

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 2 March 2021. Attendances:

Councillor Glazier (Chair)
Councillors Bennett, Godfrey Daniel, Simmons and Tutt

1. Coronavirus meeting arrangements

1.1 In May 2020 the County Council agreed recommendations from the Committee in relation to a number of temporary measures to help enable the County Council's business to be conducted efficiently throughout the period of disruption due to Covid-19. These included:

- to approve the approach in relation to Lead Member decisions being made virtually and to its continuation;
- to agree that the Leader will assume all the powers of the Cabinet where required;
- to agree delegations to officers in relation to the functions of the Planning, Pensions and Governance Committees and the Discretionary Transport Appeal Panel;
- to agree that Member non-attendance related to Covid-19 be considered as an absence approved by the Council;
- to agree that the Chief Executive (or in her absence the Assistant Chief Executive) be authorised to cancel or postpone meetings, in consultation with the relevant Chair or Cabinet Member.

1.2 These measures were reviewed by the Committee and full Council in October and it was agreed that they remain in place and are reviewed again at the Council meeting in July 2021 or as soon as practicable thereafter.

1.3 Since May 2020 a large number of virtual meetings have been held under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the Regulations) which were enacted by Government to enable Members to attend remotely during Covid-19 restrictions. These regulations are currently in place until 7 May 2021. The meetings have largely worked well and have enabled Members to continue to make decisions in a transparent way.

1.4 In October 2020 the Council passed a resolution asking the Government to allow local authorities to have the ability to make their own decisions in relation to whether to hold virtual meetings after May 2021, should they want to.

1.5 As set out above, the Regulations which expressly permitted the holding of virtual meetings are in place until 7 May 2021. Local Authorities have welcomed the current flexibility to hold virtual meetings and have lobbied Government for this to continue beyond the current end date. The Government has recognised the benefits of such meetings but has said that due to the pressure on the legislative programme it will not be possible to make the provisions permanent before the temporary Regulations expire. This position is reflected in the response from the Secretary of State to the resolution passed by Council in October which is attached at appendix 1.

1.6 Much of the debate on whether it is or is not possible to make the provisions permanent relates to whether primary legislation is needed or whether this can be achieved through secondary legislation. This discussion is ongoing, together with whether in fact any

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change in legislation is required or whether current provisions can be interpreted such to facilitate the same result. At the time of writing these questions remain unresolved.

1.7 Although the vaccination programme is progressing at pace it is clear that at the time of the Council's Annual Meeting on 25 May 2021 that public health measures, including social distancing, will continue to be in place. The Government's 'roadmap' for exiting lockdown, published on 22 February 2021, indicates that a review of social distancing is unlikely to conclude before June.

1.8 Should it be necessary to hold a physical meeting in May the Council Chamber will not be able to accommodate all Members and enable appropriate social distancing (as currently set out in guidance) to take place. This clearly presents a significant challenge.

1.9 In light of the situation outlined above, we are currently seeking an alternative venue which would be capable of accommodating all Members and the necessary officers with appropriate social distancing. Arrangements for webcasting a meeting from such an alternative venue are also being investigated. Should Government guidance continue to limit the number of Members able to attend in the Chamber and the legality of virtual meetings is not confirmed, the intention would be to use these alternative arrangements to enable the County Council to meet. Bearing in mind we will effectively be transitioning to the new make-up of the Council, it is recommended that authority be delegated to the Chief Executive to determine whether the meeting should take place at a venue other than County Hall, what venue the meeting should be held at and to make the necessary arrangements.

1.10 Should a legal basis for holding virtual meetings beyond 7 May be confirmed, it would be possible to hold the Council's Annual Meeting virtually, minimising both the Covid-related risks and the cost to the authority. To cover this scenario it is proposed that the supplementary standing orders agreed by Council in July 2020 remain in place and are reviewed by the "new" Council in July 2021 or as soon as practicable thereafter. The arrangements that were agreed included provision for Member non-attendance at a meeting due to issues related to the virtual nature of the meeting (for example technical difficulties) to be considered as an absence for a reason approved by the Council and it is proposed that this be extended on the same basis.

1.11 The Committee recommends the County Council to agree:

☆ (i) to delegate authority to the Chief Executive to determine the venue for the Annual Meeting and make the necessary arrangements accordingly;

(ii) that the standing orders relating to virtual meetings continue and are reviewed by the newly elected Council in July 2021 or as soon as practicable thereafter; and

(iii) to extend for the period pending the review referred to in (ii) above the Council's agreement whereby Member non-attendance at a meeting due to issues related to Coronavirus or the virtual nature of the meeting be considered as an absence for a reason approved by the Council in relation to attendance requirements.

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. This policy statement has to be approved annually by full Council by 31 March.

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2.2 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.

2.3 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.

2.4 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.

2.5 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.

2.6 The statutory provisions governing exit pay payments 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 February 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.

2.7 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. A copy of the pay policy statement for 2021/22 is attached as Appendix 2.

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2.8 The Committee recommends the County Council to:

- ✧ agree the updated pay policy statement for 2021/22 as set out in Appendix 2.

2 March 2021

KEITH GLAZIER
(Chair)