to ensure that the correct employment status is identified. When a need arises for an 'interim' appointment, recruitment is normally secured using the Council's agency contract arrangement.

8. Appointment or Re-engagement of Chief Officers

- 8.1. Posts with proposed salary packages greater than £100,000 will be approved by the Governance Committee prior to appointment, provided the salary package being considered is in line with existing pay scales that also apply to other Chief Officers and Deputy Chief Officers undertaking similar duties and responsibilities. Chief Officers and Deputy Chief Officers will be appointed on one of the established grade bands appropriate to the post. Any proposed exceptions to this would require the approval of the full County Council.
- 8.2. The policy for appointing or re-engaging any member of staff who has previously been made redundant by this authority, or who is in receipt of a local government pension is that there should be a presumption against re-employment of employees for a period of 12 months following the end of their employment. However, in exceptional circumstances employees may be re-employed by the Council. In approving a re-employment of a Chief Officer, Members will need to be satisfied that:
 - the employee is not being re-employed in a role or capacity which is broadly similar to the role from which they were made redundant;
 - the rate of pay applied to the work undertaken by the re-engaged employee should be appropriate to the work to be done and not the grading which applied to the employee prior to the end of their current contract;
 - the employment should be for a fixed term, not exceeding one year, unless there are exceptional circumstances, and the arrangement must provide financial / operational advantage to the Council.
- 8.3. If an officer in receipt of a local government pension is employed or re-employed it is our policy to apply the Local Government Pension Scheme rules on abatement. This ensures that the pension is abated if the combined income exceeds that of the former employment. There are currently some exceptions to this where flexible retirement has been approved in accordance with Local Government Pension Scheme provisions and a business case having been approved at Chief Officer level. Following a review of this policy the County Council has ceased to have a Flexible Retirement Policy and no new applications are accepted.

9. Termination of Employment of Chief Officers

9.1. Any compensation payments made to Chief Officers and Deputy Chief Officers on ceasing to hold office or to be employed by the authority will be made on the same basis as any other employee in line with the County Council's 'managing change' policies.

- 9.2. The Local Government Early Termination of Employment (Discretionary Compensation) England and Wales Regulations 2006 require local authorities to formulate and publish their policy on making discretionary payments on early termination of employment within the parameter of up to 104 weeks' pay. In the event of an employee being made redundant or applying for voluntary severance, the County Council's managing change policy contains details of the circumstances in which a redundancy payment is payable. The payment is calculated on the basis of the statutory redundancy payment multiplied by 1.75. This equates to a maximum of 52.5 weeks' pay. For the purposes of calculating the enhanced (non statutory) proportion of this payment, the employee's gross weekly salary will not be considered to include pension contributions made by the employer, or any other payments that are not normally made direct to the employee.
- 9.3. The Local Government Pension Scheme regulations provide for access to pension benefits without reduction from the age of 55 in the event of an employee being made redundant. The managing change policy stipulates that where a proposal is in place for a Chief Officer, Deputy or Assistant Director to be made redundant, this must be approved by the Chief Executive.
- 9.4. Where a severance package for an individual employee exceeds £30,000 it must be approved by the Chief Executive. A severance package that exceeds £100,000 must be approved by the Governance Committee with the components of the package listed separately.



Agenda Item 7

Report to: Governance Committee

Date of meeting: 2 March 2021

By: Chief Operating Officer

Title: Staff leave policy – election duties

Purpose: To seek the Committee's agreement to the proposed approach to

granting staff paid leave to undertake election duties in May 2021.

RECOMMENDATIONS:

The Governance Committee is recommended to agree the proposed approach as set out in paragraph 2.4 of this report.

1 Background

- 1.1 It is now confirmed that local elections will take place on 6 May 2021. In East Sussex this includes the County Council elections as well as the Police and Crime Commissioner election and an election for half the seats on Hastings Borough Council, both of which were delayed from 2020 due to the Covid-19 pandemic.
- 1.2 There are added complexities in running the elections this year given ongoing Covid-19 restrictions which are very likely to remain in place in some form in May. These complexities include requirements for hygiene and social distancing measures and the additional staff needed to implement these safeguards.

2 Supporting Information

- 2.1 A key risk to the successful running of the local elections in the context of Covid-19 is the availability of adequate numbers of polling staff. The availability of staff is expected to be impacted by reduced willingness of previous staff to undertake roles at polling stations coupled with the need for additional staff to supervise social distancing and undertake the regular sanitising of equipment which will be required.
- 2.2 The District and Borough Councils, who administer the elections, have highlighted in their risk assessments that the availability of staff is a a significant issue. This assessment is based on the response they have received to date from contacting staff who have previously worked on elections, set against the increased staffing requirement.
- 2.3 At present, County Council staff wishing to undertake election duties are not entitled to paid leave for this purpose. The Council's Paid and Unpaid Leave Policy states that staff may request unpaid leave or alternatively, annual leave, flexi time or time off in lieu to carry out these duties.
- 2.4 Given the additional challenges presented by holding an election during Covid-19 restrictions, it is proposed to temporarily change this approach for the May 2021 election, enabling staff to request paid leave to undertake election duties in order to support Districts and Boroughs in ensuring adequate staffing of polling stations. It is proposed that this change only relates to the May 2021 elections in recognition of the very exceptional circumstances and that this does not set a precedent in relation to the leave arrangements for future elections.
- 2.5 Requests for paid leave for this purpose would be subject to approval by line managers to ensure that staff absence does not unduly impact on County Council services. The needs of the service will be the primary consideration.

3. Conclusion and Recommendations

3.1 The running of local elections in May in the context of ongoing Covid-19 restrictions presents additional challenges, including the availability of sufficient polling staff. In light of this, the Committee is recommended to agree the proposed approach to paid staff leave for election duties in May 2021 as set out in paragraph 2.4 of this report.

Phil Hall Chief Operating Officer

Contact Officer: Sarah Mainwaring, Head of HR & OD

Tel. No: 01273 482060

Email: sarah.mainwaring@eastsussex.gov.uk

Report to: Governance Committee

Date of meeting: 2 March 2021

By: Chief Operating Officer

Title: LMG Managers' Pay 2021/22

Purpose: To appraise the Governance Committee on the considerations in

relation to the LMG pay award for 2021/22.

RECOMMENDATIONS

The Governance Committee is recommended to defer consideration of the pay offer to LMG Managers until the level of the national NJC pay award for local government staff is known but without any obligation on the part of the County Council to accept parity with the national award.

1. Background

- 1.1. LMG Managers' pay is locally negotiated with Unison and reported to the Governance Committee on an annual basis, to approve the pay offer and any subsequent settlement. Two reports are therefore presented: the first seeking agreement to the offer and the second finalising the offer following local negotiations with Unison.
- 1.2. The national (NJC) pay award is relevant to these local negotiations as the decision made regarding the local pay offer needs to take into account the impact on the wider workforce and organisation as a whole. In addition, there is an overlap between LMG1 and the top of the Single Status pay range (SS13) which applies to specialist professional posts, such as Senior Practitioners in Adult Social Care and Health and Children's Services. It is therefore important to ensure that these two grades remain comparable and that the relativities do not widen too far.
- 1.3. Set against this background, the local pay award for LMG Managers has therefore historically mirrored the national award. Any consideration of a pay increase must, however, take into account the significant future financial challenges facing the Council and any savings targets arising, as well as having regard to any Government pay policy for the public sector.

2. Supporting information

2.1. As part of the Spending Review in November 2020, the government announced a public sector pay freeze with the exception of frontline NHS staff and public sector workers earning less than £24,000 p.a. In the context of local government pay, the Local Government Association (LGA) have noted that the government does not have a formal role in the decision making around the annual pay awards as these remain a matter for collective bargaining between the national local government employers and trade unions. As such, the government cannot impose a pay freeze on local government, or, by the same token, impose the proposed minimum increase of £250 for employees earning less than £24,000 p.a.

Pay Negotiations 2021/22

2.2 The national NJC unions (UNISON, GMB and Unite) lodged both a pay and a terms and conditions claim for local government ('Green Book') staff for 2021/22 on 15 February2021. The claims are for a substantial increase, with a minimum of 10%, on all spinal column points, as well as a range of conditions changes such as an increase to annual leave, a reduction in the working week and the introduction of a homeworking allowance. The National Employers will be meeting shortly for

an initial discussion. Negotiations will need to take account of a range of factors, including the significant hard work of staff in responding to the coronavirus pandemic as well as the financial effects and impact on the economy arising from the pandemic. Councils will be consulted during March and this feedback will be considered by the National Employers before responding to the unions.

3. Conclusion and Recommendations

3.1 Having consulted with our neighbouring Councils, the picture is currently mixed in relation to pay intentions for 2021/22. In light of the current uncertainties, the Governance Committee is recommended to defer consideration of the pay offer to be made to LMG Managers until the level of the national NJC pay award for local government staff is known but without any obligation on the part of the County Council to accept parity with the national award. Deferment will also mean that we will have more information about the pay awards being negotiated by other authorities.

PHIL HALL
Chief Operating Officer

Contact Officers: Sarah Mainwaring, Head of HR & OD Tel. No. 01273 482060

Email: sarah.mainwaring@eastsussex.gov.uk

Ruth Wilson, Lead Consultant – Pay and Reward Tel No 01273 481762

Email: ruth.wilson@eastsussex.gov.uk