

Agenda item 11

Council Issues

1 Approval of reason for non-attendance at this meeting

- 1.1 As a result of the ongoing prevalence of the omicron variant of the coronavirus causing Covid-19, the group leaders have agreed that they would advise their members that attendance at this meeting, whilst desirable, would not be essential and those members who are not attending may be present via zoom. This enables us to achieve 1.5m social distancing and comply with advice from the Director of Public Health.
- 1.2 Unfortunately, a court case involving Hertfordshire County Council made it clear that attending the meeting via zoom does not count as attending the meeting for the purpose of section 85 of the Local Government Act 1972 (often known as the six-month rule).
- 1.3 We do not believe that attendance at this meeting via zoom currently impacts on any member of the County Council since anyone potentially at risk under the 'six-month rule' has been given individual advice and will be physically present.
- 1.4 The six-month 'clock' is re-started every time a member attends any meeting of the council or of any of its committees or of an outside body where the member is the officially appointed ECC representative. Any issue which did arise could be dealt with at the May 2022 meeting.
- 1.5 That said, we cannot be absolutely certain that this will not cause an issue to anyone, and it would be unfair if a member attending this meeting virtually via zoom lost their seat under the six-month rule because they had followed the public health advice.
- 1.6 It is therefore proposed to in effect disapply the six-month rule to prevent the risk of any member losing their seat as a result of attending this meeting via zoom.
- 1.7 Members who attend the 10 February meeting via zoom will be included in the minutes as present remotely.

Recommendation:

- 1.8 That for the purposes of section 85(1) of the Local Government Act 1972 the Council approves the following as a reason for a Member's non-attendance of the council meeting on 10 February 2022:
- 1.9 The Member took part in the meeting via zoom as a result of the public health advice regarding attendance in the council chamber for that meeting.

2 Delegated Decision-making on employment policies etc

- 2.1 The Head of the Paid Service has significant delegated responsibility for making decisions with respect to employment policy and pay.
- 2.2 The decisions can affect pay and the budget but there is no constitutional requirement for the Head of the Paid Service to take financial or legal advice. This contrasts with the position for Cabinet Member and the Leader who are required by the constitution not to take any formal decision without legal and financial advice.
- 2.3 On occasion the Head of the Paid Service may wish to authorise others to make certain decisions under these delegated powers.
- 2.4 As a result the Chief Executive has requested that we should formally record the importance of taking financial and legal advice in this key item of expenditure and legal risk, if the exercise of delegated powers on policy were made subject to a requirement to take legal and financial advice. It would be expected that this was via consulting with the Section 151 Officer and the Monitoring Officer or their nominee.
- 2.5 This doesn't change accountability for decisions – the Chief Executive is still the decision-maker and would of course make decisions in accordance with his own judgment, having regard to advice given.

Recommendations

- 2.6 Amend the constitution by adding a new paragraph 15.1(o) to the Constitution:
 - (o) Nothing in this scheme of delegations authorises any decision to be taken to do any of the following without first consulting both the Section 151 Officer and the Monitoring Officer (or their nominee):
 - (i) Changing the management structure of the council
 - (ii) Making a decision which will affect the pay of more than one employee or contractor.
 - (iii) Adopting any policy or plan relating to the exercise of the Council's functions as employer.

3 Auditor Appointment Scheme for External Auditors

- 3.1 The Audit, Governance and Standards Committee having considered the matter at its meetings on 13 December 2021 and 31 January 2022 have recommended that Council agree to opt into the national appointing scheme for external audit contracts due to start from 1 April 2023. Public Sector Auditor Appointments Ltd (PSAA) is the appointing person under this national scheme.

- 3.2 Council must decide whether to either opt into the PSAA's national scheme for auditor appointments covering the audit of accounts for the financial years 2023/24 to 2027/28 or make its own auditor appointment for this period by itself or in conjunction with other bodies.
- 3.3 Legislation requires full council to decide whether or not it wishes to opt into the national procurement arrangement. Failure to make a formal decision before 11 March 2022 is deemed to be a decision by the Council to procure its own external auditor.
- 3.4 This matter has been considered by the Audit, Governance and Standards Committee. After consulting the Essex Pension Fund Strategy Board the Committee has recommended to the Council that it opts into the PSAA National Appointing Scheme.

Recommendation:

- 3.5 That Council agree to opt into the PSAA's national procurement arrangement for auditor appointments for contracts due to start from 1 April 2023 and covering the audit of accounts for the financial years 2023/24 to 2027/28.
- 3.5 Agree that the Section 151 officer gives formal notification of the Council's decision to PSAA Limited.

4 Appointment of Co-opted Members to the People and Families Policy and Scrutiny Committee

- 4.1 The People and Families Policy and Scrutiny Committee scrutinises many aspects of ECC services, including education. The law requires us to have external co-opted members as follows:

- One Church of England diocesan representative
- One Roman Catholic diocesan representative
- Between two and five parent governors of maintained schools.

Co-opted education representatives can vote on education matters only. Maintained schools are those which are funded by ECC. Academies are therefore not maintained schools.

- 4.2 The Constitution says we will have two parent governors on our committee. There is a complex set of laws which requires us to invite nominations and hold elections from parent governors of maintained schools.
- 4.3 In line with guidance we have historically allocated one seat for a parent governor of a maintained primary school and the other for a parent governor of a maintained secondary school. Two separate sets of nominations are held and two different elections take place.

- 4.4 At present both parent governor seats are vacant. The increase in the number of academies means that there are very few maintained secondary schools in Essex, making it virtually impossible to get a nomination. We are able to get nominations for maintained primary schools.
- 4.5 Therefore, going forward, the past practice of seeking separate primary and secondary school parent governor representatives no longer seems feasible, appropriate or proportionate.
- 4.6 Difficulties in filling parent governor positions on scrutiny committees has been discussed at regional and national forums. Whilst there has been discussion at these forums about the possibility of future changes to the law, the County Council needs review how it complies with the current law and tries to maximise participation in the scrutiny process. The current practice means that the committee usually has a vacancy.
- 4.7 The main options are:
1. **Continue with the current practice.** This means that we may have to run an election for a secondary school governor elections every six months but never receive nominations, meaning a waste of effort and poorer representation on the committee.
 2. **Have area-based seats for parent governors eg one for north Essex and another for south Essex,** without reserving seats to primary or secondary school governors. This would make the elections more complex.
 3. **Have two seats for parent governors of maintained schools which are open to any parent governor of a maintained school.** This aligns to the practice of neighbouring authorities and would be likely to result in vacancies being filled as we are likely to receive sufficient nominations.
- 4.8 On balance it's recommended that we follow the third option. This doesn't require a change to the constitution, but it does need to be approved by the Council.

Recommendation

- 4.9 That future vacancies on the People and Families Police and Scrutiny Committee for co-opted parent governors of maintained schools are opened to any such governor of a primary or secondary school in Essex.