

## **Report to Governance Committee**

**27 September 2022**

### **Pension Advisory Board and Pensions Committee Matters**

#### **Report by Director of Law and Assurance**

**Electoral divisions: Not applicable**

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#### **Summary**

The Pension Advisory Board provides scrutiny of the work of the Pensions Committee and of the Council's role as scheme administrator. A member of the Board has recently been appointed as a representative member on the Pensions Committee. He chose to resign from the Board with immediate effect, to avoid any conflict of interest.

The Director of Law and Assurance suggests that a conflict of interest or the perception of one is likely in this situation and that it is reasonable for the County Council to amend its Constitution to prevent this situation from arising.

The Cabinet Member with responsibility for the Finance portfolio has always been treated as ex-officio Chairman of the Pensions Committee since the introduction of political management changes in the year 2000. The opportunity is also taken to set out this long-standing convention in the constitution of the Pensions Committee.

#### **Recommendation**

That the County Council on 14 October 2022 be recommended:

- (1) That that Part 3, Appendices 7 and 19 of the Council's Constitution be amended to state that no person may be a Board member and also a member of the Pensions Committee. Any person already appointed to one must resign if successful in becoming a member of the other; and
  - (2) That the constitution of the Pensions Committee in Part 3, Appendix 7, be amended to show that the Cabinet Member with responsibility for the Finance portfolio is treated as ex-officio Chairman of the Pensions Committee; and
  - (3) That the Leader be recommended to clarify the nature of the portfolio responsibilities of the Cabinet Member for Finance and Property in Part 3, Appendix 2, in the suggested text in paragraph 2.5.
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#### **Proposal**

##### **1 Background and context**

1.1 The Pension Advisory Board's role is to:

- Assist West Sussex County Council as Scheme Manager;

- To secure compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that is connected with it;
- To secure compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator; and
- Assist in such other matters as the scheme regulations may specify.

1.2 In effect, the Board scrutinises the work of the Pensions Committee and the County Council as scheme manager in order to fulfil its remit.

1.3 A member of the Board was recently appointed as a representative member of the Pensions Committee. He voluntarily resigned from the Board upon his new appointment to avoid any perception of a conflict of interests.

## **2 Proposal details**

2.1 It is recommended that the County Council's Constitution be amended to make it a requirement that no person can, at the same time, be a member of both the Board and the Pensions Committee and must resign in the event that they are appointed to one whilst a member of the other, to avoid any conflict of interests.

2.2 The proposed amendment is for Part 3, Appendix 19 of the Constitution, paragraph 18, the section which sets out the circumstances in which a Board member will resign or cease to be eligible:

18. Other than ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the decision of the Governance Committee. ***If a Board member is appointed to serve on the Pensions Committee they will cease to be eligible to be a member of the Board and will be deemed to have resigned.***

2.3 To cover the possibility of a member of the Pensions Committee seeking and gaining appointment to the Advisory Board a parallel change is needed to cover the terms of reference of the Pensions Committee for representative members, in Part 3, Appendix 7. The opportunity is also taken to standardise the wording around reappointments to make it consistent with the equivalent wording for the Pensions Advisory Board.

2.4 The Cabinet Member with responsibility for the Finance portfolio has always been treated as ex-officio Chairman of the Pensions Committee since the introduction of political management changes in the year 2000. The opportunity is also taken to set out this long-standing convention in writing:

### **Pensions Committee**

#### **Constitution**

A sub-committee of the Governance Committee comprising seven members of the County Council and three representative members. ***The Cabinet Member with responsibility for the Finance portfolio will be ex-officio Chairman of the Committee.***

The term of office of representative members will be ***four years or, where applicable,*** the equivalent to the length of the election cycle of the body of which they are an elected member. ***This can be extended following***

**reselection up to a** the usual maximum length of committee membership will be **of** three terms. **Reselection will be at the invitation or discretion of the Chairman, with advice from the Director of Finance and Support Services and the Director of Law and Assurance. If a Committee member is appointed to serve on the Pensions Advisory Board they will cease to be eligible to be a member of the Committee and will be deemed to have resigned.**

2.5 It is also recommended that the Leader makes a corresponding clarification in Part 3, Appendix 2, under the list of Cabinet Portfolios.

### **Finance and Property**

3.1 The following functions are allocated to the Cabinet Member:

- Finance including Revenue and Capital Programme
- Ex-officio Chairman of the Pensions Committee (a non-executive function)**
- Treasury and Investment Management
- Property, Assets and Facilities Services
- Procurement

All decisions involving finance and property to be taken in consultation with this Cabinet Member

### **3 Other options considered (and reasons for not proposing)**

3.1 Not applicable.

### **4 Consultation, engagement and advice**

4.1 Not applicable.

### **5 Finance**

5.1 There are no financial implications arising from this report.

### **6 Risk implications and mitigations**

<b>Risk</b>	<b>Mitigating Action (in place or planned)</b>
A person being able to sit on both the Pensions Committee and the Pensions Advisory Board which scrutinises its work could lead to conflicts of interest that could undermine the work of either.	These changes to the Constitution would rule out the possibility of this situation.

### **7 Policy alignment and compliance**

7.1 There are no implications relating to Council policies.

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**Appendices** – None

**Background papers**

None