

Report to: Governance Committee

Date of meeting: 15 November 2016

By: Assistant Chief Executive

Title: Amendment to the Constitution: Corporate Parenting Panel Terms of Reference, Quorum of Committees, Panels and other bodies and Scheme of Delegation to Officers

Purpose: To consider proposals to amend the Council's Constitution.

RECOMMENDATION: The Governance Committee is recommended to recommend the County Council to agree to the Constitution being amended as set out in paragraphs 1.4, 2.2 and 3.1 below.

Supporting Information

1 Corporate Parenting Panel Terms of Reference.

1.1 In April 2015 the Children's Homes (England) Regulations 2015 came in to force. These regulations introduced new provisions for the inspection of Children's Homes, which East Sussex County Council have complied with since that time.

1.2 However, the Terms of Reference listed in the Council's Constitution for the Corporate Parenting Panel need updating. As a result, the Governance Committee is recommended to agree recommending to the County Council that it approves altering the Terms of Reference of the Corporate Parenting Panel. This alteration will ensure the terms of reference reflect the updated requirements for home visits as set out in the 2015 regulations.

1.3 Prior to the 2015 regulations coming into force, the inspection of children's homes was carried out in-house via the Safeguarding Unit. Since then visits to children's homes have been carried out by an independent visitor from Aidhour, Executive Social Work Management Services.

1.4 It is proposed that the revised terms of reference will read as follows:

i) To discharge the statutory responsibility of the County Council by receiving copies of reports of monthly visits to East Sussex children's homes by an off-line manager.

(ii) To receive inspection reports concerning East Sussex homes.

(iii) To monitor progress in meeting high standards in residential care for children in East Sussex homes.

(iv) To monitor and participate in programmes seeking the views of looked after children in residential and foster care.

(v) To receive the views of young people leaving care.

(vi) To receive reports summarising complaints made by looked after children as part of the regular quarterly reporting on statistics. To receive a report summarising complaints made by looked after children on a six monthly basis.

(vii) To meet annually with representatives of the East Sussex Foster Care Association and other foster parents.

(viii) To meet annually with representatives of the Adopted Families Group

(ix) To receive reports on how the health needs of looked after children are being met and their educational achievements.

(ix) To provide an annual report to the Cabinet.

2 Quorum of Committees, Panels and other bodies.

2.1 Standing Order 50.1 of the Constitution refers to the quorum required for committees. Whilst the custom and practice has been that this standing Order is applied to sub-committees, panels and other bodies it would be helpful if this was explicitly stated in the Constitution.

2.2 It is therefore proposed that the Standing Order be amended to refer to sub-committees, panels and other bodies as set out below.

Constitution and Functions of Committees, Sub Committees, Panels and other bodies

50.1 With the exception of the Cabinet, the number of members and the quorum of Committees, **Sub Committees, Panels and other bodies** and the functions and powers to be delegated to **those bodies Committees** shall be those from time to time determined by the Council.

(The current Committees, **Sub Committees, Panels and other bodies** their constitution, terms of reference and the delegations to **those bodies Committees** are shown in Part 3 of the Constitution. The quorum for a Committee, **Sub Committee, Panel or other body** with an even number of members shall be one half of the total membership and for a Committee, **Sub Committee, Panel or other body** with an odd number of members shall be **the nearest whole number greater than half ~~one more than half~~**).

3 Scheme of Delegation to Officers.

3.1 The County Council's scheme of delegation delegates to officers particular powers. The Committee is recommended to amend the Constitution as set out below. The proposed changes reflect changes in legislation and where necessary references to Acts are proposed to be updated. It is therefore recommended that Part 3, of the Constitution; Responsibility for Functions, Director of Adult Social Care and Health be amended as follows:

E. Director of Adult Social Care and Health

1. To exercise all the powers and duties of the County Council in accordance with general policies from time to time laid down by the Cabinet for the administration of any arrangements made under relevant legislation with respect to services for adults including people with disabilities. This power includes specifically:
 - (a) arrangements made under the Care Act 2014, Section 29, National Assistance Act 1948, ~~Section 45, Health Services and Public Health Act 1968~~, Section 2, Chronically Sick and Disabled Persons Act 1970 and the Health and Social Care Act 2001 (expenditure authorised up to a net contribution by the County Council of £50,000 in any one case on alterations/adaptations to premises);
 - (b) waiving assessed contributions for adaptations to premises/ provision of equipment in exceptional circumstances;
 - (c) authorising the Assistant Director Operations to be appointed as the Council's nominee for obtaining Grants of Probate and dealing with related matters and to seek appointment as Deputy in appropriate cases;
 - (d) under the Mental Health Act 1983 as amended, and the Mental Capacity Act 2005 appointing approved social workers/authorised mental health professionals, Best Interest Assessors and Independent Mental Capacity

Advocates, accepting guardianship applications and making orders for the discharge of patients subject to guardianship, acting as the Supervisory Body in relation to the Deprivation of Liberty safeguards and undertaking functions in relation to those safeguards under the Mental Capacity Act 2005;

- (e) under the [Care Act 2014](#) and NHS and Community Care Act 1990, (i) increasing the limits paid for residential care in line with published DSS rates and, when they are no longer published, in consultation with the Chief Operating Officer to take account of inflation; (ii) approving, in special circumstances, packages of home support costing more than net residential care costs; (iii) making payments to providers of individual care quarterly in advance where the provider will not accept any other terms; and (iv) amending the eligibility criteria in respect of community care services as circumstances dictate;
 - (f) disregarding the value of a former dwelling in assessing the client's contribution towards the cost of residential accommodation where it is considered reasonable to do so in consultation with the Chief Executive and the Chief Operating Officer (and where appropriate the relevant Cabinet member); and
 - (g) under [Sections 34 – 36 of the Care Act 2014](#), ~~Section 22(7), Health and Social Services and Social Security Adjudications Act 1983,~~ (i) taking charges against interests in property in consultation with the Assistant Chief Executive and (ii) entering into deferred payments arrangements ~~under Section 55 Health and Social Care Act 2001.~~
2. To make permanent or temporary variations in the approved number of places at any Adult Social Care establishment.
 3. To purchase groceries, meat and other domestic provisions locally for residential and day care establishments under the control of the Cabinet: (a) if satisfactory tenders are unlikely to be obtained; and (b) where client training is involved.
 4. To make grants from the allocation for discretionary grants agreed by the Cabinet up to a total, for any one organisation in any period of three years, of £1,000 except where:
 - (a) the organisation has been refused a grant by the Cabinet unless the Cabinet has specifically agreed that a grant from the discretionary allocation may be given;
 - (b) the organisation is at the time in receipt of a grant from the Cabinet; or
 - (c) the organisation has received a grant from the allocation for the past three years.
 5. To exercise all the powers of the Cabinet, in such matters as the Director considers urgent, following consultation with the relevant Cabinet member relating to the approval of applications under [Section 18 of the Care Act 2014](#) and the Chronically Sick and Disabled Persons Act 1970 involving a net cost to the County Council of more than £20,000 (see delegation G1 (a) so far as these do not relate to children).
 6. To make ex gratia payments of up to £1,000 where justified under the Adult Social Care Department's complaints procedure.

7. To exercise all of the County Council's powers in relation to the misuse of Blue Badges including (but not limited to) the powers under section 21 of the Chronically Sick and Disabled Persons Act 1970 as amended and in relation to offences under section 117 of the Road Traffic Regulation Act 1984, the Fraud Act 2006 and the Theft Act 1968.
8. To approve the terms of, and enter into, Nominations Agreements and any associated Nomination Protocols in respect of Extra Care and Learning Disability Housing Schemes. The Leader of the Council and Lead Member of Adult Social Care to be notified of any agreements entered into.

4. Conclusion and reasons for recommendations

4.1 The Committee is asked to recommend the County Council to agree the proposed changes to the Constitution set out in paragraphs 1.4, 2.2 and 3.1 above. The proposed changes relate to the terms of reference of the Corporate Parenting Panel, the quorum of committees, panels and other bodies and the scheme of delegation to officers.

PHILIP BAKER

Assistant Chief Executive

Contact Officer: Andy Cottell

Telephone Number: 01273 481955

Email: andy.cottell@eastsussex.gov.uk

LOCAL MEMBERS: All