

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 19 July, 2 September and 29 September 2022.

Attendances:

Councillor Glazier (Chair) (2x)

Councillors Bennett (2x), Robinson (2), Simmons (1x), Standley (1), Tutt (2x) and Webb (x)

1. Amendment to the Constitution – Financial Regulations

1.1 In order to ensure that sound systems of financial management are in place the self-assessment on risk requires that the financial regulations are reviewed every 3 years or in the event of a significant change. The regulations were last updated in May 2019 and this report therefore is the outcome of the 3 year review. Changes to State Aid and the Subsidy Control Act that are likely to come into force in the Autumn may require further changes to regulation as well the potential impact of the implementation of Oracle Fusion.

1.2 The most significant changes are for the provision of discretionary grants. Specific budgets for such grants no longer exist and currently most departments do not have a specific limit for the provision of discretionary grants, or it is low at £1,000, when compared to current practice (in Communities, Economy and Transport and Children's Services particularly). The proposed change is for a £24,999 limit to be set for the provision of discretionary uncompetitive grants as a general delegation before a competitive process is required and the External Funding Protocol should be followed. This will ensure consistency across all departments and consistency with procurement limits for letting contracts without competitive dialogue.

1.3 The other main change is for payments in advance (non-schools) under £500. It is proposed that no financial sign off is required under £500, which mainly constitute training courses, accommodation, conferences and similar where the booking can only be secured with payment.

1.4 Additionally, the Community Infrastructure Levy (CIL), which by use of the definition 'Levy', is legally considered a grant, has required words to be added to clarify that it is not covered by the External Funding Protocol. Separate governance arrangements are in place for CIL bidding, which should be prepared in accordance with the Section 106 (s106) and Community Infrastructure Levy (CIL) Working Group Governance and Prioritisation arrangements.

1.5 The proposed changes are summarised in Appendix 1.

1.6 The Committee recommends the County Council to:

☆ approve the Financial Regulations and other parts of the Constitution being updated as set out in Appendix 1 and that the Constitution be amended accordingly.

2. Amendment to the Constitution – Scheme of Delegation to Officers

2.1 The County Council's Scheme of Delegation provides the Chief Operating Officer, with authority to perform several functions and make certain decisions across the range of services that make up the directorate. These functions include provision for Property Service activities within specified limitations.

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2.2 A number of revisions that help modernise and revise the Scheme of Delegation to Officers in relation to Property Services are detailed in Appendices 2 and 3. Appendix 2 highlights the proposed amendments via tracked changes and Appendix 3 summarises the proposed amendments in a table.

2.3 The Scheme of Delegation allows for a grant of leases to secure rental income, and it is proposed that the threshold for delegation to officers be revised. To provide certainty for ESCC as a landlord as well as commercial organisations and community groups as the tenants, it is proposed to increase the authorisation to grant leases to a third party from 14 years to 21 years.

2.4 As rental levels have increased over the years, it is proposed to increase the threshold to allow most commercial lettings to be undertaken under delegated powers to officers. The thresholds for delegations in relation to property transactions have not been revised since 1992. Therefore, using inflation indices, a rental level in 1992 at £25,000 per annum would now be circa £45,000 per annum in 2022. This has informed the proposed amendment to the Scheme of Delegations to seek changes to £50,000 per annum. There are relatively few lettings per annum, and it is anticipated it would be 3-5 property transactions per year that fall into the bracket of £25,000 to £50,000 per annum income or letting. Any lettings above the revised threshold of £50,000 would be referred to the Lead Member Resources and Climate Change for approval.

2.5 For any property transaction being let under delegated authority, there is a robust approval system in place. The lead internal surveyor produces a report. This report, together with the Heads of Terms and appropriate background information form the delegated approval papers. The surveyor signs the approval form, before presenting the papers to the Estates & Disposal Manager for approval. Final approval is then given by the Assistant Director of Property, who is a Chartered Surveyor and member of the Royal Institution of Chartered Surveyors. If the property is directorate specific, the relevant Director within the service is also required to sign the approval form before a pack is collated in the formal instruction to Legal Services.

2.6 In relation, to the Council's disposal of assets, it is intended to keep the thresholds at the same level. The Council does occasionally dispose of small strips of land or garden land which have a low value. However, the significant disposals are assets that are marketed and when offers are analysed, these are subject to a Lead Member report, where key stakeholders including the Chief Operating Officer and Chief Finance Officer will have management oversight of the reports.

2.7 The Council's management of its operational, commercial and non-operational properties has evolved and there is some slightly revised wording proposed to add clarity and to reflect the modern asset management of the county council property portfolio.

2.8 It is considered that the additions and amendments proposed to the Scheme of Delegations, are necessary for the County Council to effectively respond to legislative and policy changes and do not undermine the democratic accountability of the Council. Some of the amendments will aid in the ability for decisions to be taken in an efficient and timely manner, which is considered particularly important where deadlines need to be met for certain actions to be undertaken.

2.9 The Committee recommends the County Council to:

☆ approve the amendments to the Scheme of Delegation to Officers as set out in Appendices 2 and 3.

3. Amendment to the Constitution – Health and Wellbeing Board Terms of Reference

3.1 The Health and Social Care Act 2012 established Health and Wellbeing Boards as statutory committees of all upper tier local authorities in England and prescribed the Boards' functions and membership.

3.2 Section 197 of the Act requires a Health and Wellbeing Board to have a member representing NHS England when it considers certain matters, including preparing the Joint Strategic Needs and Assets Assessment (JSNAA) and local health and wellbeing strategy, and considering a matter that relates to the exercise or proposed exercise of the commissioning functions of NHS England. S.197(5) permits that person to be someone who is not a member or employee of NHS England, with the agreement of the Health and Wellbeing Board.

3.3 The Health and Care Act 2022 established Integrated Care Boards (ICBs) across England on a statutory basis from 1 July 2022, replacing Clinical Commissioning Groups (CCG) as the local NHS commissioning organisations. ICBs form part of local Integrated Care Systems bringing together ICBs, upper tier local authorities and NHS providers, primary care providers and the voluntary, community and social enterprise sector.

3.4 ICBs cover a wider footprint than the predecessor organisations; NHS Sussex is the ICB covering East Sussex, West Sussex and Brighton & Hove and replaces three CCGs. Most local commissioning within ICBs will be undertaken at 'place' level, however, which corresponds to the three local authority boundaries.

3.5 NHS Sussex has also taken on primary care commissioning functions from NHS England – including General Practice, community ophthalmology, pharmacy and dentistry – which are planned to be commissioned at place level.

3.6 The Health and Wellbeing Board has a role to provide whole system leadership and strategic influence over commissioning in East Sussex, including ensuring commissioners have regard to and contribute to the delivery of the Joint Local Health and Wellbeing Strategy. Under the new commissioning arrangements, HWBs in Sussex will focus their role on overseeing place-based commissioning.

3.7 The Chief Executives of three NHS provider trusts are currently members of the East Sussex Health and Wellbeing Board – East Sussex Healthcare NHS Trust (ESHT), Sussex Partnership NHS Foundation Trust and Sussex Community NHS Foundation Trust. Under the local ICS arrangements providers will work more closely together and with commissioners through local place-based partnerships.

3.8 Given the new commissioning structure and transfer of primary care commissioning functions from NHS England to the ICB, NHS England is unlikely to undertake significant commissioning activity at a 'place' level in the future. Consequently, NHS England intends to withdraw membership of the Health and Wellbeing Board, and NHS Sussex proposes that its three members represent NHS England on the Health and Wellbeing Board to fulfil the requirements of the 2012 Act. Similar arrangements are already in place at a number of other Health and Wellbeing Boards locally and nationally given the practical difficulties of NHS England attending multiple local authority Boards.

3.9 In addition, in view of the creation of the ICB and the three underpinning 'place' based partnerships in East Sussex, Brighton & Hove and West Sussex bringing local commissioners and providers together as part of the wider ICS, it is proposed that one NHS provider trust Chief Executive represents all local providers on each of the three Health and Wellbeing Boards in Sussex. For East Sussex this is proposed to be the Chief Executive of ESHT.

3.10 In light of the requests from NHS England and the three provider trusts to rationalise their membership of the HWB in order to reflect the new commissioning arrangements under

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the 2022 Act, there is a need to update the Terms of Reference of the Health and Wellbeing Board to reflect the amended membership.

3.11 Proposed changes to the existing Terms of Reference are shown at appendix 4. In summary these comprise:

- Removal of NHS England, Sussex Partnership NHS Foundation Trust and Sussex Community NHS Foundation Trust as members of the Board;
- Addition of a notification that NHS Sussex will represent NHS England on the Board;
- Addition of a notification that ESHT will provide representation on the Board for all NHS provider trusts delivering services in East Sussex; and
- Removal of Maidstone and Tunbridge Wells NHS Trust and University Hospitals Sussex NHS Foundation Trust as invited observers.

3.12 The revised terms of reference will reduce the number of members on the HWB from 17 to 14 and invited observers from 9 to 7. The quorum will remain as half the membership (now 7 members) including at least one elected Member of the County Council and one representative of NHS Sussex.

3.13 The proposed changes to the Health and Wellbeing Board terms of reference will more closely align the membership of the Board with new commissioning arrangements within the Integrated Care System.

3.14 The Committee recommends the County Council to:

☆ approve the revised Health and Wellbeing Board Terms of Reference set out in Appendix 4 and that the Constitution be amended accordingly.

29 September 2022

KEITH GLAZIER
(Chair)