

SELECTION AND MEMBER SERVICES COMMITTEE

Thursday, 22nd March, 2018

1.00 pm or on the rising of the Corporate Parenting Board, whichever is the later.

**Council Chamber, Sessions House, County Hall,
Maidstone**





AGENDA

SELECTION AND MEMBER SERVICES COMMITTEE

Thursday, 22 March 2018, at 1.00 pm Ask for: **Andrew Tait**
Council Chamber, Sessions House, County Telephone: **03000 416749**
Hall, Maidstone

Tea/Coffee will be available 15 minutes before the start of the meeting

Membership (8)

Conservative (6): Mrs A D Allen (Chairman), Mr P B Carter, CBE, Mr M C Dance, Mr E E C Hotson, Mr J D Simmonds and Mr B J Sweetland.

Liberal Democrat (1): Mrs T Dean, MBE

Labour (1): Mr D Farrell

Webcasting Notice

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site or by any member of the public or press present. The Chairman will confirm if all or part of the meeting is to be filmed by the Council.

By entering the meeting room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

- 1 Substitutes
- 2 Declarations of Interests by Members in items on the Agenda for this meeting.
- 3 Minutes - 15 November 2017 (Pages 5 - 6)
- 4 Amendments to the Constitution arising from the creation of a Joint Sub-Committee of the Kent and Medway Health and Wellbeing Boards (Pages 7 - 16)
- 5 The Governor Appointments Panel (Pages 17 - 30)

- 6 The Molyneux Almshouses Charity (Pages 31 - 32)
- 7 Other items which the Chairman decides are Urgent
- 8 Motion to exclude the public

That under Section 100A of the Local Government Act 1972 the public be excluded for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.

EXEMPT ITEMS

(During these items the meeting is likely NOT to be open to the public)

- 9 Democratic Services - Oral report

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts
General Counsel
03000 416814

Wednesday, 14 March 2018

KENT COUNTY COUNCIL

SELECTION AND MEMBER SERVICES COMMITTEE

MINUTES of a meeting of the Selection and Member Services Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Wednesday, 15 November 2017.

PRESENT: Mrs A D Allen, MBE (Chairman), Mr R H Bird (Substitute for Mrs T Dean, MBE), Mr D Farrell, Mr P M Hill, OBE (Substitute for Mr P B Carter, CBE), Mr P J Oakford (Substitute for Mr E E C Hotson) and Mr B J Sweetland

IN ATTENDANCE: Mrs B Cooper (Corporate Director of Growth, Environment and Transport), Mr J Pearson (Service Improvement Programme Manager), Mr B Watts (General Counsel) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

17. Minutes - 10 October 2017
(Item 3)

RESOLVED that the Minutes of the meeting held on 10 October 2017 are correctly recorded and that they be signed by the Chairman.

EXEMPT ITEMS

(Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act.)

18. Proposed re-organisation of Democratic and Member Services and a proposal for the Service provided at the Information Point.
(Item 5)

(1) The Cabinet Member for Democratic Services, the General Counsel and the Corporate Director of Growth, Environment and Transport provide an update on proposed changes to the service delivery for Democratic and Member Services together with a proposal for the service provided at the Information Point.

(2) The Committee agreed amended recommendations as set out in (3) below.

(3) RESOLVED to:-

- (a) note for assurance the way forward for Democratic and Member Services set out in the report;
- (b) note that a further update report on Democratic and Member Services will be submitted to the Committee in three months' time;
- (c) endorse the proposed strategy for The Information Point; and
- (d) thank Mr John Lynch and Mr Paul Wickenden for their service to the County Council.

From: Peter Oakford – Deputy Leader, Cabinet Member for Strategic Commissioning & Public Health and Chairman of the Kent Health and Wellbeing Board

To: **Selection and Member Services Committee – 22 March 2018**

Subject: Amendments to the Constitution arising from the creation of a Joint Subcommittee of the Kent and Medway Health and Wellbeing Boards

Classification: **Unrestricted**

Summary:

The development of the Sustainability and Transformation Partnership (STP) across the Kent and Medway geographical area has led to proposals to amend governance arrangements to reduce duplication of meetings and ensure effective and joined up contribution from Democratic Leaders and Partners.

Kent County Council and Medway Council have agreed to create a joint Health and Wellbeing Board advisory subcommittee. This decision will lead to consequential amendments to the constitution as it relates to the Kent Health and Wellbeing Board

Recommendation:

- a) **That the Selection and Member Services Committee be requested to endorse the changes to the Constitution as detailed in the report and recommend their adoption.**

1. Introduction

- 1.1 The Kent and Medway Sustainability and Transformation Partnership (STP) recognises Kent and Medway as a single health and social care economy. Governance for the STP takes place at the STP Programme Board and encompasses the whole region as one place. KCC and Medway Council are both actively engaged in STP discussions. However, it is considered there would be significant merit in both Councils working together through the vehicle of their Health and Wellbeing Boards (HWB) to provide a strong democratic voice in the STP discussions as the future design and delivery of health and social care services moves forward.
- 1.2 In particular it is considered there should be a joint focus on the STP local care and prevention work streams given the responsibilities of both local authorities in social care and public health. The STP would benefit from Kent County

Council and Medway Council working jointly to actively shape and develop the proposal for a System Wide Strategic Commissioner and the relative roles, responsibilities and accountabilities for the emerging Integrated Care Systems (previously known as Accountable Care Systems). However, each Authority's cabinet would still be responsible for the budget and Commissioning decisions for their area.

- 1.3 Therefore, in response to the STP, Kent County Council and Medway Council Health and Wellbeing Boards have agreed to establish an advisory joint sub-committee under Section 198 of the Health and Social Care Act 2012 which permits two or more Health and Wellbeing Boards to make arrangements for any of their functions to be exercised jointly. The subcommittee will be called the Kent and Medway Joint Health and Wellbeing Board (KAMJHWB).
- 1.4 A joint Board would be time limited to run alongside the STP and would require both authorities to positively endorse any continuation of the arrangement. If agreed, it would start from April 1st, 2018 and be in place for 2 years.
- 1.5 Core statutory functions of a Health and Wellbeing Board will remain with the Boards of each Area, for example the Health and Wellbeing Strategy, the Joint Strategic Needs Assessment and Pharmaceutical Needs Assessment, and it is proposed that the Kent Board will meet annually to discharge these duties.
- 1.6 The proposal to establish a Kent and Medway Joint HWB constituted as an Advisory Sub Committee together with the determination of its size, membership, terms of reference and rules of procedure must be formally agreed by each Board. However, there will be consequential amendments to the Kent Health and Wellbeing Board Terms of Reference. The process for making changes to the Constitution reserves to Members any changes which are the basic rules governing the Council's business.

2. Financial Implications

- 2.1 There are no financial implications to the constitutional changes as outlined in this report.

3. Proposed Amendments to the Constitution

- 3.1 There are some minor consequential amendments to the constitution caused by the creation of a joint subcommittee and the reduction in the number of meetings of the Kent Board.
- 3.2 These are highlighted in italics on the attached current terms of reference and listed here:

- a) To be deleted: *Has oversight of the activity of its sub committees (Clinical Commissioning Group Level Health and Wellbeing Boards), focussing on their role in developing integrated local commissioning strategies and plans.*

Changes to the structures that Health is currently operating under may affect the local health and wellbeing boards. For example, in the future there may only be one CCG operating in Kent with 2 Integrated Care Systems delivering health services. Local Boards are adapting to local requirements that will support emerging systems and structures. This means these sub committees must be released to have freedom to evolve into different mechanisms to ensure the local democratic voice is accounted for in new local architecture through which health commissioning will happen.

- b) Reports to the full County Council on an annual basis will change to *as required on its activity and progress* against the milestones set out in the Key Deliverables Plan. Regular reports will be submitted to Health Reform and Public Health Cabinet Committee and to Full Council relating to the work of the STP.
- c) To be deleted: *Develops and implements a communication and engagement strategy for the work of the HWB.* This is not a statutory requirement of the Board and will be covered by the Health and Wellbeing Strategy.
- d) Frequency of Meetings. *The HWB meets at least quarterly* will change to *The HWB meets at least annually.*

4. Recommendation:

- a) **That the Selection and Member Services Committee be requested to endorse the changes to the Constitution as detailed in the report and recommend their adoption.**

5. Background Documents:

Appendix 1- Terms of Reference for the Kent Health and Wellbeing Board with proposed amendments in italics.

Contact details

Karen Cook: Policy and Relationships Adviser (Health)
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Appendix 1

Governance Arrangements for the Kent Health and Wellbeing Board

Role

The Kent Health and Wellbeing Board (HWB) leads and advises on work to improve the health and wellbeing of the people of Kent through joined up commissioning across the NHS, social care, public health and other services (that the HWB agrees are directly related to health and wellbeing) in order to:

- secure better health and wellbeing outcomes in Kent
- reduce health inequalities and
- ensure better quality of care for all patients and care users.

The HWB has a primary responsibility to make sure that health care services paid for by public monies are provided in a cost-effective manner.

The HWB also aims to increase the role of elected representatives in health and provide a key forum for public accountability for NHS, public health, social care and other commissioned services that relate to people's health and wellbeing.

Terms of Reference:

The HWB:

1. Commissions and endorses the Kent Joint Strategic Needs Assessment (JSNA), subject to final approval by relevant partners, if required.
2. Commissions and endorses the Kent Joint Health and Wellbeing Strategy (JHWS) to meet the needs identified in the JSNA, subject to final approval by relevant partners, if required.
3. Commissions and endorses the Kent Pharmaceutical Needs Assessment, subject to final approval by relevant partners, if required.
4. Reviews the commissioning plans for healthcare, social care (adults and children's services) and public health to ensure that they have due regard to the JSNA and JHWS, and to take appropriate action if it considers that they do not.
5. *Has oversight of the activity of its sub committees (Clinical Commissioning Group Level Health and Wellbeing Boards), focussing on their role in developing integrated local commissioning strategies and plans.*

6. Works alongside the Health Overview and Scrutiny Committee (HOSC) to ensure that substantial variations in service provision by health care providers are appropriately scrutinised. The HWB itself will be subject to scrutiny by the HOSC.
7. Considers the totality of the resources in Kent for health and wellbeing and considers how and where investment in health improvement and prevention services could improve the overall health and wellbeing of Kent's residents.
8. Discharges its duty to encourage integrated working with relevant partners within Kent, which includes:
 - a. endorsing and securing joint arrangements, including integrated commissioning where agreed and appropriate;
 - b. use of pooled budgets for joint commissioning (s75);
 - c. the development of appropriate partnership agreements for service integration, including the associated financial protocols and monitoring arrangements;
 - d. making full use of the powers identified in all relevant NHS and local government legislation.
9. Works with existing partnership arrangements, e.g. children's commissioning, safeguarding and community safety, to ensure that the most appropriate mechanism is used to deliver service improvement in health, care and health inequalities.
10. Considers and advises Care Quality Commission CQC and NHS Commissioning Board; monitors providers in health and social care with regard to service reconfiguration.
11. Works with the HOSC and/or provides advice (as and when requested) to the County Council on service reconfigurations that may be subject to referral to the Secretary of State on resolution by the full County Council.
12. Is the focal point for joint working in Kent on the wider determinants of health and wellbeing, such as housing, leisure facilities and accessibility, in order to enhance service integration.
13. Reports to the full County Council *on an annual basis* will change to *as required* on its activity and progress against the milestones set out in the Key Deliverables Plan.
14. Develops and implements a communication and engagement strategy for the work of the HWB; outlining how the work of the HWB will:
 - a. reflect stakeholders' views
 - b. discharge its specific consultation and engagement duties
 - c. work closely with Local HealthWatch.

15. Represents Kent in relation to health and wellbeing issues in local areas as well as nationally and internationally.
16. May delegate those of its functions it considers appropriate to another committee established by one or more of the principal councils in Kent to carry out specified functions on its behalf for a specified period of time (subject to prior agreement and meeting the HWB's agreed criteria).

Membership

The Chairman is elected by the HWB.

1. Kent County Council:
 - The Leader of Kent County Council and/or their nominee*
 - Corporate Director, Social Care, Health & Wellbeing*
 - Director of Public Health*
 - Cabinet Member for Adult Social Care & Public Health
 - Cabinet Member for Business Strategy, Performance and Health Reform
 - Cabinet Member for Specialist Children's Services
2. Clinical Commissioning Group: up to a maximum of two representatives from each consortium*
3. A representative of the local HealthWatch* organisation for the area of the local authority.
4. A representative of the NHS Commissioning Board Local Area Team. *
5. Three elected Members representing the Kent District/Borough/City councils (nominated through the Kent Council Leaders).

**denotes statutory member.*

Procedure Rules

1. **Conduct.** Members of the HWB are expected to subscribe to and comply with the Kent County Council Code of Conduct. Non-elected representatives on the HWB (e.g. GPs and officers) will be co-opted members and, as such, covered by the Kent Code of Conduct for Members for any business they conduct as a member of the HWB.
2. **Declaration of Disclosable Pecuniary Interests.** Section 31(4) of the Localism Act 2011 (disclosable pecuniary interests in matters considered at meetings or by a single member) applies to the HWB and any subcommittee of it. A register of disclosable pecuniary interests is held by the Clerk to the HWB,

but HWB members do not have to leave the meeting once a disclosable pecuniary interest is declared.

3. **Frequency of Meetings.** *The HWB meets at least quarterly will change to The HWB meets at least annually.* The date, time and venue of meetings is fixed in advance by the HWB in order to coincide with the key decision-points and the Forthcoming Decision List.
4. **Meeting Administration.**
 - HWB meetings are advertised and held in public and administered by the County Council.
 - The HWB may consider matters submitted to it by local partners.
 - The County Council gives at least five clear working days' notice in writing to each member of every ordinary meeting of the HWB, to include any agenda of the business to be transacted at the meeting.
 - Papers for each HWB meeting are sent out at least five clear working days in advance.
 - Late papers may be sent out or tabled only in exceptional circumstances.
 - The HWB holds meetings in private session when deemed appropriate in view of the nature of business to be discussed.
 - The Chairman's decision on all procedural matters is final.
5. **Meeting Administration of Sub Committees.** HWB sub-committees are administered by a principal local authority, in the case of the Clinical Commissioning Group level HWBs, by a District Council in that area. They will be subject to the provisions stated in these Procedure Rules.
6. **Special Meetings.** The Chairman may convene special meetings of the HWB at short notice to consider matters of urgency. The notice convening such meetings shall state the particular business to be transacted and no other business will be transacted at such meeting.

The Chairman is required to convene a special meeting of the HWB if they are in receipt of a written requisition to do so signed by no less than three members of the HWB. Such requisition shall specify the business to be transacted and no other business shall be transacted at such a meeting. The meeting must be held within five clear working days of the Chairman's receipt of the requisition.

7. **Minutes.** Minutes of all HWB meetings are prepared recording:
 - the names of all members present at a meeting and of those in attendance
 - apologies
 - details of all proceedings, decisions and resolutions of the meeting

Minutes are printed and circulated to each member before the next meeting of the HWB, when they are submitted for approval by the HWB and are signed by the Chairman.

8. **Agenda.** The agenda for each meeting normally includes:
- Minutes of the previous meeting for approval and signing
 - Reports seeking a decision from the HWB
 - Any item which a member of the HWB wishes included on the agenda, provided it is relevant to the terms of reference of the HWB and notice has been given to the Clerk at least nine working days before the meeting.

The Chairman may decide that there are special circumstances that justify an item of business, not included in the agenda, being considered as a matter of urgency. He must state these reasons at the meeting and the Clerk shall record them in the minutes.

9. **Chairman and Vice Chairman's Term of Office.** The Chairman and Vice Chairman's term of office terminates on 1 April each year, when they are either reappointed or replaced by another member, according to the decision of the HWB, at the first meeting of the HWB succeeding that date.

10. **Absence of Members and of the Chairman.** If a member is unable to attend a meeting, then they may provide an appropriate alternate member to attend in their place. The Clerk of the meeting should be notified of any absence and/or substitution within five working days of the meeting. The Chairman presides at HWB meetings if they are present. In their absence the Vice-Chairman presides. If both are absent, the HWB appoints from amongst its members an Acting Chairman for the meeting in question.

11. **Voting.** The HWB operates on a consensus basis. Where consensus cannot be achieved the subject (or meeting) is adjourned and the matter is reconsidered at a later time. If, at that point, a consensus still cannot be reached, the matter is put to a vote. The HWB decides all such matters by a simple majority of the members present. In the case of an equality of votes, the Chairman shall have a second or casting vote. All votes shall be taken by a show of hands unless decided otherwise by the Chairman. For clarity, each Clinical Commissioning Group has one vote, irrespective of whether both the Clinical Lead and Accountable Officer for that Clinical Commissioning Group attend the HWB.

12. **Quorum.** A third of members form a quorum for HWB meetings. No business requiring a decision shall be transacted at any meeting of the HWB which is inquorate. If it arises during the course of a meeting that a quorum is no longer present, the Chairman either suspends business until a quorum is re-established or declares the meeting at an end.

13. **Adjournments.** By the decision of the Chairman, or by the decision of a majority of those members present, meetings of the HWB may be adjourned at any time to be reconvened at any other day, hour and place, as the HWB decides.
14. **Order at Meetings.** At all meetings of the HWB it is the duty of the Chairman to preserve order and to ensure that all members are treated fairly. They decide all questions of order that may arise.
15. **Suspension/disqualification of Members.** At the discretion of the Chairman, anybody with a representative on the HWB will be asked to reconsider the position of their nominee if they fail to attend two or more consecutive meetings without good reason or without the prior consent of the Chairman, or if they breach the Kent Code of Conduct for Members

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From: **Eric Hotson, Cabinet Member for Corporate and Democratic Services**
Roger Gough, Cabinet Member for Children, Young People and Education
Matt Dunkley, Corporate Director for Children, Young People and Education
Benjamin Watts, General Counsel

To: **Selection and Member Services Committee – 22 March 2018**

Subject: **The Governor Appointments Panel**

Classification: **Unrestricted**

Electoral Division: **All**

Summary:

The Governor Appointments Panel is a Sub-Committee of Selection and Member Services Committee. This report sets out a rationale for the abolition of the Governor Appointments Panel and recommends alternative arrangements.

Please note that the term “LEA Governors” is often used in the Appendices and also appears in the Constitution. This should always be read as “Local Authority Governors.”

1. Background

1.1 Changes to school governance constitution regulations in September 2012 reduced the number of local authority governors on a single governing body to **‘one, and only one’**. Under the *School Governance (Constitution) (England) Regulations 2012*, the local authority role is redefined to one of “nominating a suitably skilled individual” for the role, with the governing body making the appointment at school level. The Local Authority retains the right to appoint additional governors where a school is eligible for intervention

1.2 On 23 June 2016 this Committee delegated authority to the Corporate Director of Education, Learning and Skills (in consultation with the Members of the Governor Appointments Panel) to make or refuse all appointments to governing bodies where the nominee did not meet the guidelines in full, providing that all Panel Members were in agreement with the Director’s proposed course of action. This followed a previous decision taken on 16 January 2015 which gave delegated powers to the Corporate Director of Education, Learning and Skills (in consultation with the Chairman of the Governor Appointments Panel) to make all appointments and nominations of LA Governors where the nominated governor met the guidelines in full. These decisions enabled Panel meetings to be cancelled unless there were requests to consider exceptions. Copies of the two reports are attached at **Appendices 1 and 2**.

2. Subsequent Developments

2.1 Since these decisions were taken, there have been no meetings of the Panel. This is because candidates nominated by the County Council no longer represent it. The Local Authority's role is purely to nominate candidates based on their skill sets for consideration by the Governing Body itself. This means that the number of occasions where the Panel would have the opportunity to take a decision has dwindled to a trickle. The Panel's only potential opportunity for decision-making occurs when an Authority Governor's name comes forward for re-nomination.

2.2 Whenever a sitting Governor's term expires, the Governing Body can decide not to renew the appointment. If the Governing Body does decide that it wishes the Governor to serve a second term, it can ask the Local Authority to make a nomination to this effect.

2.3 The DfE Governance Handbook (published January 2017) sets out a number of recommended qualities before setting out the criteria that both the LEA and the Governing Body must follow:

"For LA Governor appointments, a board should make clear its eligibility criteria including its expectations of the credentials and skills prospective candidates should possess. LAs must then make every effort to understand the board's requirements in order to identify and nominate suitable candidates. It is for the board to decide whether the local authority nominee meets any stated eligibility criteria and, if it chooses to reject the candidate on that basis, to explain their decision to the LA.

27. Once appointed, LA Governors must govern in the interests of the school and not represent or advocate for the political or other interests of the local authority; it is unacceptable practice to link the right to nominate local authority governors to the local balance of political power."

2.4 One of the effects of the new arrangements is that the current County Council guidelines for appointment have become out-of-date and unenforceable. This is because they were formulated with the aim of ensuring that the nominee represented the County Council to its satisfaction, whereas the new remit is to seek to meet the stated needs of the School's governing body to enable it to appoint people with the qualities and skills it has asked for.

3. Proposed way forward

3.1 The absence of any meeting of the Governor Appointments Panel since June 2016 strongly suggests that its role has become largely defunct as a result of the 2012 regulations. It is therefore suggested that the entire nomination of Governors process is delegated to the Corporate Director of Children, Young People and Education. This would include the few and diminishing number of re-nominations which are requested by Governing Bodies. The Governor Support Team will continue to seek and welcome suggested nominees from the County Council's political groups, although it can do no more than suggest them to the Governing Body.

3.2 The current guidelines (attached at **Appendix 3**) are also no longer fit for purpose, as explained above. It is therefore suggested that they should no longer apply, enabling the Corporate Director of Children, Young People and Education to develop a fresh set of guidelines for approval by the Cabinet Member for Children, Young People and Education.

3.2 The Governor Appointments Panel also has requests for the removal of Authority Governors as part of its terms of reference. Given the ever-decreasing number of governors appointed as KCC representatives, it is likely that the number of occasions when the County Council Governors will receive such a request will be very low. It is nevertheless necessary that this particular function is retained by Members. For this reason, it is recommended that the amended arrangements set out in **Appendix 4** are applied. These are based on the current arrangements.

4. Amendments to the Constitution.

4.1 In order to achieve the aims of this report, Sections 6 (e), (f) and (g) of Appendix 2 Part 2 of the Constitution will need to be amended to read:

“ (e) the removal of Local Authority Governors to school governing bodies

(f) the removal of Local Authority nominees to the Management Committees of Pupil Referral Units (PRUs)

(g) the removal of Local Authority governors to Academies.”

4.2 Function H16 of the Schedule of Council Functions will also need to be amended so that the responsibility for the appointment or nomination of Local Authority Governors to Schools, Academies and PRUs rests with the Corporate Director of Children, Young People and Education.

4.3 There will also need to be consequential minor amendments to other parts of the Constitution.

5. Recommendation(s)

Recommendation(s):

5.1 The Committee is invited to:

- (a) abolish the Governor Appointments Panel;
- (b) adopt the amended arrangements set out in Appendix 4 of the report to consider requests for the removal of Authority Governors; and
- (c) recommend to the County Council that the power to appoint or nominate Local Authority Governors is delegated to the Corporate Director of Children, Young People and Education and that the constitution be amended accordingly.

Suzanne Mayes
School Governance Officer
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Andrew Tait
Democratic Services Officer
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Background Documents

The DfE Governance Handbook (published January 2017).

The Constitution of Governing Bodies of Maintained Schools (DfE Statutory Guidance – August 2017)

From: **David Brazier, Chairman of the Governor Appointments Panel**
Patrick Leeson, Corporate Director for Education, Learning and Skills
Geoff Wild, Director of Governance and Law

To: **Selection and Member Services Committee - 26**
January 2015

Subject: **Future arrangements for the Governor Appointments Panel**

Classification: **Unrestricted**

Electoral Division: **All**

Summary:

This report takes into account the revised arrangements for the nomination of local authority governors and sets out a recommendation from the Governor Appointments Panel to make more efficient use of its time. The report also sets out a consequential amendment to the Constitution arising out of the new regulations reported to the Committee on 8 October 2014 and asks the Committee to formally delegate the nomination of governors function to the Governor Appointments Panel.

1. Background

1.1 Changes to school governance constitution regulations in September 2012 reduced the number of local authority governors on a single governing body to **'one, and only one'**. Under the 2012 regulations, the local authority role is redefined to one of "nominating a suitably skilled individual" for the role, with the governing body making the appointment at school level. The Local Authority retains the right to appoint additional governors where a school is eligible for intervention. This new function requires a consequential amendment to the terms of reference of this Committee to read:

*"(e) the appointment of, **nomination of suitably skilled individuals** as, or removal of, LEA governors to school governing bodies..."*

1.2 It is recommended that the nomination of individuals function be delegated to the Governor Appointments Panel.

1.3 All maintained schools are required to reconstitute under the 2012 regulations by September 2015, if they have not already done so. As a consequence, the number of nominations to serve as local authority governors will reduce considerably in the meantime.

2. The impact on the Governor Appointments Panel

2.1 The Governor Appointments Panel is a sub-committee of the Selection and Member Services Committee, exercising on its behalf the responsibility for the appointment or removal of local authority governors. The Panel has only needed to consider one application for the removal of a governor over the past 10 years.

2.2 The Governor Appointments Panel meets on six occasions each year. Each meeting typically considers between 40-60 nominations, including up to ten where the candidates have in some way not conformed to the guidelines for appointment set by the Selection and Member Services Committee. On occasions, the Panel has needed to choose between one or more candidates for the same position.

2.3 The two most recent meetings of the Panel considered a total of 43 nominations. Only one of these failed to conform to the guidelines. Members of the Panel agreed that they were being unnecessarily asked to travel to County Hall from different parts of the county to attend meetings that did not require them to exercise their judgement. The Panel considers it more than likely that such a situation will occur on a number of future occasions.

3. Proposed change to the process

3.1 The Governor Appointments Panel met on 21 November 2014 and agreed to recommend to the Selection and Member Services Committee that it give delegated powers to the Corporate Director of Education, Learning and Skills (in consultation with the Chairman of the Governor Appointments Panel) to make all future appointments to governing bodies where the nominated governor meets the guidelines in full.

3.2 The Panel's aim is to enable its meetings to be cancelled if there are no requests to consider exceptions. This would make the process more efficient without compromising the right of Members to make decisions that require the exercise of judgement.

3.3 A report setting out those appointments made under delegated powers would be given to each Panel meeting that took place.

4. Recommendation(s)

Recommendation(s):

4.1 The Committee is invited to

(a) agree to vary its terms of reference to include the nomination of suitably skilled individuals to governing bodies;

(b) delegate the function of nominating suitably skilled individuals to the Governor Appointments Panel; and

(c) delegate authority to the Corporate Director of Education, Learning and Skills (in consultation with the Chairman of the Governor Appointments Panel) to make all appointments to governing bodies where the nominee meets the guidelines in full.

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From: **David Brazier, Chairman of the Governor Appointments Panel**
Patrick Leeson, Corporate Director for Education, Learning and Skills
Geoff Wild, Director of Governance and Law

To: **Selection and Member Services Committee – 23 June 2016**

Subject: **Future arrangements for the Governor Appointments Panel**

Classification: **Unrestricted**

Electoral Division: All

Summary:

This report sets out a proposed revision to the arrangements for the nomination of Local Authority Governors

1. Background

1.1 On 26 January 2016 this Committee gave delegated powers to the Corporate Director of Education, Learning and Skills (in consultation with the Chairman of the Governor Appointments Panel) to make all appointments and nominations of Local Authority Governors where the nominated governor meets the guidelines in full. This decision enabled Panel meetings to be cancelled unless there were requests to consider exceptions. A copy of the report is attached at **Appendix 1**.

1.2 One of the consequences of this decision is that Panel meetings are taking place to consider only a very small number of exceptions. The last three meetings have considered one exception each. The Panel Members have expressed the view that this represents an unnecessary use of resources as it still involves Members travelling to County Hall in order to participate in what is often a very short meeting indeed.

2. Proposed change to the process

2.1 In response to these concerns, the Governor Appointments Panel has sought to identify a mechanism which enables Members to retain the ability to exercise their judgement when required to do so whilst avoiding an excess of meetings which contribute little to the work of the County Council.

2.2 The Governor Appointments Panel agreed at its meeting on 26 April 2016 that the most appropriate course of action to achieve this goal is for Selection and Member Services Committee to extend delegated powers to the Corporate Director of Education, Learning and Skills to also make or refuse to make an appointment in circumstances where the nominated individual does *not* meet the guidelines in full, *providing that* all Members of the Governor Appointments Panel are in agreement with the Corporate Director's decision.

2.3 If the above process were to be adopted, the means of carrying it out would normally be through email communication. The School Governance Officer would set out the name of the individual applicant together with the guideline which is not met in full. An explanation of the circumstances would also be given, including any accompanying papers, together with the grounds for her recommended course of action. Each Member would be asked to reply to her within two weeks of the date of the initial communication to them. In the event that the Panel Members all indicated their agreement on a course of action, this would be recorded and the Corporate Director would be invited to exercise delegated powers accordingly. A record of the decision would be retained and formally reported at the next meeting of the Panel. If it proved impossible to obtain a reply from one or more Panel Members, the Panel would need to meet formally on the next date scheduled.

2.4 This would enable Panel meetings to be cancelled unless there was a disagreement amongst Members in respect of a particular nominee or if the Corporate Director disagreed with the unanimous views of the Panel Members. If this was the case, the nomination would be considered at the next scheduled meeting of the Panel.

2.5 Decisions on a request to remove a school governor would not be affected by the proposed revision.

3. **Recommendation(s)**

Recommendation(s):

The Committee is invited to delegate authority to the Corporate Director of Education, Learning and Skills (in consultation with the Members of the Governor Appointments Panel) to make or refuse all appointments to governing bodies where the nominee does not meet the guidelines in full, providing that all Panel Members are in agreement with the Director's proposed course of action.

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APPENDIX 3

**KENT COUNTY COUNCIL
GUIDELINES FOR THE NOMINATION OF LOCAL
AUTHORITY GOVERNORS**

The following guidelines are based upon the legislation outlined at the end of this document and are reviewed on a regular basis by Kent County Council. Kent County Council has delegated the authority to appoint or remove LA governors to school governing bodies, Pupil Referral Units and Academies to a sub-committee of its Selection and Member Services Committee - the Governor Appointments Panel (GAP) - as set out in Appendix 2 Part 2 of the Constitution. This guidance applies to only this category of governorship.

General principles and expectations

Local Authority governors should be able to make a full and effective contribution as a school governor and meet the skill set identified by the appointing school.

Candidates will be considered for nomination to a governing body vacancy by reference to a completed application form, and matching to the identified skill set

A member of staff who works at the school cannot be appointed as a local authority governor.

All candidates for nomination must conform in full with the qualifications and disqualifications specified in The School Governance (Constitution) (England) Regulations 2014.

Kent County Council has laid down the following guidelines for the appointment of local authority governors. GAP will also take account of any relevant comments received from the Head Teacher, governing body or local authority officers before recommending a candidate for nomination or re-nomination.

Potential Conflicts of Interest

Kent County Council aims to ensure that no potential conflicts of interest will arise between the personal interests of the local authority governor and the local authority. Accordingly, a candidate is unlikely to be successfully nominated for appointments as a local authority governor to a school if s/he:

1. is a member of staff in a Kent funded school (however, a candidate who volunteers at the school may be nominated if GAP deems that their relationship to the School is sufficiently remote to make a potential conflict of interest unlikely to arise)

2. is a parent of a child attending the school
3. is related to a member of staff, or a member of the school's governing body
4. has worked at the school in the past
5. has worked at a school in the same area in the last 2 years
6. has made a complaint of a vexatious nature to either the school or the local authority

Re-appointment

Because appointment is at governing body level, if a person continues to meet the skills requirements, the governing body can make an appointment for a further term of office providing they have satisfied the following conditions.

- within 2 months of the end of the governors' term of office, the governing body provides to the panel
- a statement from the governor outlining the contribution they have made to the effectiveness of the governing body over their term of office, and
- a statement from the governing body supporting their reappointment

The Governor Appointments Panel's Discretion

GAP has the discretion to agree to the nomination of any candidate. In considering whether to exercise its discretion, it will take account of any relevant comments received from the Head Teacher, governing body or local authority officers before recommending a nominee for appointment. Its decision will be taken with full regard to all aspects of equal opportunities legislation and will also take into account any other factor that the candidate wishes to be taken into consideration.

Note: A register of exceptions is maintained of any person appointed against these guidelines.

These Guidelines were approved by Selection and Member Services Committee on 8 October 2014. They take into account changes arising from the Education Act 2002: specifically, the new School Governance (procedures) (England) Regulations 2014, the Education and Inspections Act 2006, and The School Governance (Constitution) (England) Regulations 2014.

KENT COUNTY COUNCIL ARRANGEMENTS FOR THE CONSIDERATION OF REQUESTS FOR THE REMOVAL OF AN AUTHORITY GOVERNOR

Local authority governors may be removed from office by the local authority that nominated them. The local authority must give written notice of the removal to the clerk to the governing body and to the governor concerned.

Procedure

1. The governing body makes a formal written proposal to the Chairman of the Selection and Member Services Committee for removal of a local authority governor, giving reasons for the proposal.
2. The proposal for removal is shared with the governor concerned, and he/she is provided with an opportunity to provide a written response.
3. A panel of 3 elected Members is convened consisting of the Chairman of Selection and Member Services Committee (or her nominee), 1 Member nominated by the Conservative Group and 1 Member nominated by the Liberal Democrat Group to consider the removal proposal and the governor response.
4. An investigation may be commissioned by the panel if it feel it has insufficient evidence on which to base its decision.
5. A decision is reached and shared with the individual governor concerned and the governing body that made the proposal
6. The individual is informed of their right of appeal.

Appeal

1. Further information is sought and/or provided by either or both parties
2. A panel of 3 (previously uninvolved) elected Members is convened to consider the proposal, finding of the original hearing, and any additional information provided. This Panel will consist of 2 Members nominated by the Conservative Group and 1 Member nominated by the Liberal Democrat Group.
3. The panel reaches a decision and share it with the individual governor and the governing body

Local authority governors may be disqualified from continuing to serve if they meet the grounds for disqualification

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From: Eric Hotson – Cabinet Member for Corporate and Democratic Services

To: **Selection and Member Services Committee – 22 March 2018**

Subject: The Molyneux Almshouses Charity

Classification: **Unrestricted**

Summary:

The Molyneux Almshouses Trust is based in Rusthall near Tunbridge Wells and provides amenity and unsupported housing for older residents living in Tunbridge Wells. The effect of new Regulations is to reduce the number of Local Authority appointments to the Trust. The Chair of the Trustees has written to the County Council asking whether it would be content to cease to be represented on the Trust. This report recommends that this request is agreed.

1. Introduction

1.1 The Molyneux Almshouses Trust is based in Rusthall near Tunbridge Wells and provides amenity and unsupported housing for older residents living in Tunbridge Wells.

1.2 *The Regulation of Social Housing (Influence of Local Authorities) (England) Regulations 2017* came into force in November 2017, overriding the Charitable Scheme and specifying that Local Authority representation cannot be more than 24% of the Trustees. There are currently 9 Trustees, which means that the overall figure of Local Authority Trustees must be reduced from 4 to 2. This must happen by 15 May 2018.

1.3 The existing Charitable Scheme provides for 1 Trustee from Kent County Council and 3 from Tunbridge Wells BC. According to our records, the County Council has never been represented by an elected Member, although it is possible that there may have been an informal arrangement in the past, with the Local Member being approached by the Trust.

1.4 Kent County Council is currently represented by Ms Carolyn Cohen, who is not a KCC Member. The wish of the Trust is that Ms Cohen will continue as a Trustee in another capacity, whilst the appointments made by the other two Councils (who are both represented by an elected Member) should continue.

1.5 The Chair of the Trustees has explained that the Trust's Scheme does not give any local authority voting rights as such, as the Trustees take decisions in their own name and vote accordingly as individual Trustees.

1.6 The Trust has the duty to decide its new scheme by 15 May 2018 if the Local Authorities concerned have not reached agreement by that time.

2. Recommendations:

The Committee is invited to agree that the Molyneux Almshouses Trust be advised that Kent County Council agrees to the revision of its Charitable Scheme so that the two Local Authority representatives are both from Tunbridge Wells BC.

Background Documents:

The Regulation of Social Housing (Influence of Local Authorities (England) Regulations 2017

Circular Letter to the Chairs of Housing Charities from Julian Ashby, Chair of the HCA Regulation Committee (dated 24 November 2017)

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