

Report to Governance Committee

6 February 2023

Proposed Changes to the Constitution on Pension Matters

Report by Director of Law and Assurance

Electoral division: Not applicable

Summary

Following a review, it has been identified that there is benefit in clarifying responsibility for certain functions provided for under the Local Government Pension Scheme regulations. These relate to certain policies and procedures the County Council, as scheme administrator, is required to maintain and the arrangements for the exercise of discretions the Council may apply both as employer and as scheme administrator. The report invites the committee to include these in the County Council's scheme of delegation.

Recommendations

- (1) That the Officer Scheme of Delegation be amended to include responsibility for discretionary functions allowed under the Local Government Pension Scheme Regulations for the County Council as an employer in the West Sussex Pension Fund as set out in paragraph 2.1 (Section 2S Pensions).
 - (2) That the Officer Scheme of Delegation be amended to include responsibility for discretionary functions allowed under the Local Government Pension Scheme Regulations for the County Council as Administering Authority of the West Sussex Pension Fund as set out in paragraph 2.1 (Section 2V Pensions).
 - (3) That the Officer Scheme of Delegation be amended to include responsibility to prepare, determine and implement the Pension Fund policy documents as set out in paragraph 2.1 (Section 2V).
 - (4) That the County Council be asked to agree to amend the Pension Committee's Terms of Reference to include responsibility for determination and consideration of the Pension Fund policy documents as set out in paragraph 2.2.
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Proposal

1 Background and context

- 1.1 West Sussex County Council is the Administering Authority responsible for maintaining and managing the West Sussex Local Government Pension Scheme on behalf of its stakeholders: the scheme members and employers participating in the Fund. Management of the pension fund is a non-executive function, which means that, by law, it cannot be the responsibility of the council's cabinet

or executive members. That responsibility is given to this Committee which is responsible for how those responsibilities are discharged both by the Pensions Committee and by officers.

- 1.2 The Pensions Committee has been given responsibility for exercising the powers and duties of the County Council in its capacity as Administering Authority. In addition, named senior officers of West Sussex County Council have been delegated certain specific responsibilities as part of the day-to-day administrative responsibilities of the Council.
- 1.3 West Sussex County Council also acts as an employer within the scheme and, in that capacity is required to enrol its employees into the Local Government Pension Scheme.
- 1.4 Local Government Pension Scheme regulations allow a number of discretions to be applied for employers and Administering Authorities. Each employer and Administering Authority is required to publish a statement setting out how they apply each discretion including who has responsibility for decision making (where required) or what the practice is.
- 1.5 Local Government Pension Scheme regulations also require each Pension Fund to prepare and implement several statutory policy documents. Some policy documents inform the content of other policies or procedures and therefore these have been split between those requiring a strategic overview and those which are operational. It is proposed that the Pension Committee will be responsible for the strategic policies and named senior officers will be responsible for the operational policies.

2 Proposal details

- 2.1 It is therefore proposed to add the below items to Part 2 of the Officer Delegations table within Part 3 – Scheme of Delegation: Responsibility for Functions within the Constitution.

2S Pensions – **Local Government Pension Scheme** Employer Role

Section/ No.	Function	Officer	Form of shared delegation
	To take decisions relating to the exercise of all discretions and matters relating to individual officers under the currently published policy of discretions under the Local Government Pension Scheme	Director of Human Resources and Organisational Development	In consultation with Director of Finance and Support Services

2V Pensions – Local Government Pension Scheme (Administration Authority)

Section/ No.	Function	Officer	Form of shared delegation
	To take decisions relating to the exercise of all discretions and matters under the currently	Director of Finance and	In consultation with senior officers for such

Section/ No.	Function	Officer	Form of shared delegation
	published Administering Authority Discretions Policy	Support Services	advice as may be required.
	To prepare determine and implement the following policies or procedures in connection with the administration of the scheme: <ul style="list-style-type: none"> • Administration Strategy • Breaches policy • Communications Policy • IDRP (Internal Dispute Resolution Procedure) • Privacy Notice 	Director of Finance and Support Services	Jointly with the Director of Law and Assurance

2.2 It is further proposed that the County Council be asked to amend the Pension Committee's Terms of Reference in Part 3, Appendix 7 of the Constitution, to include the addition of the following points:

- 'Determination of all statutory policy documents as listed below and to consider from time to time those delegated to officers for review or amendment.

Policy matters for determination by the Committee:

- Administering Authority Discretions
- Funding Strategy Statement
- Governance Policy and Compliance Statement
- Investment Strategy Statement
- Treasury Management Strategy Statement (TMSS)

Policy matters delegated to officers which are to be reviewed as required by the Committee

- Administration Strategy
 - Breaches policy
 - Communications Policy
 - IDRP (Internal Dispute Resolution Procedure)
 - Privacy Notice
- To consider the Annual Report in connection with the administration of the scheme.'

3 Other options considered (and reasons for not proposing)

3.1 It is necessary for there to be clarity as to the allocation of these responsibilities. They could be delegated differently. The proposal enables the day to day or operational responsibilities to be discharged by officers whilst leaving policy setting with elected members.

4 Consultation, engagement and advice

4.1 The named senior officers have been consulted in relation to the allocation of responsibilities.

5 Finance

5.1 There are no financial implications arising from this report.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Not having responsibilities clearly set out could impact on the accountability and transparency of decision making.	These changes to the Constitution would reduce the possibility of this situation.
It is not clear the role of the Pensions Committee and Officers regarding strategies, statements and policies required by the Regulations resulting in non-compliance with statutory responsibilities.	These changes to the Constitution would rule out the possibility of this situation.

7 Policy alignment and compliance

7.1 The proposals are administrative and so do not engage policies relating to equality, human rights, climate change and social value or crime and disorder. The arrangements proposed do, however, enable the Council to have clarity on the discharge of statutory and employer responsibilities and so should enable the more efficient use of its resources.

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Appendices

None

Background papers

None