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## **Governance Committee: Minor changes to Council procedures, Pensions delegations, authority to effect constitutional changes arising from withdrawal from the EU and establishment of a Joint Waste Committee**

### **Minor changes to Council procedures**

#### **Background and context**

- 1** Two minor changes are proposed to Council procedures arising from a review of the recent experience of managing Council business and its impact on officer resources and in relation to transparency.

#### **Notice of motion reports**

- 2** Notices of motion submitted to the County Council can either be debated at the meeting or referred, most often to a Cabinet Member. Following this the Cabinet Member will agree a response which is used to inform the Council debate. These are currently published as an executive decision. This practice has been reviewed and the conclusion is that this process is not required. A simpler process is recommended: that the response be published as a short report in The Bulletin.
- 3** Changes to Standing Orders to allow a Cabinet Member response to a motion referral to be published in The Bulletin, rather than as a decision report, are **set out at Appendix 1**.

#### **Written Question deadline**

- 4** Standing Orders provide that the deadline for receiving written questions for response from the relevant Cabinet Member or Committee Chairman prior to the Council meeting is 9.00 a.m. on the fourth working day before Council (usually a Monday morning). The rationale is two-fold – first to enable questions to be topical and second because a previous policy meant that written questions on topics covered in the Cabinet Member report were not accepted. The latter is no longer applicable, as members can submit any written question on matters relevant to the County Council or county in general and can do this up to four weeks before Council, long before the agenda and cabinet member report are available. Questions are becoming increasingly lengthy or complex.
- 5** Increased pressures on staffing throughout the organisation in recent years have made the ability to answer questions within three working days more challenging. It is therefore proposed that the deadline for written questions be moved earlier, to the start of the fifth day prior to Council (usually the previous Friday). This should allow questions to be answered in a more timely manner, while not affecting the ability to ask topical questions.
- 6** An amendment to Standing Orders to change the deadline for written questions to five working days is **set out at Appendix 1**.

#### **Recommended**

- (1)** That the proposed minor changes to Council procedures set out above and in Appendix 1 be agreed.

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## Pensions delegations

### Background and context

- 7 West Sussex County Council is the Administering Authority for the West Sussex Local Government Pension Scheme (LGPS). The Administering Authority is responsible for maintaining and investing its own Fund within the LGPS. How an Authority delegates its LGPS administrative function is for each Authority.
- 8 In addition, the County Council is an employer whose employees, and former employees, are members of the LGPS. The Council therefore has responsibilities as a scheme employer, separate from its function as scheme administrator.
- 9 The term 'Scheme Manager' is also used for some statutory provisions but is simply another term for the Administering Authority function. For the purpose of the West Sussex Pension Scheme this is the 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.
- 10 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 some officer delegations in relation to the scheme manager function.

### Proposal

#### Governance Committee

- 11 The current wording of the Governance Committee's terms of reference for pensions responsibilities and how it is proposed that they be updated is **set out at Appendix 2** to reflect the current practice and terminology and the role of the Pensions Panel.

#### Pensions Panel

- 12 For consistency with other delegated functions from the Governance Committee, it is proposed that the terms of reference for the Pensions Panel are amended, as **set out at Appendix 2**, 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. Amendments to the Pensions Panel's terms of reference are to refer to the Scheme Manager responsibilities and to provide examples of what this entails, rather than an exclusive list.

#### Performance and Finance Scrutiny Committee

- 13 The current wording of the Performance and Finance Scrutiny Committee's (PFSC's) terms of reference includes consideration of the annual report of the West Sussex Pension Fund on its management and performance (terms of reference 12).
- 14 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

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appropriate for any of the scrutiny committees 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.

### **Recommended**

- (2) That the changes to Part 3 of the Constitution, as set out at Appendix 2, be approved; and
- (3) That paragraph 12 be deleted from the Performance and Finance Scrutiny Committee's terms of reference.

### **Authority to effect constitutional changes arising from withdrawal from the EU**

- 15** The County Council's Constitution contains a number of provisions which arise from or refer to legislation from the EU. It will be necessary for these references to be amended to take account of the departure of the United Kingdom from the EU on 31 January and to make any further changes needed to accommodate the transition arrangements as provided in UK primary legislation.
- 16** On the 31 January 2020 the European Union (Withdrawal) Act (EUWA) 2018 meant that EU law ceased to have direct legal effect within the UK. All directly applicable EU legislation became UK domestic law. The provisions will continue to have the same effect but the source of authority will no longer be the EU. Transitional provisions in the EUWA mean that anything done or in force before exit day and which relates to any element of retained EU law is preserved.
- 17** It is necessary for all references to EU legislation, obligations and directives within the Council's Constitution and in any policies and internal guidance to be amended to take account of these changes. As a precaution authority is also sought to amend any legal instrument or agreement to which the County Council is a party which may be required to ensure continued effect and to preserve the rights and interests of the Council.
- 18** The Governance Committee has delegated authority to the Director of Law and Assurance to make any changes to the Council's Constitution, policies and guidance documents to reflect changes in legislation arising from the UK's withdrawal from the EU and to agree and settle changes to any other affected legal instrument or agreement to which the County Council is or will become a party. The County Council is asked to confirm this delegation of authority.

### **Recommended**

- (4) That delegation of authority to the Director of Law and Assurance to make any changes to the Council's Constitution, policies and guidance documents to reflect changes in legislation arising from the UK's withdrawal from the EU and to agree and settle changes to any other affected legal instrument or agreement to which the County Council is or will become a party be confirmed.

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## Establishment of a Joint Waste Committee

### Background and context

- 19** In 2018 the County Council set aside up to £200,000 of funding over two years to support trials, in partnership with the waste collection authorities, of a new recycling, food waste, absorbent hygiene product and residual waste collection model. The proposal was built on modelling work which suggested that adopting this approach across the county could collectively save up to £1.7m a year and boost the countywide recycling rate to around 58%.
- 20** It has been agreed with Mid Sussex District Council that such a trial will be developed for part of its area from spring 2020. The trial would implement a '1-2-3' system which is a scheme to separately collect food waste and absorbent hygiene products weekly, other recycle separately and residual waste three-weekly.
- 21** Operating the trial and any further rolling out of the scheme would require the two councils agreeing important decisions on the implementation of the scheme and the use of the available fund. Rather than require the two Councils to use separate internal governance for these decisions it is proposed that a joint committee be established. This would include, as a minimum, the respective cabinet members from the two councils holding the relevant portfolios. Decisions would be taken unanimously. Administrative support will be shared.

### Proposal

- 22** A proposed a constitution and terms of reference for a joint executive committee between the County Council and one or more district and borough councils for use in connection with inter-authority partnership work on recycling projects is **set out at Appendix 3** for approval.

### Recommended

- (5) That the constitution and terms of reference for a joint executive committee between the County Council and one or more district and borough councils for use in connection with inter-authority partnership work on recycling projects, as set out at Appendix 3, be approved; and
- (6) That should any minor amendments be required following consultation with Mid Sussex District Council, the Director of Law and Assurance be authorised to make the changes in consultation with the Chairman.

### Janet Duncton

Chairman of Governance Committee

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### Appendices

- Appendix 1 – minor changes to Council procedures
- Appendix 2 – Pensions delegations
- Appendix 3 – constitution and terms of reference of joint committee

**Background papers:** None