

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 28 April 2015. Attendances:

Councillor Glazier (Chair)
Councillors Elkin, Howson, Tutt and Webb

1. Appointments to Committees, Sub-Committees, Panels and other Bodies

1.1 The County Council, at its annual meeting in May, appoints members to its committees etc. In appointing members to committees the Council must comply with section 15 of the Local Government Act 1989 and subsequent Regulations. These provide that places on committees must be allocated to political groups in proportion to the number of seats on the Council held by each group, unless there is agreement, without dissent, that the provisions of the Act should not be applied.

1.2 The allocation of places to party groups must, so far as is reasonably practicable, give effect to the following principles:

- (a) not all of the seats on the body can be allocated to the same political group;
- (b) where more than half the members of the Council belong to one political group, that group shall have a majority on all committees, sub-committees, etc;
- (c) subject to (a) and (b) above, the total number of seats on the ordinary committees (including sub-committees) allocated to a political group reflects that group's proportion of the members of the Council;
- (d) subject to (a), (b) and (c) above, the number of seats on each body allocated to a political group reflects the proportion of the seats on the Council held by the group.

1.3 The rules require seats to be allocated on a proportional basis "so far as practicable" and inevitably there must be some rounding up and rounding down. It is open to the Council to review the size and number of committees and sub-committees at any time.

1.4 Members of the Cabinet may not serve on the Scrutiny Committees or the Regulatory Committee and the Leader and Deputy Leader of the Council may not serve on the Standards Committee.

1.5 The Leader of the Council appoints the Cabinet and allocates portfolios to those Cabinet Members. Political balance provisions do not apply to the Cabinet

1.6 The principle in paragraph 1.2 (c) above applies to appointments to ordinary committees (including sub-committees). Accordingly, before considering the allocation of places to political groups the Committee will need to consider whether it wishes to recommend any changes in committees, including their size.

1.7 Following the Committee's meeting, the group leaders have been asked to let the Assistant Chief Executive have nominations to fill the places on committees provisionally allocated to their group. The nominations received will be circulated to members of the County Council on the day of the annual council meeting, for approval by the Council.

Allocation of seats

1.8 The tables in Appendix 1 show the proposed allocation of seats for 2015/16. The only change from 2014/15 is the establishment of the Pension Committee which has a membership of 5 councillors. The proposals in relation to the committees, their total membership and the number of seats on each to which the groups will be entitled follows the principles set out in paragraph 1.2 above.

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

☆ agree the allocation of places on each committee to each group as set out in Appendix 1

2. Amendment to Constitution – Statutory duties and powers of the post of the Director of Public Health

2.1 Responsibility for public health functions transferred to the Council in April 2013 under the Health and Social Care Act 2012. As part of the transition arrangements, specialist staff moved from the NHS to the County Council to establish a Public Health Team. The Public Health Team is managed by the Acting Director of Public Health who reports to the Director of Adult Social Care and Health. It is recommended that the statutory duties and powers of the post of Director of Public Health be set out in the Constitution.

2.2 Every local authority with public health responsibilities is required to employ a specialist Director of Public Health – appointed jointly with the Secretary of State for Health. This follows the return of a leading public health role to local government under the Health and Social Care Act 2012. The Director of Public Health is a statutory officer of the authority

2.3 In general the statutory responsibilities of the Director of Public Health are designed to match the corporate public health duties of the Council. The exception is the annual report on the health of the local population – the Director of Public Health has a duty to produce a report whereas the council has a duty to publish it.

2.4 The Director of Public Health has the following core statutory powers and responsibilities:

- Overall responsibility for all the Council's duties to take steps to improve public health
- Undertake any of the Secretary of State's public health protection or health improvement functions delegated to local authorities, either by arrangement or under regulations
- Plan for, and respond to, emergencies that present a risk to public health
- Undertake the Council's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders

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- Responsible for the Council's response as a responsible authority under the Licensing Act 2003, including making representations about licensing applications (a function given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the Health and Social Care Act 2012
- Dental public health functions
- If the Council provides or commissions a maternity or child health clinic, then to have responsibility for providing Healthy Start vitamins
- To be a member of the Health and Wellbeing Board
- To produce an Annual Report

2.5 The proposed amendments to the Constitution are set out in Appendix 2.

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

✧ agree the amendments to the Constitution as set out in Appendix 2

3. Amendment to Constitution – scheme of delegation

3.1 The Flood and Water Management Act 2010 (FWMA) was enacted following the report of Sir Michael Pitt examining the impact of the floods of the summer of 2007. This included recommendations covering the management of flood risk, the response to the event and the recovery phase. The FWMA designated upper tier authorities (e.g. County Councils) as Lead Local Flood Authorities (LLFAs) with a range of responsibilities, amongst these was to act as the Sustainable Drainage Systems (SUDS) Approving Body. Developers under these arrangements would have had to submit a separate application for drainage approval. The process was intended to be supported by application fees which could be partly used to provide the technical resource necessary to process applications. A major issue was identifying how to fund the ongoing monitoring and maintenance, because any system the Council approved, it would then be obliged to adopt and maintain in perpetuity. Agreeing a sustainable funding regime to maintain drainage systems has proved difficult for DEFRA to resolve.

3.2 Commencement of the Approving Body role has been anticipated for some time but has been delayed by Government on a number of occasions. The Government has now indicated it intends to take an alternative approach to the one envisaged in the FWMA. It now wishes to deliver SUDS through changes to the current planning regime.

3.3 As a consequence of this significant change of direction, the Government announced a strengthening of the planning system to expect the installation of SUDS as the drainage solution for major development. The Government has laid before Parliament, the Town & Country Planning (Development Management Procedure) Order 2015 (DMPO) which has provisions for statutory consultees in relation to planning applications. The DMPO makes LLFAs statutory consultees on certain planning applications. The DMPO comes into force on 15 April 2015.

3.4 As a statutory consultee, the County Council will be obliged to comment upon all consultations on "major" planning applications from the Districts and Boroughs, the South Downs National Park Authority, and ESCC in relation to surface water drainage matters. The County Council is also required by the DMPO to report annually to Government on our performance in responding.

3.5 Current estimates indicate that we can expect to be consulted on some two hundred planning applications each year. These cases will range in scale and complexity, and will involve assessing the surface water drainage aspects of development proposals. It is

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intended that each application will have to be responded to, within a 21 days consultation period.

3.6 Given the technical nature of the subject matter, the large number of consultations expected, and the three weeks consultation period, it is proposed to delegate authority to the Director of Communities, Economy and Transport to respond as LLFA to all consultations on drainage aspects the County Council will receive from the planning authorities in East Sussex and that the following delegation be added to the scheme of delegation for that post in the Constitution:

“To respond to the relevant planning authorities on behalf of the County Council as Lead Local Flood Authority in respect of any statutory or other consultation in relation to the drainage and local flood risk aspects of proposals in applications for planning permission.”

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

☆ agree to amend the scheme of delegation in the Constitution as set out in paragraph 3.6 above.

28 April 2015

KEITH GLAZIER
(Chair)