

Governance Committee
20 January 2020
Part I
Pensions Delegations
Report by Director of Finance and Support Services and Director of Law and Assurance

Summary

Officers have undertaken a minor technical review of the Constitution around the County Council's pensions responsibilities. Minor changes to the terms of reference of two committees and the pensions panel are proposed to help clarify their roles and responsibilities on pensions matters.

Recommendation

- (1) That the changes to Part 3 of the Constitution, as set out in the report, be endorsed for submission to the Council on 14 February 2020 for approval; and
- (2) That the Director of Law and Assurance be authorised to revise the scheme of officer delegation to reflect the most up to date and accurate list of employer responsibilities.

1. Background and Context

- 1.1 West Sussex County Council is the Administering Authority for the West Sussex Local Government Pension Scheme (LGPS). As Administering Authority it is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The Administering Authority is responsible for maintaining and investing its own Fund within the LGPS. How an Administering Authority delegates its LGPS administrative function is largely a matter for each Administering Authority.
- 1.2 In addition, West Sussex County Council is an employer whose employees, and former employees, are members of the LGPS. The Council therefore has responsibilities to discharge as a scheme employer which are separate from its function as scheme administrator
- 1.3 The term 'Scheme Manager' is also used to set out statutory functions. It is defined in Section 4 of the Public Service Pensions Act 2013 as the individual scheme administering authorities in England and Wales. It is therefore simply another term for that function. For the purpose of the West Sussex Pension Scheme this is the West Sussex County Council. Its functions are discharged in accordance with the Council's scheme of delegation by:

- The Governance Committee (further delegated to the Pensions Panel)
- Officers (Director of Finance and Support Services and the Director of Law and Assurance) as described in the scheme of officer delegation.

1.4 Officers have undertaken a review of delegations to ensure that the wording of the terms of reference remain appropriate. Some minor clarifications are proposed as a result of this. There is no proposal to change the scope or content of officer delegations in relation to the scheme manager function.

2. Proposal

Governance Committee

2.1 The current wording of the Governance Committee's terms of reference around pensions responsibilities is:

'9. To exercise the powers and duties of the County Council in relation to the Local Government Superannuation Acts and Regulations made thereunder including decisions on investment under The Local Authority (Discretionary Payments) Regulations 1996 and the Local Authority Pension Scheme Regulations 2013.'

2.2 It is proposed that this is updated to reflect the current practice and terminology and, in particular the role of the Pensions Panel.

'9. **To make arrangements for the discharge of the County Council's function as Scheme Manager and the exercising of the powers and duties of the County Council in its capacity as Administering Authority in relation to the Local Government Superannuation Acts and Regulations made thereunder and in particular to arrange for the discharge of those responsibilities through a formally constituted panel to be named the Pensions Panel.'**

2.3 For consistency with other delegated functions from the Governance Committee it is proposed that the terms of reference for the Pension Panel are amended to ensure that it is clear that the functions are fully delegated to a sub-committee and which can make decisions in its own right.

2.4 It is therefore proposed that the following wording is added to the Pension Panel's terms of reference to refer to the Scheme Manager responsibilities and provide examples of what this entails, rather than an exclusive list:

'Terms of Reference

To exercise the powers and duties of the County Council in its capacity as Administering Authority in relation to the Local Government Superannuation Acts and Regulations made thereunder including to be responsible ~~to the Governance Committee~~ for:

- (1) Appointment of professional and specialist investment advisers and managers on a consultancy basis.

- (2) Consideration of the recommendations of the advisers and managers including the Fund's investment strategy.
- (3) Determination of the Pension Fund's investment strategy and oversight of the delivery of the strategy by the Local Government Pension Scheme (LGPS) ACCESS Joint Committee and directly appointed investment managers.
- (4) Consideration of and response to the recommendations of the LGPS ACCESS Joint Committee.
- ~~(5) Determination of and overseeing the County Council's investment policy.~~
- (6) Consideration of and response to key scheme governance, funding and administration issues, including responses to statutory consultations.
- ~~(7) Overseeing the management of the Pension Fund investments.~~
- (8) Monitoring the Fund's performance.
- (9) Ensuring that arrangements are in place for consultation and communication with stakeholders as necessary.
- (10) Establishing member groups to review aspects of investment strategy or to undertake work on key themes and to report back to the Panel.
- (11) Consideration of the work of the Regulation, Audit and Accounts Committee with regards to the Pension Fund accounts, internal and external auditors' reports, development and operation of risk management and approval of changes to anti-fraud and corruption strategy.'**

Performance and Finance Select Committee

The current wording of the Performance and Finance Select Committee's (PFSC) terms of reference includes the following:

'12. To consider the annual report of the West Sussex Pension Fund on its management and performance.'

- 2.5 As there is no part of the function of the Council as Scheme Manager which falls or can fall within the responsibilities of the Executive (the Cabinet) it is not appropriate for any of the Select Committee's to provide a scrutiny function. It is therefore proposed that this reference is removed as the consideration of pension matters is not consistent with PFSC's Area of Responsibility.
- 2.6 The responsibility for the County Council's participation in the Scheme as an active employer is fulfilled by officers. It is a non-executive function. The current scheme of officer delegations requires updating to reflect the most up to date set of employer responsibilities and to ensure the inclusion of all relevant Directors for specific actions. It is not proposed that the substance or scope of officer delegations be altered. It will remain the responsibility of the Governance Committee to act as the member forum for addressing officer terms and conditions of service and associated employer pension responsibilities and for officers to report to that Committee to seek specific authority as required.

3. Resources

- 3.1 Not applicable as these changes will better clarify existing roles and responsibilities.

Factors taken into account

4. Consultation

- 4.1 Not applicable as these changes will better clarify existing roles and responsibilities.

5. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
Risk of poor governance if responsibilities are not clear.	Improved clarification by making the proposed amendments.

6. Other Options Considered

- 6.1 None.

7. Equality Duty

- 7.1 Not applicable as these changes will better clarify existing roles and responsibilities.

8. Social Value

- 8.1 Not applicable as these changes will better clarify existing roles and responsibilities.

9. Crime and Disorder Act Implications

- 9.1 Not applicable as these changes will better clarify existing roles and responsibilities.

10. Human Rights Implications

- 10.1 Not applicable as these changes will better clarify existing roles and responsibilities.

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Background Papers: None