



GOVERNANCE COMMITTEE

TUESDAY, 23 JUNE 2020

10.45 AM (OR AT THE CONCLUSION OF THE CABINET, WHICHEVER IS THE LATER)
COMMITTEE ROOM, COUNTY HALL, LEWES

++Please note that this meeting is taking place remotely++

MEMBERSHIP - Councillor Keith Glazier (Chair)
Councillors Nick Bennett, Godfrey Daniel, Rupert Simmons and David Tutt

A G E N D A

- 1 Minutes of the meeting held on 21 April 2020 (*Pages 3 - 4*)
- 2 Apologies for absence
- 3 Disclosures of interests
Disclosures by all members present of personal interests in matters on the agenda, the nature of any interest and whether the member regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Urgent items
Notification of items which the Chair considers to be urgent and proposes to take at the appropriate part of the agenda. Any members who wish to raise urgent items are asked, wherever possible, to notify the Chair before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgent.
- 5 Amendments to Constitution - Pension Board and Pension Committee Terms of Reference and Scheme of Delegation to Officers (*Pages 5 - 34*)
Report by Assistant Chief Executive
- 6 Review of Members' Allowances Scheme (*Pages 35 - 40*)
Report by Assistant Chief Executive
- 7 Virtual meetings - supplementary Standing Orders (*Pages 41 - 46*)
Report by Assistant Chief Executive
- 8 Amendment to the Constitution - Membership of the East Sussex Health and Wellbeing Board (*Pages 47 - 52*)
Report by the Assistant Chief Executive
- 9 Amendment to Constitution - Disciplinary process for senior officers (*Pages 53 - 60*)
Report by Chief Operating Officer
- 10 Any other items previously notified under agenda item 4

PHILIP BAKER
Assistant Chief Executive
County Hall, St Anne's Crescent
LEWES BN7 1UE

15 June 2020

Contact Andy Cottell, 01273 481955,

Email: andy.cottell@eastsussex.gov.uk

NOTE: This meeting will be broadcast live on the County Council's website and the record archived for future viewing. The broadcast/record is accessible at www.eastsussex.gov.uk/yourcouncil/webcasts/default.htm

GOVERNANCE COMMITTEE

MINUTES of a meeting of the Governance Committee held at Room CC2, County Hall, Lewes on 21 April 2020.

PRESENT: Councillors Keith Glazier (Chair), Nick Bennett, Godfrey Daniel, Rupert Simmons and David Tutt

Councillor Standley spoke on item 5 (minute 48)

45 MINUTES OF THE MEETING HELD ON 3 MARCH 2020

45.1 RESOLVED – that the minutes of the previous meeting of the Committee held on 3 March 2020 be confirmed and signed as a correct record.

46 DISCLOSURES OF INTERESTS

46.1 Councillor Godfrey Daniel declared a personal non prejudicial interest in item 5 as a member of the Discretionary Transport Appeal Panel.

47 REPORTS

47.1 Copies of the reports referred to below are included in the minute book.

48 LOCAL GOVERNMENT OMBUDSMAN'S REPORT

48.1 The Committee considered a report by the Assistant Chief Executive regarding a report of the Local Government Ombudsman.

48.2 The Committee RESOLVED (by 4 votes to 0) – to note the contents of the Local Government Ombudsman's report in respect of complaint reference 18 012 500 and to agree the recommendations set out in section 3 of the report.
[Councillor Godfrey Daniel abstained from the vote]

49 CORONAVIRUS (COVID-19) TEMPORARY ARRANGEMENTS

49.1 The Committee considered a report by the Assistant Chief Executive regarding temporary measures in relation to Council meetings as a result of Covid-19 disruption. The Committee agreed that paragraph 2.6(iii) should be amended to read:

'in relation to the Governance Committee - to delegate the functions of the Governance Committee in so far as the law allows to the Chief Executive, in consultation with the members of the Committee'

49.2 The Committee RESOLVED to recommend the County Council to:

1) approve the approach in relation to Lead Member decisions being made virtually and to its continuation;

2) agree that the Leader will assume all the powers of the Cabinet where required as set out in paragraph 2.4 of the report;

3) agree the delegations to officers in relation to the functions of the Planning, Pensions and Governance Committees and the Discretionary Transport Appeal Panel as set out in paragraph 2.6 of the report including the amendment referred to above;

4) agree that Member non-attendance related to Covid-19 be considered as an absence approved by the Council as set out in paragraph 2.8 of the report;

5) agree that the Chief Executive (or in her absence the Assistant Chief Executive) be authorised to cancel or postpone meetings, in consultation with the relevant Chair or Cabinet Member;

6) review these measures at the October 2020 meeting of the Council (or before if requested by a Group Leader) or as soon as practicable thereafter; and

7) agree to amend the Constitution accordingly.

50 CORONAVIRUS - ENTITLEMENT TO OCCUPATIONAL SICK PAY

50.1 The Committee considered a report by the Chief Operating Officer regarding entitlement to Occupational Sick Pay for any sickness absence that is related to Covid-19.

50.2 The Committee RESOLVED to agree to the temporary suspension of the current policy of not paying Occupational Sick Pay to staff in their first year of service (probation) for any absence that is related to Covid-19.

51 APPOINTMENTS TO OUTSIDE BODIES

51.1 The Committee considered a report by the Assistant Chief Executive regarding the appointment of a County Council representative to the Sussex Inshore Fisheries and Conservation Authority.

51.2 The Committee RESOLVED to appoint Councillor Webb as a Council representative on the Sussex Inshore Fisheries and Conservation Authority for the period to 11 May 2011.

Report to: Governance Committee

Date of meeting: 23 June 2020

By: Assistant Chief Executive

Title: Amendments to Constitution – Pension Board Terms of Reference; Pension Committee Terms of Reference; and Revised Officer Scheme of Delegations

Purpose: To consider proposed changes to the Council's Constitution.

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to:

1) approve the:

- i) Pension Committee Terms of Reference set out in Appendix 1**
- ii) Pension Board Terms of Reference set out in Appendix 2**
- iii) The Changes to the Officers Scheme of Delegation set out in Appendix 3; and**

2) agree to amend the Constitution accordingly

1. Background

1.1. East Sussex County Council is the administering authority for the East Sussex Pension Fund (ESPF or “the Fund”). The Council's Pension Committee is established as the Fund's scheme manager and is responsible for arrangements for the investment, administration and management of the Fund. The Council has also established a Pension Board, as required under the Public Services Pension Act 2013, to assist the scheme manager. Some decisions relating to the Fund are also delegated to Chief Officers and other officers of the Council under the Scheme of Delegations, including the Chief Operating Officer and Chief Finance Officer.

1.2. In November 2019, the Pension Committee approved the undertaking of a governance review of the ESPF involving the Chief Operating Officer, Chair of the Pension Committee, Independent Advisor to the Committee and Aon.

1.3. The governance review has been very comprehensive and has produced revised terms of reference of the Pension Board and Pension Committee and a revised Scheme of Delegations of Pension Fund management roles to the Chief Operating Officer, Chief Finance Officer and Assistant Chief Executive.

2. Supporting information

2.1. The purpose of the governance review has been to identify areas of the governance framework of the ESPF that needed to be amended in order to align with anticipated recommendations of the Scheme Advisory Board Good Governance Project; the Chartered Institute of Public Finance and Accountancy's (CIPFA) Knowledge and Skills Framework and Code of Practice and other guidance; and best practice from other Local Government Pension Schemes (LGPS).

2.2. The governance review working group has so far produced several draft documents:

- I. Pension Committee Terms of Reference (**appendix 1**)
- II. Pension Board Terms of Reference (**appendix 2**)
- III. Revised Officer Scheme of Delegations to incorporate Pension Fund management (**appendix 3**)
- IV. Communication Strategy

V. Breaches Policy and log

2.3. As documents I, ii and iii require changes to the Constitution or Officer Scheme of Delegation they require the approval of Council. All five documents were considered by the Board at its 8 June meeting, who supported the proposed amendments, and the Pension Committee will consider them at its meeting on 22 June, and its comments will be presented to the Governance Committee.

2.4. It is recommended that the proposed Pension Board and Pension Committee Terms of Reference set out in Appendices 1 and 2 will replace the existing terms of reference. Key changes of the documents include:

Pension Committee terms of reference

- Clarification of the roles and responsibilities of the Pension Committee including in relation to the ACCESS pension fund pool; Making decisions relating to employers joining and leaving the Fund; agreeing the policy for exit credits and terms on which employers may leave the Fund; selection, appointment and dismissal of the Fund's advisers and suppliers; and ensuring robust risk management arrangements are in place.
- Inclusion of an expectation that Committee members will regularly attend training sessions.

Pension Board terms of reference

- Greater detail on the objectives and role of the Pension Board, including assisting the Pension Committee by undertaking other tasks such as reviewing aspects of the performance of the ESPF; and reviewing administration standards or performance or review efficacy of ESPF member and employer communications.
- Confirmation that appointments to the Pension Board shall be managed, wherever possible, so that appointment and termination dates are staggered such that there remains continuity for one meeting to the next.
- A requirement for Pension Board members to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date.
- A procedure for the escalation of matters to the Monitoring Officer where not satisfactorily acted on or resolved by the Pension Committee

Officer Scheme of delegations

- Addition of a power to take action or decide any other Pension Fund related matter on behalf of the Administering Authority in special or emergency situations, in consultation with the Chair of the Pension Committee, including but not limited to where delay in the purchase or sale of investments might be detrimental to the interests of the ESPF.

3. Conclusion and reason for recommendations

3.1 The revised terms of reference for the Pension Board and Pension Committee and the revised scheme of delegations for officers align with anticipated recommendations of the Scheme Advisory Board Good Governance Project, Chartered Institute of Public Finance and Accountancy (CIPFA) guidance, and best practice from other LGPS. Recommending to Full Council to amend the constitution to include these new documents will help to ensure more robust governance arrangements are in place for the ESPF.

3.2 The Governance Committee is recommended to approve the proposed changes to the Constitution as set out in appendices 1-3; and agree to amend the Constitution accordingly.

PHILIP BAKER
Assistant Chief Executive

Contact Officer: Harvey Winder

Tel. No. 01273 481796

Email: harvey.winder@eastsussex.gov.uk

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Proposed Pension Committee Terms of Reference

9. Pension Committee
<i>Composition</i>
<i>(a) Membership</i>
(i) The East Sussex Pension Committee will be composed of five members of East Sussex County Council, determined by the Council at the Council's Annual Meeting.
(N.B. When making nominations Members should have regard to the need to ensure a balance of experience and continuity).
(ii) Named substitutes are permitted for East Sussex County Council members.
<i>Terms of Reference</i>
The Pension Committee's will exercise on behalf of East Sussex County Council all of the powers and duties in relation to its functions as the Scheme Manager and Administering Authority for the East Sussex Pension Fund except where they have been specifically delegated to another Committee. The Pensions Committee will exercise its functions in accordance with the fiduciary duties of the Council as the administering authority of the East Sussex Pension Fund.
The Pension Committee will have the following specific roles and functions, taking account of advice from officers and the Fund's professional advisers.
(i) Ensuring the Fund is administered, managed and pension payments are made in compliance with the regulations and having regard to statutory guidance that govern the operation of the Local Government Pension Scheme from time to time, and other legislation.
(ii) Determining the Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the overall management of the Fund, including but not limited to funding, investment, administration, communication and governance.

(iii) Determining how the various administering authority discretions are operated for the Fund
(iv) Monitoring the implementation of all Fund policies and strategies on an ongoing basis.
(v) In relation to the LGPS ACCESS Pension Fund Pool;
a) considering pooling matters including recommendations made by the ACCESS Joint Committee;
b) determining the transition of the assets held by East Sussex Pension Fund in relation to the Pool and the funds or sub-funds operated by the Operator;
c) recommending to the Governance Committee a member of the East Sussex County Council Pension Committee to the Joint Committee as and when required, having regard to the advice of the Head of Pensions;
d) appointing an East Sussex County Council officer to working groups such as the Officer Working Group and Onboarding Sub-Group as and when required;
e) advising the representative on the Joint Committee and Officer Working Group on such matters as may be required;
f) monitoring the performance of the LGPS ACCESS Pool and its Operator and recommending actions to the ACCESS Joint Committee, Officer Working Group or ACCESS Support Unit, as appropriate;
g) receiving and considering reports from the LGPS ACCESS Joint Committee, Officer Working Group and the Operator;
h) undertaking any other decisions or matters relating to the operation or management of the LGPS ACCESS Pool as may be required, including but not limited to appointment, termination or replacement of the Operator and approval of the strategic business plan.
(vi) Making arrangements for actuarial valuations, ongoing monitoring of liabilities and undertaking any asset/liability and other relevant studies.
(vii) Making decisions relating to employers joining and leaving the Fund. This includes approving which employers are entitled to join the Fund, and any requirements relating to their entry, ongoing monitoring and the basis for leaving the Fund.
(viii) Agreeing the policy for exit credits and terms on which employers may leave the Fund. Approving decisions on cessations, post cessation arrangements, guarantees and bonds.
(ix) Agreeing the terms and payment of bulk transfers into and out of the Fund.
(x) Ensuring robust risk management arrangements are in place, considering and making recommendations in relation to the internal audit strategy and internal audit report pertaining to the management of the fund and reviewing its findings.

(xi) Agreeing the Fund's annual business plan and annual and medium term budgets, and monitoring progress against them.
(xii) Selection, appointment and dismissal of the Fund's advisers and suppliers, including actuary, benefit consultants, investment consultants, global custodian, fund managers, lawyers, pension fund administrator, Additional Voluntary Contribution providers and independent professional advisors. This includes determining the services to be provided and monitoring those services, including where this relates to shared services arrangements.
(xiii) Agreeing the Fund's Knowledge and Skills Policy and monitoring compliance with the policy.
(xiv) Agreeing the Administering Authority responses to consultations on LGPS matters and other matters where they may impact on the Fund or its stakeholders.
(xv) Considering views expressed by employing organisations and staff representatives in relation to the operation of the East Sussex Pension Fund.
(xvi) Considering the Fund's financial statements and approving an Annual Report on the activities of the Fund in line with legislation and guidance.
(xvii) Considering the Breaches Register at every quarterly Pension Fund meeting and reviewing recommendations from the Pensions Board.
Notes: 1. No matters relating to East Sussex County Council's responsibilities as an employer participating within the East Sussex Pension Fund are delegated to the Pension Committee.
Notes: 2 As a Non-Executive Committee, no matters relating to the Pension Fund's non-executive responsibilities as Scheme Manager are delegated to an Executive of East Sussex County Council.
Notes: 3 The Committee's primary contacts will be the Head of Pensions, Chief Finance Officer and its retained advisors
Training
The East Sussex Pension Fund has a dedicated Knowledge and Skills Policy which applies to all members of the Committee and which includes the expectation to attend regular training sessions in order they may maintain an appropriate level of knowledge and skills to perform their role effectively.

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Proposed Pension Board Terms of Reference

10. Pension Board
<i>Introduction</i>
<p>(i) The Pension Board is established by East Sussex County Council (ESCC) under the powers of Section 5 of the Public Services Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme (LGPS) Regulations 2013 ("the LGPS regulations" which includes such regulations as govern the Local Government Pension Scheme from time to time). ESCC is the scheme manager (and administering authority) to the East Sussex Pension Fund (ESPF).</p> <p>(ii) The East Sussex Pension Fund Board was appointed by East Sussex County Council (the Scheme Manager and Administering Authority to East Sussex Pension Fund) as its Local Pensions Board in accordance with section 5 of the Public Service Pensions Act 2013 and Part 3 of the Local Government Pension Scheme Regulations 2013. As such, Parts 4 Rules of Procedure (Council's procedural Standing Orders) sub-parts 1, 2, 3, 4, 5 and 6 of the Constitution of East Sussex County Council do not apply to this Pension Fund Board unless expressly referred to within and permitted by these Terms of Reference and Rules of Procedure.</p> <p>The Board will exercise all its powers and duties in accordance with legislation and these Terms of Reference and Rules of Procedure. The Board shall have the power to do anything which is considered to facilitate, or is conducive or incidental to, the discharge of its functions.</p>
<i>Powers of the Pension Board</i>
<p>(iii) The Pension Board will exercise all its powers and duties in accordance with the law and this Terms of Reference.</p> <p>(iv) ESCC considers this to mean that the Pension Board is providing oversight of these matters and, accordingly, the Pension Board is not a decision-making body in relation to the management of the Fund but instead can make recommendations to assist in such management. The Fund's management powers and responsibilities which have been, and may be, delegated by ESCC to committees, sub-committees and officers of ESCC, remain solely the powers and responsibilities of those committees, sub-committees and officers including but not limited to the setting and delivery of the Fund's strategies, the allocation of the Fund's assets and the appointment of contractors, advisors and fund managers. The Pension Board operates independently of the ESPF</p>

Pension Committee.
(v) The Pension Board will ensure that in performing their role it:
<ul style="list-style-type: none"> ▪ is done effectively and efficiently and ▪ complies with relevant legislation and ▪ is done by having due regard and in the spirit of The Pensions Regulator's Code of Practice and any other relevant statutory or non-statutory guidance.
Objectives and role of the Pension Board
(vi) The role of the Pension Board is defined by the LGPS Regulations as being to assist the Scheme Manager (ESCC as Administering Authority) to:
<ul style="list-style-type: none"> • secure compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the LGPS and requirements imposed in relation to the LGPS by the Pensions Regulator • ensure the effective and efficient governance and administration of the LGPS. This should be interpreted as covering all aspects of governance and administration of the LGPS including funding and investments.
(vii) In doing this the Pension Board:
<ul style="list-style-type: none"> • shall assist the Scheme Manager with such matters as the LGPS Regulations and guidance may specify • shall seek assurance that due process is followed with regard to the Pension Committee and may review any decisions made by or on behalf of the Scheme Manager or action taken by the Scheme Manager • shall seek assurance that any identified issues raised by Pension Board members are considered. • shall comment on and assist in identifying and managing breaches of the law in relation to ESPF matters. • shall make representations and recommendations to the Pension Committee as appropriate and shall consider and, as required, respond to any Government / Responsible Authority or Scheme Advisory Board requests for information or data concerning the Fund. • may also undertake other tasks, including (but not limited to): <ul style="list-style-type: none"> ○ assisting the Pension Committee by reviewing aspects of the performance of the ESPF – for example by reviewing the risk management arrangements within ESPF (although the Pension Committee will remain accountable for risk management); ○ reviewing administration standards or performance or review efficacy of ESPF member and employer communications;

○ reviewing published policies to ensure they remain fit for purpose and are complete;
○ reviewing ESPF annual reports;
○ being part of any consultation process with the purpose of adding value to that process based on, for example, their representation of employers and ESPF members;
○ discussing strategic matters such as communications where requested by the Pension Committee.
• will produce an annual report which is shared with the Scheme Manager. It will outline the work of the Pension Board throughout the scheme year, which will help to –
○ inform all interested parties about the work undertaken by the Pension Board
○ assist the Pension Board in reviewing its effectiveness and identifying improvements in its future operations.
• shall carry out an annual self-assessment of the effectiveness of the Pension Board, and produce a report on this which will be shared with the Pension Committee.
• must provide a record of each meeting to the following Pension Committee meeting and may make reports and recommendations to the Pension Committee insofar as they relate to the role of the Pension Board
• shall assist in considering whether the East Sussex Pension Fund is being managed in accordance with the LGPS and other relevant legislation, including consideration of cases that have been referred to the Pension Regulator and/or the Pension Ombudsman; recommending changes to processes, training and/or guidance where necessary.
• shall monitor administrative processes and support continuous improvements.
• will ensure the scheme administrator supports employers to communicate the benefits of the LGPS to scheme members and potential new members.
Membership
(viii) The Pension Board shall consist of:
a) 3 employer representatives - employer representatives that can offer the breadth of employer representation for the ESPF.
b) 3 scheme member representatives – member representatives nominated to ensure a broad representation of scheme membership (active, deferred, and pensioners) to include:
a. two will be nominated by the trade unions, and

b. the rest will be drawn from the total ESPF active, deferred and pensioner membership.
c) 1 Independent Chair.
(ix) The Pension Board shall be chaired by an Independent Chair.
(x) Substitutes for Board members are not permitted.
(xi) The Quorum of the Board will be 3 Members, excluding the Independent Chair. To be quorate the meeting must include at least one employer representative and one scheme member representative.
(xii) The Board has the power to set up working groups
<i>Appointment of members of the Pension Board</i>
(xiii) The appointment process has been approved by the Governance Committee
(xiv) All appointments to the Pension Board shall be by the Governance Committee under delegated authority from the County Council, including the Independent Chair. The Vice Chair will alternate between scheme member representatives and employer representatives at each meeting. The Vice Chairs will be nominated from the existing Board members whenever one of the existing Vice Chairs is replaced.
(xv) Appointments to the Pension Board shall be managed, wherever possible, so that appointment and termination dates are staggered such that there remains continuity for one meeting to the next.
<i>Term of office</i>
(xvi) Employer representative appointments will expire after a 4 year period from their date of appointment by the Governance Committee or such time as resolved by the Governance Committee. The Governance Committee may agree an extension to this period by up to a further 2 years after which there shall be a further appointment process. Reappointment of existing members is permitted. Appointment will automatically cease if the individual is no longer in the employment of that employer, no longer holds office in relation to that employer or is no longer an elected member of that employer, as appropriate.
(xvii) Scheme member representative appointments will expire after a 4-year period from their date of appointment by the Governance Committee or such time as resolved by the Governance Committee. The Governance Committee may agree an extension to terms of office up to a further 2 years after which there shall be a further appointment process. Reappointment of existing members is permitted. Appointment will automatically cease if the individual is no longer a trade union representative or representative of ESPF members (in accordance with the criteria set by the Governance Committee).
(xviii) The Independent Chair appointment will expire after a period of 4 years from their date of appointment by the Governance Committee. The Governance Committee may agree an extension to terms of office by up to a further 2 years after which there shall be a further appointment process. Reappointment of the Independent Chair is permitted.
(xix) Term dates may not be exact due to the period of the appointment process. The term of office may therefore be extended for

this purpose or other exceptional circumstances by up to three months with the agreement of the Governance Committee.
(xx) A Pension Board member who wishes to resign shall submit their resignation in writing to the Independent Chair. A suitable notice period must be given, of at least 1 month, to enable a replacement member to be found.
(xxi) The role of the Pension Board members requires the highest standards of conduct and the ESCC Code of Conduct for Members will apply to the Pension Board's members. ESCC Standards Committee will monitor and act in relation to the application of the Code.
(xxii) Poor performance will result in corrective action being taken, and in exceptional circumstances the removal of the Pension Board member by the Governance Committee.
(xxiii) Removal of the Independent Chair will be by the Governance Committee.
Chairing
(xxiv) It will be the role of the Chair to -
<ul style="list-style-type: none"> • Settle with officers the agenda for a meeting of the Pension Board
<ul style="list-style-type: none"> • Manage the meetings to ensure that the business of the meeting is completed
<ul style="list-style-type: none"> • Ensure that all members of the Pension Board show due respect for process and that all views are fully heard and considered
<ul style="list-style-type: none"> • Strive as far as possible to achieve a consensus as an outcome
<ul style="list-style-type: none"> • Ensure that the actions and rationale for decisions taken are clear and properly recorded
<ul style="list-style-type: none"> • Uphold and promote the purpose of the Pension Board, and to ensure that meetings are properly conducted and professional advice is followed
<ul style="list-style-type: none"> • To use their expertise and experience and liaise with the Head of Pensions to arrange such advice as required subject to agreement by the Head of Pensions on such conditions as that officer determines
<ul style="list-style-type: none"> • Sign the minutes of each Pension Board meeting following approval by the Board
<ul style="list-style-type: none"> • Prepare with the Head of Pensions an appropriate budget for the Pension Board's consideration before being formally considered by the Scheme Manager along with the ESPF Annual Budget
<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • Liaise with officers and advisors on the requirements of the Pension Board, including advanced notice for Scheme

Manager officers to attend and arranging dates and times of Board meetings
<ul style="list-style-type: none"> • Provide guidance on all points of procedure and order at meetings having regard to advice from officers • Other tasks which may be deemed appropriate by the Scheme Manager for the Independent Chair of the Pension Board • • Liaise with the Chair of the Pension Committee as deemed appropriate • Other tasks that may be requested by the Board, within the remit of these Terms of Reference and subject to agreement with the Head of Pensions • Annually review and report on the activities of the Pension Board. • Commission a triennial review of LGPS & public pension fund non-statutory best practice guidance (referencing the SAB & other relevant bodies deemed relevant by the Board) which then brings recommendations to the Committee (when appropriate) for amendments to the operation of the Fund.
<i>Support arrangements and administration</i>
(xxv) ESCC officers will provide governance, administrative and professional support to the Pension Board, and ESCC Member Services will provide secretariat support to the Pension Board, and as such will ensure that:
<ul style="list-style-type: none"> • meetings are timetabled for at least four times per year • adequate facilities are available to hold meetings • an annual schedule of meetings is produced • suitable arrangements are in place to hold additional meetings if required • papers are distributed 5 clear working days before each meeting except in exceptional circumstances • draft minutes of each meeting are normally circulated 7 working days following each meeting including all actions, decisions and matters where the Pension Board was unable to reach a decision will be recorded. • Final reports, minutes and agendas relating to the Pension Committee are shared appropriately with the Board.
(xxvi) The records of the meetings may, at the discretion of the Board, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A (2) of that Act.
(xxvii) The minutes and any consideration of the Pension Board shall be submitted to the Pension Committee.
(xxviii) The Pension Board must comply with the General Data Protection Regulation and the Scheme Manager's data protection policy. It must also adhere to the Scheme Manager's requirements, controls and policies for Freedom of Information Act compliance.

<i>Expert advice and access to information, including the Pension Committee</i>
(xxix) The Pension Board will have access to professional advice and support provided by officers of ESCC and, via them and where appropriate, advisers to the ESPF. In addition, Pension Board members will receive the final reports, minutes and agendas relating to the Pension Committee, save where the Committee expressly decides otherwise such as where an item is exempt, although this is anticipated to be in exceptional cases.
(xxx) Insofar as it relates to its role, the Pension Board may also:
<ul style="list-style-type: none"> • request information and reports from the Pension Committee or any other body or officer responsible for the management of the Fund
<ul style="list-style-type: none"> • examine decisions made or actions taken by the Pension Committee or any other body or officer responsible for the management of the Fund.
<ul style="list-style-type: none"> • access independent professional advice from actuaries, other independent advisers, and investment managers as required, where there are major matters being considered, i.e. investment strategy, triennial valuation, etc.,
<ul style="list-style-type: none"> • access to professional advice regarding non-major decisions will require the approval of the Pension Committee for additional resources
<ul style="list-style-type: none"> • attend all or any part of a Pensions Committee meeting unless they are asked to leave by the Committee or as a result of a conflict of interest.
(xxxi) ESCC officers will provide such information as is requested that is available without incurring unreasonable work or costs.
<i>Knowledge and Skills</i>
(xxxii) Pension Board members will be required to have the ‘capacity’ to carry out their duties and to demonstrate a high level of knowledge and of their role and understanding of:
<ul style="list-style-type: none"> • the scheme rules (i.e. regulations)
<ul style="list-style-type: none"> • the schemes administration policies
<ul style="list-style-type: none"> • the Public Service Pensions Act (i.e. being conversant with pension matters relating to their role) and the law relating to pensions.
(xxxiii) A programme of updates and training events will be organised by ESPF officers.
(xxxiv) It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.
(xxxv) In line with this requirement, Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to
<ul style="list-style-type: none"> ▪ participate in training events (a written record of relevant training and development will be maintained)

- undertake a personal training needs analysis or other means of identifying any gaps in skills, competencies and knowledge relating to Pension Board matters.
- comply with the Fund's Knowledge and Skills Policy insofar as it relates to Pension Board members.

Standards and Conflicts of Interest

(xxxvi) A conflict of interest is defined in the Public Service Pensions Act 2013 as:

“in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the Pension Board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”

(xxxvii) The Public Service Pensions Act 2013 requires that members of the Pension Board do not have conflicts of interests. As such all members of the Pension Board will be required to declare any interests and any potential conflicts of interest in line with legal requirements in the Public Service Pensions Act 2013 and the Pension Regulator’s code. These declarations are required as part of the appointment process, as well as at regular intervals throughout a member’s tenure.

(xxxviii) The Pension Board shall adopt a policy for identifying and managing potential conflicts of interest.

(xxxix) Members of the Pension Board must provide, as and when requested by the Scheme Manager, such information as the Scheme Manager requires to identify all potential conflicts of interest and ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest at appointment or whilst a member of the Pension Board.

(xl) Part 5(1) of ESCC Code of Conduct shall apply in relation to the standards of conduct of Pension Board members, insofar as they can be reasonably considered to apply to the role of members of the Board, including the non-disclosure of confidential information.

(xli) Members of the Pension Board must adhere to the requirements of the ESPF Procedure for Monitoring and Reporting Breaches of the Law and should be mindful of the individual legal requirements in Section 70 of the Pensions Act 2004 relation to reporting breaches of the law in relation to ESPF matters.

Access to the Public and Publication of Pension Board information

(xlii) Members of the public may attend the Pension Board meeting and receive papers, which will be made public in accordance with the Access to Information Rules in ESCC's Constitution.

(xliii) In accordance with the Public Service Pensions Act 2013, ESCC is required to publish information about the Pension Board and up-to-date information will be posted on the ESPF website showing:

- Names of and information regarding the Pension Board members

<ul style="list-style-type: none"> • How the scheme members and employers are represented on the Pension Board
<ul style="list-style-type: none"> • Responsibilities of the Pension Board as a whole
<ul style="list-style-type: none"> • Full terms of reference and policies of the Pension Board and how it operates.
(xiv) In accordance with good practice, ESPF may publish other information relating to the Pension Board as considered appropriate from time to time and which may include:
<ul style="list-style-type: none"> • the agendas and meeting records
<ul style="list-style-type: none"> • training and attendance logs
<ul style="list-style-type: none"> • an annual report on the work of the Pension Board.
(xlv) All or some of this information may be published using the following means or other means as considered appropriate from time to time:
<ul style="list-style-type: none"> • on the ESPF website – https://www.eastsussex.gov.uk/yourcouncil/pensions/members/
<ul style="list-style-type: none"> • on the ESCC website – http://www.eastsussex.gov.uk,
<ul style="list-style-type: none"> • within the ESPF Annual Report and Accounts,
<ul style="list-style-type: none"> • within the ESPF's Governance Policy and Compliance Statement.
(xlvii) Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.
<i>Expense reimbursement, remuneration and allowances</i>
(xlviii) All Pension Board members will be entitled to claim travel and subsistence allowances for attending meetings relating to Pension Board business (including attending training) at rates contained in the Members' Allowances Scheme in the ESCC's Constitution. In addition, scheme member representatives may be paid an allowance equivalent to the co-optees' allowance in the ESCC Scheme of Members' Allowances in relation to time spent at meetings and training events relating to their role as a ESPF Pension Board member, unless they are attending they are attending during their normal working day without a reduction in pay or leave (in which case no allowance will be paid for that time).
(xlviii) The Independent Chair's remuneration will be approved by the Governance Committee following consultation with the Chair of the Pension Committee.
(ii) All costs will be recharged to the Fund.
<i>Accountability</i>
(i) The Pension Board collectively and members individually are accountable to the Scheme Manager (ESCC), the Pensions

Regulator, and the Local Government Pension Scheme Advisory Board. The Local Government Pension Scheme Advisory Board will advise the Responsible Authority (in the case of the LGPS the MHCLG) and the Scheme Manager. The Pensions Regulator will also be a point of escalation for whistle blowing or similar issues.

Decision Making Process

(li) Employer representatives and scheme member representatives have voting rights, albeit the Pension Board is expected to operate on a consensus basis. The Independent Chair does not have voting rights.

(lii) In the event of an equal number of votes being cast for or against a proposal there shall be no casting vote but the proposal shall be considered to have been rejected. The Scheme Manager shall be alerted when a decision is reached in this manner.

Reporting and escalation

(liii) The Pension Board must provide minutes of each meeting to the following Pension Committee meetings and may make reports and recommendations to the Pension Committee insofar as they relate to the role of the Pension Board. Any such reports or recommendations must be provided in advance of the next Pension Committee meeting to the S151 Officer.

(liv) An annual report of the Pension Board must be provided to the S151 Officer, the Monitoring Officer, the Pension Committee, and the Audit Committee and be published in the Fund's Annual Report and Accounts.

(lv) Where the Pension Board considers that a matter brought to the attention of the Pension Committee has not been acted upon or resolved to their satisfaction, the Pension Board will provide a report to the Monitoring Officer.

(lvi) The Breaches Register will be presented at each meeting and considered by the Pension Board who may make recommendations to the Pension Committee.

Review, Interpretation and Publication of Terms of Reference and Rules of Procedure

(lvii) These Terms of Reference have been agreed by ESCC. The Council will monitor and evaluate the operation of the Pension Board and may review these Terms of Reference and Rules of Procedure from time to time.

(lviii) These Terms of Reference are incorporated into the Council's Constitution and published on the Council's website and may be amended by the same means as permitted for the Constitution. It will also form part of the ESPF's Governance Policy and Compliance Statement which will be made available in accordance with the requirements of the LGPS Regulations.

Finance

1. To implement decisions of National Negotiating Bodies affecting employees, except insofar as such decisions give discretionary powers to employing authorities.

~~2. To pay statutory benefits under the Local Government Pension Scheme.~~

Corporate Property Functions

3. To undertake corporate property reviews.
4. To develop policies, and set and monitor corporate standards to achieve the policies in relation to:
 - land acquisition;
 - new build and maintenance;and to ensure corporate mechanisms are in place to achieve this role.
5. To provide Health and Safety advice and guidance in respect of property matters.
6. To provide and maintain the County Council's terrier and other corporate property information.
7. To provide property advice to the County Council on corporate functions including the following client agent functions in relation to corporate property responsibilities:
 - property services input to property reviews and property audits;
 - asset valuations;
 - advice on the mix between temporary/permanent and freehold/ leasehold accommodation;
 - property and land acquisition and disposal service.
8. To prepare and maintain approved lists of works consultants and contractors.

Other Property Matters

9. To declare surplus to County Council requirements and to authorise the disposal of small areas of surplus land where:
 - (a) no alternative form of development is considered possible;

- (b) the adjoining owner is the only likely purchaser; and
 - (c) the area of land is less than 0.2 hectares (0.494 acres).
10. To authorise the disposal of surplus houses in accordance with the policy set by the Council.
 11. To authorise the temporary occupation of a property (for a maximum period of 12 months) where a staff tenancy terminates for any reason other than retirement or death of the employee.
 12. To approve the terms of any land disposal where the payment from the other party does not exceed £250,000 (in the case of a lump sum payment) or £25,000 per annum (in respect of an annual rental), and to maintain a register of all such transactions, to be available for inspection by members.
 13. After consultation with the Lead Cabinet Member for Resources (subject to Financial Regulations) to approve on behalf of the Council the sale price or other consideration for the disposal of any interest in land, above the limit set in paragraph 12 above.
 14. To seek planning permission under Regulation 4 of the Town and Country Planning General Regulations 1992.

Corporate Personnel and Training Function

15. To authorise increases to locally agreed special payments and allowances which have a corporate application to reflect movement in the relevant cost of living index/wage award as appropriate.
16. To increase the ceiling on the Assisted Car Purchase Scheme annually in the light of increases in new car prices.
17. To adjust, on an annual basis, user contributions towards the leasing costs of lease cars.
18. To vary, in special cases, the approved level of assistance with training expenses.
19. To authorise payment of awards under the Local Government (Discretionary Payments) Regulations.
20. To apply the [East Sussex County Council Employer] discretionary provisions within the Local Government Pension Scheme (LGPS) To apply the discretionary provisions within the Local Government Pension Scheme Regulations.
21. To agree with the employing Director the salary bands for management posts in LMG Bands 1-10 (below Director level).

22. To approve payments under the Market Supplement Policy, in consultation with the relevant Director, subject to the other options for addressing staff retention problems having been considered and the following criteria having been satisfied:
 - (a) the market in which the County Council is competing being examined;
 - (b) salary levels in that market for the required skills, qualifications and experience being clearly above the County Council pay levels; and
 - (c) non-pay items which might provide a recruitment/retention incentive being thoroughly examined.
23. To accelerate the incremental position of any employee whose post is reserved for elected member appointment, with the exception of the Chief Executive and Chief Officers provided the maximum of the grade for the post is not exceeded.
24. To authorise the premature retirement of non-teaching staff except those for those posts reserved for elected member appointment in which cases premature retirement can be authorised after consultation with the members of the Governance Committee.
25. To extend the time period for aggregation of LGPS membership beyond 12 months in exceptional circumstances.
26. To agree, in consultation with the relevant Director, individual compensation settlements arising from references to the ACAS Conciliation Officer in Employment Tribunal cases.
27. To maintain and operate the Corporate Confidential Reporting ("Whistleblowing") Policy.
28. To maintain and operate the E-Mail Use Policy, including authority to make any necessary minor amendments or updating.

Other Matters

29. To settle individual claims for compensation arising for reasons other than loss of or damage to an employee's property in those cases where the employee is unable to prove that there is any negligence on behalf of the County Council.
30. To exercise the County Council's powers as a member of the East Sussex Tourist Attractions Association (ESTAA).
 - (a) To exercise day to day management of the Ashdown Forest Trust; and
 - (b) to agree the accounts of, and grants by, the Trust after consultation with the Lead Cabinet Members for Resources and Transport and Environment, and the Director of Communities, Economy and Transport

Note: The Chief Operating Officer's and the Chief Finance Officer's duties and responsibilities in relation to insurances are set out in the Financial Regulations.

F Assistant Chief Executive

1.
 - (a) To perform the role of Solicitor to the Council and, as such, to be its chief legal adviser.
 - (b) To institute, defend and carry on legal proceedings to protect the County Council's interest or to implement a decision made by it or on its behalf or for the recovery of any debt or sum due to it and to negotiate and settle claims.
 - (c) To exercise the County Council's powers to institute proceedings:
 - (i) for alleged contravention of bylaws made by it;
 - (ii) under the Wildlife and Countryside Act 1981, Part 1;
 - (iii) under the Education Act 1996, section 547;
 - (d) To institute or defend criminal proceedings on behalf of the County Council.
 - (e)
 - (i) To exercise the powers, and to institute proceedings, under the Criminal Justice and Public Order Act, Sections 77 to 79.
 - (ii) In consultation with the relevant Chief Officer, to authorise legal proceedings for the recovery of land.
2. To sign, present or sue on petitions in bankruptcy and applications for winding up, to make affidavits, proofs of debts and proxies and to take all necessary action under the Insolvency Act 1986 on behalf of the County Council as shall appear to him to be expedient and in the interests of the Council.

Note:

It is a condition of this delegation that the relevant member of the Cabinet shall be consulted where residents in homes are involved.

3. To appoint authorised officers (for surveillance purposes) and designated person and single points of contact (for the purposes of communications data) under the Regulation of Investigatory Powers Act 2000.
4. To grant dispensations relieving a member from either or both of the restrictions (participating in discussions and in voting)
5. To appoint Independent Persons for the Standards Committee and to determine the rules and procedures for investigations and hearings by the full Standards Committee or any sub committee of the Standards Committee
6. To determine requests by officers and members for assistance under the indemnity with respect to civil liability, except in the case of requests for

assistance by members in respect of breaches of the Members' code of Conduct, where the Chief Executive shall determine such requests.

7. To require information as to interests in land under a power conferred upon the County Council by any Act.
8. To exercise the Council's powers and duties under:
 - (a) the Charities Acts 1993 and 2006;
 - (b) the Local Government (Access to Information) Act 1985 to set charges for copy documents and other matters;
 - (c) section 3 of the Local Government and Housing Act 1989 (politically restricted posts).
9.
 - (a) After undertaking consultations, as appropriate, or, in the case of appointments under the Local Government and Housing Act 1989 on receipt of nominations, to appoint members, and fill vacancies.
 - (b) In consultation with the Leader of the Council, to approve the appointment of delegates to attend conferences at which the County Council is invited to be represented and at meetings of bodies of which the County Council is a member and to appoint substitutes.
10. To appoint a person(s) to consider representations made by objectors who request a hearing under Section 6(1) of the Commons Registration (East Sussex) Act 1994 and to report to the Cabinet regarding those representations.
11. In relation to school admission appeal panels:
 - (i) to appoint a panel of persons from whom Appeal Panels can be drawn, to comprise: (a) those persons who either have experience in education or are familiar with local educational circumstances or are parents of children currently at a school and whose names he has approved; and (b) those persons who have responded to statutory advertisements for lay members, or who otherwise meet the statutory criteria to serve as lay members, and whose names he has approved;
 - (ii) to constitute from time to time Appeal Panels by the selection of three panel members, subject to statutory requirements;
 - (iii) to appoint panel members as Chairs of Appeal Panels;
 - (iv) to approve a list of persons for appointment to Appeal Panels established by governors of voluntary aided schools.

12. To make arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (appeals by governing bodies in relation to admitting excluded pupils)
13. In relation to Independent Review Panels for school exclusions:
 - (i) to appoint a panel of persons from whom Independent Review Panels can be drawn, to be comprised of one from each of the following three groups: (a) lay panel members, defined as those who have not worked in a school in a paid capacity, although they may have been a school governor or worked as a volunteer; (b) those members who must be, or have been, a governor of a maintained school provided they have served in this capacity for at least 12 months in the last 5 years (but must not be or have been a teacher or headteacher); and (c) those members who are, or have been in the last five years a headteacher of a maintained school. In the event of an exclusion from a Pupil Referral Unit (PRU), the member can either be a headteacher from a maintained school or a teacher in charge of a PRU;
 - (ii) to constitute from time to time Independent Review Panels by the selection of one panel member from each of the three categories above;
 - (iii) to meet statutory requirements, to appoint only lay members as Chairs of Independent Review Panels;
 - (iv) to approve a list of persons for appointment to Independent Review Panels established by governors of voluntary aided schools.
14. To enter into model agreements, as amended, under the New Roads and Street Works Act 1991 or any re-enactment thereof.
15. In consultation with the Director of Communities, Economy and Transport and the Chief Operating Officer to agree, on behalf of the County Council, to acquire land pursuant to the service on the County Council under Section 150 of the Town and Country Planning Act 1990 of a valid blight notice in respect of land which is blighted under any of paragraphs 13-18 of Schedule 13 to that Act provided he is satisfied that no grounds exist for service of a counter-notice under Section 151 of the 1990 Act.
16. To designate the Statutory Scrutiny Officer for the County Council.
17. To discharge the County Council's responsibilities for the Coroner Service and for the provision of support for the administration of the Coroner's Office, including the appointment of the Senior Coroner, Area Coroners and Assistant Coroners

Note:

- (i) *The Assistant Chief Executive has been designated as the Monitoring Officer under the Local Government and Housing Act 1989.*

- (ii) *The Assistant Chief Executive has been authorised to make decisions at Stage 2 of the internal dispute resolution procedure under the Local Government Pension Scheme Regulations [2013] ~~Local Government Pension Scheme (Administration) Regulations 2008~~ (Note: the Pension Compliance Manager has been authorised to deal with Stage 1 disputes).*

G. Chief Finance Officer

1. To make arrangements for the borrowing of such money as the County Council has decided shall be borrowed in accordance with such policy as may be laid down from time to time by the Council and subject to the receipt of the necessary Government approvals.
2. In accordance with the provisions of the Local Government and Housing Act 1989:
 - (a) to issue bonds and to deal with allied detailed matters as reported to the Cabinet;
 - (b) to issue bills in accordance with conditions reported to the Cabinet.

Note: Delegation 2 above is granted subject to the Chief Operating Officer's reporting at regular intervals to the Cabinet on action taken.

- ~~3. To be responsible for implementing the policy decided by the Pension Committee and to act on its behalf in special or emergency situations where delay in the purchase or sale of investments might be detrimental to the interests of the East Sussex Pension Fund.~~
- ~~4. To authorise the approval of the terms of an admission agreement and any related bond or indemnity, with a body to which staff are being transferred under a Best Value arrangement, to participate in the East Sussex Pension Scheme.~~
- ~~5. To approve any requests, and undertake any necessary actions in connection with designating any employees, or class of employees, of the governing body of a foundation school as being eligible for membership of the East Sussex Pension Fund~~
- ~~6. To undertake any necessary actions in connection with admission of any academies to the East Sussex Pension Fund as scheme employers~~
- ~~7. To approve the terms of an Admission Agreement, together with any related bond or indemnity, under which a community association body may participate in the East Sussex Pension Scheme~~
3. To carry out the statutory duties referred to in Section 151 of the Local Government Act 1972 in relation to the Pension Fund and to provide advice to the County Council, Pension Committee and Pension Board in carrying out their responsibilities.
4. To implement strategies and policies approved by the Administering Authority (including those delegated to the Pension Committee).
5. To manage, in accordance with the policies and strategies approved by the Administering Authority (including the Pension Committee), and in accordance with legislative requirements, the East Sussex Pension Fund including

ensuring arrangement for investment of assets and administration of contributions and benefits.

6. To implement policies decided by the Administering Authority (including the Pension Committee).
 7. To take action or decide any other Pension Fund related matter on behalf of the Administering Authority in special or emergency situations, in consultation with the Chair of the Pension Committee, including but not limited to where delay in the purchase or sale of investments might be detrimental to the interests of the East Sussex Pension Fund.
 8. To approve the terms of an admission or cessation agreement and, where appropriate, any related bond or indemnity, with a body wishing to participate in or leave the East Sussex Pension Scheme/Fund.
 9. To undertake any necessary actions relating to employers joining and leaving the fund, or monitoring of such employers, based on decisions made by the Pension Committee.
 10. To agree Administering Authority responses to consultations on LGPS matters and other matters where they have minimal impact on the Fund or its stakeholders including relating to minor technical operational matters impacting the Administering Authority only.
 11. To implement the Fund's agreed strategic allocation including use of both rebalancing and conditional ranges in accordance with the Investment Strategy.
128. After consultation with the relevant Cabinet members (subject to the provisions of Financial Regulations) to:
- (a) authorise transfers between budget headings;
 - (b) vary the capital programme;
 - (c) deal with urgent budgetary matters;
 - (d) deal with urgent matters relating to borrowing, investments and excusal of debts; and
 - (e) vary the interest rate chargeable for staff housing advances.
913. After consultation with the Director of Adult Social Care and Health, to set future inter authority and standard charges for residential and day care accommodation, in accordance with the formula recommended by the Local Government Association.

- | ~~40~~14. To set fees and charges for 2019/20 onwards and to report to Cabinet and the County Council on those set at a level above inflation as part of the quarterly monitoring
- | ~~44~~15. To determine whether additional income, e.g. one-off grants, should be held corporately or passed to the relevant department within the Medium Term Financial Plan (See A.5.1.3)
- | ~~42~~16. To determine the resources available for the Capital Programme, taking into consideration the availability of reserves and balances, funding from other bodies and the affordability of borrowing. (see A.5.3.6)
- | ~~43~~17. To agree variations within 10% of a capital scheme's current budget where funding has been identified as outlined in A.5.3.8 (see A.5.3.9)
- | ~~44~~18. To determine annually the capital risk provision and to approve use of the provision and to approve use of the provision for individual project, in consultation with the Capital Strategic Asset Board. (see A.5.3.10)

Note: The Chief Finance Officer has been designated as the Officer with responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.

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Report to: **Governance Committee**

Date: **23 June 2020**

By: **Assistant Chief Executive**

Title of report: **Review of Members' Allowances Scheme**

Purpose of report: **To consider the proposals by the Independent Remuneration Panel in relation to the payment of a Special Responsibility Allowance to the Chair of the Pension Committee**

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to:

- 1) approve the changes set out in the report of the Independent Remuneration Panel; and**
 - 2) amend the Members' Allowances Scheme accordingly.**
-

1. Background

1.1 The Independent Remuneration Panel is required, by the Local Authorities (Members' Allowances) (England) Regulations 2003, to make recommendations to the Council on allowances paid to Councillors. In 2017, the Council agreed that the Panel be asked to review the Scheme every four years in accordance with the Regulations unless a request is received from a Group Leader.

1.2 The Independent Remuneration Panel was appointed by the Governance Committee in April 2019 and consists of three members, Daphne Bagshawe, Duncan Keir and Fiona Leathers.

1.3 A number of Group Leaders expressed support for the Panel to consider whether a special responsibility allowance (SRA) should be payable to the Chair of the Pension Committee, and a request was formerly received in March 2020. As part of their review in response to this request the Independent Remuneration Panel considered a range of information provided including comparative information from other County Authorities.

2. Summary of findings

2.1 A copy of the Independent Remuneration Panel report is attached at Appendix 1. The Panel noted that most of the other County Authorities considered for comparative purposes paid an SRA to the Chair of the Pension Committee, the exceptions being where the Chair of the Committee was a member of the Cabinet and therefore receiving an RSA for that role.

2.2 The Independent Remuneration Panel is required to review allowances based on the facts and information provided to it. The Governance Committee is asked to make recommendations to the County Council on whether to accept, reject or modify the recommendations. Councillors are required to give due consideration to the recommendations of the Panel but are not bound by them

2.3 The Panel is recommending:

- a) that an SRA of £6,531 should be payable to the Chair of the Pension Committee - this is the same level of SRA that is payable to the Chairs of the Audit, Planning and Scrutiny Committees; and

b) the SRA should be backdated to 1 April 2020.

PHILIP BAKER
Assistant Chief Executive

Contact Officer: Andy Cottell Tel: 01273 481955
E-mail: andy.cottell@eastsussex.gov.uk

Local Members: All
Background Docs: none

East Sussex County Council

Report of the Independent Remuneration Panel 2020

1. Background

1.1 The County Council is required, by the Local Authorities (Members' Allowances) (England) Regulations 2003, to have regard to the recommendations of the Independent Remuneration Panel in making amendments to the scheme of allowances paid to Councillors. In October 2017, the Council agreed that the Panel be asked to review the Scheme every four years in accordance with the Regulations unless the Assistant Chief Executive considers that there is a change in circumstances that justifies an earlier review or a request is received from a Group Leader.

1.2 Since the last review of the Scheme in 2017, allowances have risen annually in line with increases to Local Managers (LMG) pay. In response to a request received from a Group Leader, the Panel considered whether an SRA should be paid to the Chair of the Pension Committee.

Role of the Pension Committee Chair

1.3 The Pension Committee was established in 2015 in response to the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015. The County Council has delegated authority for all pension related investment and administration decisions on behalf of the Administering Authority (ESCC) to the Committee. In addition to the formal meetings, the Chair of the Committee has regular meetings/briefings with officers.

1.4 There are four scheduled meetings of the Committee each year for which there are Chair's briefing meetings. In addition, the Chair of the Committee receives weekly briefings from the Chief Finance Officer and attends the quarterly meetings of the Pension Board whose role is to assist the Administering Authority in carrying out its pension fund management functions.

1.5 The Chair of the Pension Committee has been instrumental in a governance review of the East Sussex Pension Fund (ESPF) – which has considered the Governance arrangements for the fund having regard to the Local Government Pension Scheme (LGPS) Advisory Board's *Good Governance in the LGPS Project*. The recommendations of the Scheme Advisory Board are expected to be enacted via new statutory guidance issued by the Ministry for Community Local Government and Housing in due course. The purpose of the governance review is to ensure that the governance around the fund is fit for purpose and reflects the direction of travel for the sector. The review recognises the potential for there to be inherent conflicts of interest and the need for a degree of separation.

1.6 In order to fulfil the role as Chair of the Committee a significant level of preparation and reading of documentation is required to understand the complexities of the work delegated to the Committee. The Chair also represents the East Sussex Pension Fund (ESPF) in working with the Fund's external advisors and also hosts the ESPF Employer's Forum.

1.7 In 2015 the Government announced its intention to invite Administering Authorities to make proposals for pooling LGPS investments. Investment pooling is intended to create the scale that will enable access to lower investment manager fees and deliver savings to Local Government Pension Scheme (LGPS) Funds. In the pooled investment structure individual funds are responsible for investment strategy and asset allocation decisions.

1.8 In March 2017, the Council agreed that the ESPF join the ACCESS Pool with the following 10 Pension Funds: Cambridgeshire, Kent, Hampshire, West Sussex, Norfolk, Essex, Northamptonshire, Hertfordshire, Suffolk and the Isle of Wight. The ACCESS Pool is governed by the Joint Governance Committee made up of one elected councillor from each authority's Pension Committee. Since May 2017, the County Council has agreed that its representative on the Joint Committee is the Chair of the Pension Committee.

1.9 The Joint Committee meets four times a year and, in addition, the Chair of the Committee attends a number of investor/pool briefing and training events during the course of a year.

1.10 The Chair of the Pension Committee has had to respond to 73 public questions at County Council meetings since May 2017. By way of contrast, no other Committee Chair has had to respond to a public question in that period (all other questions have been directed to members of the Cabinet).

Comparative Information

1.11 The other Council committees that meet on a regular basis are the Audit Committee (four meetings a year), the People, Place and Health Scrutiny Committees (four meetings a year each) and the Planning Committee (11 meetings a year). The Chair of each of these four committees receives an SRA of £6,531 per annum.

1.12 The table below sets out SRAs paid to Pension Committee chairs at other County Councils. The Panel acknowledges that this should only be used as a guide as each council will have its own committee structure and terms of reference for each committee and it is therefore not possible to make direct comparisons between the work and role of committee chairs at each authority.

County Council	SRA to Chair of Pension Committee	Notes
Kent	£8,953	Same SRA as Chairs of Planning, Audit and Scrutiny Committees
Essex	£13,500	Same SRA as Chair of Audit and Planning Committees
Hampshire	£12,055	Same as Scrutiny and Planning Chairs. Audit Chair receives £6,028
Surrey	£10,019	Same as Audit and Scrutiny Chair. Planning chair receives £12,024
West Sussex	N/A	Chair of Pension Panel is a Cabinet member
Oxfordshire	£6,000	Same SRA as Chairs of Audit, Planning and Scrutiny Committees
Cambridgeshire	£7,345	Same as Audit and Planning Committees. No Scrutiny.
East Sussex	£0	Audit, Planning and Scrutiny Chairs SRA is £6,531
Buckinghamshire	N/A	Pension responsibilities are the role of a Cabinet member

2. Conclusion

2.1 The Panel was satisfied that the duties and responsibilities of the post were sufficiently onerous and responsible as to warrant the application of the SRA. Regard was also made to the many meetings and briefings required of the postholder. The Panel recommends that:

- a) An SRA of £6,531 per annum be payable to the Chair of the Pension Committee; and;
- b) Payment of the allowance should be backdated to 1 April 2020.

Duncan Keir (Chair of the Panel)
Daphne Bagshawe
Fiona Leathers

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Report to: **Governance Committee**

Date: **23 June 2020**

By: **Assistant Chief Executive**

Title: **Virtual meetings – supplementary Standing Orders**

Purpose: **To consider proposed procedure rules in relation to Council meetings held virtually as a result of Covid-19 disruption.**

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to:

- 1) agree the supplementary Standing Orders at appendix 1 to apply to meetings held virtually under temporary meetings regulations until 7 May 2021;**
 - 2) agree that Member non-attendance at a meeting during the period covered due to issues related to the virtual nature of the meeting be considered as an absence for a reason approved by the Council in relation to attendance requirements; and**
 - 3) agree to amend the Constitution accordingly.**
-

1. Background

1.1 The Covid-19 pandemic and associated social distancing requirements are impacting upon the County Council's ability to hold its meetings in public in the usual way. This issue has been recognised by Government and temporary regulations have been issued which relax a number of legal requirements on local authorities around physical access to meetings and papers and enable meetings to be held virtually, for example using video conferencing technology. ([The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#), which came into effect on 4 April 2020.)

1.2 The regulations are broad and allow for councils to make specific local arrangements to suit local circumstances. The regulations also provide the option for councils to adopt additional Standing Orders to formalise local procedures for virtual meetings. This report outlines proposed supplementary Standing Orders to formalise the County Council's current approach to virtual meetings during the period of disruption due to Covid-19.

2. Supporting information

2.1 The procedure rules (also known as Standing Orders) set out within the Council's Constitution govern the conduct of the formal meetings, usually held in public at County Hall, which are required to conduct the business of the authority. Due to the Covid-19 restrictions meetings are currently being held virtually using video conferencing technology under the temporary regulations.

2.2 Virtual meetings have been taking place since early April, supported by guidance and training provided to Members. This included a full Council meeting on 12 May. The learning from these initial virtual meetings has been incorporated into the development of procedures to ensure the effectiveness of meetings undertaken in this format.

2.3 It is now proposed that the County Council agrees a supplementary section of Standing Orders to formalise the current approach to virtual meetings, taking the provisions

of the regulations into account. The proposed additional Standing Orders are attached as appendix 1. These will confirm the position of what constitutes a valid formal virtual meeting until the expiry of the regulations in May 2021 and will support the continuation of core County Council business during the public health emergency.

2.4 The temporary national regulations make clear that their provisions supersede existing local Standing Orders where relevant. However, the regulations also indicate that individual authorities may wish to adopt additional Standing Orders to reflect local procedures on issues such as public access to meetings or documents, and voting procedures.

2.5 The proposed supplementary Standing Orders also include provision for Member non-attendance at a meeting during the period covered (to 7 May 2021) due to issues related to the virtual nature of the meeting. A range of issues may be experienced including technical difficulties, failure of IT equipment or services, or the fact that some Members are less familiar with the technology or find it more challenging operating in this technical environment than others and so may not be able access the virtual meetings because of this. It is recommended that these be considered as an absence for a reason approved by the Council in relation to attendance requirements.

3. Conclusion and reasons for recommendations

3.1 The Committee is recommended to recommend the County Council agrees the supplementary Standing Orders outlined in this report in order to formalise the Council's approach to virtual meetings which are being held to enable core business to be conducted during the period of disruption due to the Covid-19 virus.

PHILIP BAKER
Assistant Chief Executive

Contact Officer: Claire Lee
Tel: 07523 930526
Email: Claire.lee@eastsussex.gov.uk

BACKGROUND DOCUMENTS

None

Part 4, Section 1A

Supplementary Standing Orders – Virtual Meetings

(To be read in conjunction with Part 4, Section 1 – Council Procedure Rules)

Introduction

1. Different meeting arrangements are in place for the period 4 April 2020 to 7 May 2021 because of the provisions of the Coronavirus Act 2020, and the associated Meetings Regulations 2020, to allow formal virtual meetings.

Interpretation

2. These Standing Orders clarify the County Council's temporary legal powers to hold meetings via telephone audio conference, video conference or other electronic means to avoid convening public gatherings during the public health emergency. In any instance where these Standing Orders conflict with other Standing Orders or other sections of the Constitution, these Standing Orders prevail until 7 May 2021.

Attendance

3. All references to members being 'present' at a meeting include participating through virtual methods, including audio conferencing or video conferencing.
4. All references to Members 'attending' a meeting include participating through virtual methods, including audio conferencing or video conferencing.
5. To qualify as a formal, virtual meeting, Members must be able to hear and (where practicable) see and be heard and (where practicable) be seen by other Members in attendance at the meeting. This full requirement also extends to members of the public attending to exercise a right to speak at a meeting. All other members of the public must as a minimum be able to hear and (where practicable see) the meeting.
6. A Member in attendance through virtual methods will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for attendance contained in paragraph 5 above are not met in their case. In such circumstance the Chairman may, as he or she deems appropriate;
 - (a) adjourn the meeting for a short period to permit the conditions for virtual attendance for the Member or Members to be re-established; or
 - (b) count the number of Members in attendance for the purposes of the quorum and, if quorate
 - (c) continue to transact the remaining business of the meeting in the absence of the Member or Members. If absent members later re-join the meeting, they will be able to continue to participate, but will not be able to vote in any decision of the Regulatory Committee, or Committees or Panels drawn from the Regulatory Committee, where they have missed part of the debate on that item.
7. All references to meeting locations include an entirely virtual meeting by audio conference or video conference with no published fixed location. However, a fixed location will ordinarily be published to provide for members of the public to view a meeting on screen at that location.

8. If any Member is not able to attend a meeting during the period covered (to 7 May 2021) due to issues related to the virtual nature of the meeting, for example technical difficulties, or failure of IT equipment or services, this will be considered as an absence for a reason approved by the Council in relation to attendance requirements.

Public access

9. All formal meetings will be accessible to the public through live webcasting of the audio or video content, and through provision for a meeting to be viewed on screen at the published location, except where exempt items are being discussed.

Communications

10. References to hard copy communications such as 'in writing or, 'signing' 'can include by email or other electronic methods of communication where appropriate.

Access to documents

11. All references to the 'supply' or 'provision' of documents or 'inspection' of documents at 'County Hall' or 'council offices' will be via electronic methods such as on the County Council's website in the first instance, or via email where permissible. Where practicable, hard copies of documents by post may be available on request for those who do not have internet provision.

Conduct of meetings

12. Notwithstanding the provisions set out in these Standing Orders the conduct of the meeting will be at the discretion of the Chairman. The Chairman of a virtual meeting will manage the meeting with clear instructions and requests to participants. Members will request to speak via electronic means such as instant messaging.
13. If the Chairman speaks, any other Members shall stop speaking and will seek instruction from the Chairman.
14. Requests to raise points of order or points of personal explanation as provided for in Standing Order 22 must be communicated to the Chairman via electronic means and must be allowed as soon as practicable.
15. On any occasion where a committee resolves to go into Part II to discuss exempt or confidential business, each Member and officer taking part in the virtual meeting must ensure that there are no other persons present who are not entitled to be participating (whether by hearing or seeing) in the consideration of such items, and that no person is recording the proceedings.

Interests

16. Standing Orders 62.1 and 62.2 continue to apply in that Members will have regard to the Code of Conduct in any meeting. If a Member has a pecuniary or prejudicial interest in an item, they must leave the virtual meeting for the duration of that item, after which they will be invited to re-join the meeting.

Voting

17. At a virtual meeting, unless a recorded vote is mandated or requested verbally or by electronic means in line with Standing Orders 33 (Council) or 55 (Cabinet, Committees

and Sub-Committees), the method of voting shall be at the discretion of the Chairman who may take the vote in one of the ways set out below depending on the nature of the meeting and the item:

- (a) by the affirmation of the meeting if there is no dissent [by assent]; or
- (b) by roll-call, and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

- 18. If any dissent is indicated under method (a), the Chairman may move to (b) a roll-call vote.
- 19. If a vote is to be taken by roll-call the Chairman will pass to an officer who will call each Member in turn to cast their vote verbally, or by electronic methods. The Chairman will read out the result when it has been collated.
- 20. Details of how Members voted will not be minuted unless a recorded vote was requested. See also provisions in Standing Order 6(c) above for Regulatory Committees and Panels.

Questions from members of the public

- 21. Provision for written questions from members of the public at Council meetings continues to apply in line with Standing Order 42. Supplementary verbal questions from members of the public will not be taken at virtual Council meetings

Petitions

- 22. A Member wishing to present a petition to the Chairman of the Council as set out in Standing Order 40.1 may do this via an alternative method of communication such as email.
- 23. Provision for a petitioner to address the Cabinet, relevant Cabinet member or Committee on the subject matter of a petition referred by the Chairman will apply where practicable but shall be at the Chairman or Lead Member's discretion. As the meetings will be held virtually, written submissions to be read out at the relevant meeting will also be requested from designated speakers in advance of the meeting in case of technical issues.

Public representations at Planning Committee

- 24. Provision for public speaking at the Planning Committee continues to apply as set out in part 4 of the Constitution, and will continue to be in accordance with the Council's [policy on Speaking at Planning Committee](#). However, as the meetings will be held virtually, written submissions to be read out at the Committee meeting will be requested from designated speakers in advance of the meeting. There will though be the option to speak to the Committee in person using telephone or video conferencing where this is practicable.

General

- 25. In so far as legally permissible, failure to comply with the requirements of these Standing Orders does not invalidate the decisions of the Council, Committee or body in question.

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Report to: **Governance Committee**

Date: **23 June 2020**

By: **Assistant Chief Executive**

Title: **Amendments to Constitution – East Sussex Health and Wellbeing Board Terms of Reference**

Purpose: **To seek approval on the recommended changes to the membership, meeting structure of the East Sussex Health and Wellbeing Board**

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council to:

- 1) approve the revised terms of reference for the East Sussex Health and Wellbeing Board as set out in appendix 1; and**
 - 2) agree to amend the Constitution accordingly**
-

1. Background

1.1. The East Sussex Health and Wellbeing Board (HWB) was established by East Sussex County Council under the Health and Social Care Act 2012.

1.2. The purpose of the HWB includes providing whole system leadership for the health and wellbeing of the people of East Sussex and the development of sustainable and integrated health and care services.

1.3. The 2012 Act prescribes a number of statutory members of a health and wellbeing board, including at least one member of the local Clinical Commissioning Group (CCG), which are the NHS organisations responsible for commissioning most local health services. The current terms of reference need to be updated to reflect the merger of the three CCGs in East Sussex into a single CCG from 1 April 2020.

2. Supporting Information

2.1. The HWB includes representation from all bodies in East Sussex with major responsibilities for commissioning and providing health services, public health and social care. The current membership of the HWB comprises:

- 4 Members of the County Council chosen by the Leader of the Council
- 2 Members representing the five District and Borough Councils
- East Sussex County Council Director of Public Health
- East Sussex County Council Director of Adult Social Care and Health
- East Sussex County Council Director of Children's Services
- Chief Executive of East Sussex Healthcare NHS Trust
- Chief Executive of Sussex Community NHS Foundation Trust
- Chief Executive of Sussex Partnership NHS Foundation Trust

- **One representative from each East Sussex Clinical Commissioning Groups (CCG)**
- One representative of NHS England South
- One representative of Healthwatch East Sussex

2.2. On 1 April 2020, the three CCGs in East Sussex, High Weald Lewes Havens CCG, Eastbourne, Hailsham and Seaford CCG and Hastings and Rother CCG, merged to form East Sussex CCG. Under the current terms of reference, East Sussex CCG would only be entitled to a single member on the HWB instead of the three representatives of the CCGs prior to 1 April.

2.3. In order to maintain the balance of CCG membership on the Board, it is proposed that the terms of reference be amended as follows:

- 4 Members of the County Council chosen by the Leader of the Council
- 2 Members representing the five District and Borough Councils
- East Sussex County Council Director of Public Health
- East Sussex County Council Director of Adult Social Care and Health
- East Sussex County Council Director of Children's Services
- Chief Executive of East Sussex Healthcare NHS Trust
- Chief Executive of Sussex Community NHS Foundation Trust
- Chief Executive of Sussex Partnership NHS Foundation Trust
- **Three representatives of the East Sussex Clinical Commissioning Group (CCG)**
- One representative of NHS England South
- One representative of Healthwatch East Sussex

2.4. The revised terms of reference are attached as **appendix 1**.

3. Conclusion and reasons for recommendations

3.1. In order to maintain the current balance of membership on the HWB, the Governance Committee is recommended to recommend the County Council to approve the revised terms of reference for the East Sussex Health and Wellbeing Board as set out in appendix 1; and agree to amend the Constitution accordingly.

PHILIP BAKER
Chief Executive

Contact Officers: Harvey Winder
 Tel: 01273 481796
 Email: Harvey.winder@eastsussex.gov.uk

BACKGROUND DOCUMENTS

None

East Sussex Health and Wellbeing Board - Terms of Reference

Constitution

The East Sussex Health and Wellbeing Board (the Board) includes representation from all bodies in East Sussex with major responsibilities for commissioning and providing health services, public health and social care.

Membership:

- 4 Members* of the County Council chosen by the Leader of the Council
- 2 Members* representing the five District and Borough Councils
- East Sussex County Council Director of Public Health
- East Sussex County Council Director of Adult Social Care and Health
- East Sussex County Council Director of Children's Services
- Chief Executive of East Sussex Healthcare NHS Trust
- Chief Executive of Sussex Community NHS Foundation Trust
- Chief Executive of Sussex Partnership NHS Foundation Trust
- Three representatives of the East Sussex Clinical Commissioning Group (CCG)
- ~~One representative from each East Sussex Clinical Commissioning Groups (CCG)~~
- One representative of NHS England South
- One representative of Healthwatch East Sussex**

** To avoid conflict of interest Members must be different from the Health and Overview Scrutiny Committee Member.*

***To avoid conflict of interest Healthwatch East Sussex will not be members of the Health and Overview Scrutiny Committee Member or any Council Scrutiny Committee.*

The Board will be chaired by an elected Member of East Sussex County Council.

A Deputy Chair will be chosen from among the CCG representatives.

The quorum for a Board meeting shall be half of the membership including at least one elected Member of the County Council and one representative of the CCGs.

In the event of equal votes the Chair will have the casting vote. All members of the Board will be entitled to vote.

Observers

In addition to the Members listed above, additional non-voting observers from relevant agencies will be invited attend to assist in achieving the Board's objectives. The invited observers with speaking rights are:

- One Member* from each of the three Borough and District Councils within East Sussex that are not voting representatives
- Chief Executive of East Sussex County Council
- One representative of the East Sussex Voluntary and Community Sector
- Chief Executive of Brighton and Sussex University Hospitals NHS Trust
- Chief Executive of Maidstone and Tunbridge Wells NHS Trust
- Sussex Police and Crime Commissioner

- Chief Fire Officer East Sussex Fire and Rescue Service

Principles of the Board – the principles have been removed as they are now included as part of the role and function of the board.

Role and Function

- To provide whole system leadership for the health and wellbeing of the people of East Sussex and the development of sustainable and integrated health and care services.
- To provide strategic influence over the commissioning and provision of health, public health and social care services in East Sussex.
- To strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning and provision decisions across health and social care and provide a forum for challenge, discussion, and the involvement of local people.
- To bring together the NHS, the council and others to develop a shared understanding of the health and wellbeing needs of the community using robust and up to date evidence.
- To drive local commissioning and delivery of health care, social care and public health and create a more effective and responsive local health and care system that reduces the need for health and social care in the longer term and/or prevents the need for a more expensive service.
- Jointly undertake responsibilities for addressing population health need and working together to inform strategic planning of health and social care, through oversight of integrated investment plans Better Care Fund, Improved Better Care Fund and any other responsibilities delegated to the HWB.
- To have a relationship with the East Sussex Strategic Partnership to strengthen the engagement of wider range of stakeholders in all determinants of health.

These functions will be delivered through the following activities:

Identify needs and priorities

1. Publish and refresh the East Sussex Joint Strategic Needs and Assets Assessment (JSNAA), using a variety of tools, evidence and data including user experience, to ensure that the JSNAA supports commissioning and policy decisions and identification of priorities.

Deliver and review the Health and Wellbeing Strategy

2. Review and update the Joint Health and Wellbeing Strategy regularly to ensure the identified priorities reflect the needs of East Sussex that clearly explains our joint purpose to residents, communities, staff and volunteers in all organisations
3. Ensure the council, CCGs and NHS providers contribute to the delivery of the Joint Health and Wellbeing Strategy and integrate its agreed objectives into their respective plans.
4. Review recommendations from the East Sussex Health and Social Care Executive Group with regard to transforming services and the overall strategic investment patterns to meet population health needs and deliver outcomes, reflecting national policy where this is appropriate.
5. Oversee and hold partners to account for the implementation of agreed plans.

Ensure achievement of outcomes

6. Communicate and engage with local people about how they can achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing.
7. Have oversight of the use of relevant public sector resources across a wide spectrum of services and interventions, with greater focus and integration across the outcomes spanning healthcare, social care and public health.
8. Work in partnership with the Sustainability and Transformation Partnership (STP) to improve outcomes for East Sussex residents and hold the STP to account for delivery in East Sussex of its parts of the system.

Reporting

9. Propose recommendations regarding the work of the Health and Wellbeing Board to:
 - East Sussex County Council;
 - East Sussex CCGs; and
 - NHS provider Trusts
10. Direct issues to and receive reports from the appropriate Scrutiny Committees of the County Council, and the East Sussex Strategic Partnership.

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Report to: Governance Committee

Date of meeting: 23 June 2020

By: Chief Operating Officer

Title: Amendment to Constitution Rules of Procedure – Disciplinary Process for Senior Officers

Purpose: To seek the Committee's approval for amendments to the Constitution regarding disciplinary procedures for senior officers

RECOMMENDATIONS

The Governance Committee is recommended to recommend the County Council approves the amendments to the Council's Constitution as detailed in Appendix 1.

1 Background

1.1 The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015 amended the statutory process to be followed in relation to disciplinary processes for senior officers by removing the previous requirement that a designated independent person (DIP) be appointed to investigate and make a binding recommendation on disciplinary action against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

1.2 At its meeting on 29 June 2015, the Governance Committee approved amendments to our local procedures to remove the role of the DIP. The Joint Negotiating Committee for Local Authority Chief Executives has since published a revised Conditions of Service handbook, produced in consultation with the Association of Local Authority Chief Executives (ALACE), which gives greater detail and explanation on several key points.

1.3 As a result of the above, further revisions to the arrangements set out in the County Council's Constitution are now recommended. The proposed amendments relate only to Section 6 of the Constitution. A copy of the revised process is attached at Appendix 1.

2 Summary of Proposed Changes

2.1 The proposed amendments seek to offer greater detail on the procedures in the instance of any allegations being made. The key changes being:

- i) the addition of the provision for informal conciliation, if it can bring about a mutually agreed solution, as opposed to the current approach which only provides for formal processes to be used (para 6. (ii)); and
- ii) greater clarity of roles and responsibilities at the different stages of the procedures, including timescales.

2.2 It should be noted that no change is proposed to the current approach whereby Full Council is required to give the final approval of any recommendation to dismiss a statutory officer.

3. Recommendations

3.1 The Governance Committee is recommended to recommend the County Council approves the amendments to the Council's Constitution as detailed in Appendix 1.

KEVIN FOSTER
Chief Operating Officer

Contact Officers:
Sarah Mainwaring, Head of HR & OD
Tel No 01273 482060
Email: sarah.mainwaring@eastsussex.gov.uk

Greg Nicol, Head of HR Advisory
Tel No 01273 335418
Email: greg.nicol@eastsussex.gov.uk

6. Disciplinary action

- (i) Disciplinary procedures should be handled as quickly as possible, subject to the need to investigate thoroughly. Informal conciliation is preferred to formal procedures if it can bring about a mutually agreed solution.
- (ii) Where an allegation is made against the Monitoring Officer or the Chief Finance Officer, the Head of Paid Service, or in the case of the Head of Paid Service, the Chair of the Governance Committee, will decide whether to:
 - a) take no action; or
 - b) agree an informal course of action; or
 - c) take formal action with the consent of the employee; or
 - d) refer the matter to the Investigating and Disciplinary Committee (IDC)

the Governance Committee will, as a term of reference of the Governance Committee, act as the IDC. The IDC must be politically balanced and must include at least one member of Cabinet.

If the statutory officer does not agree any proposed informal course of action and/or if it is decided to refer the matter to the IDC, the Head of Paid Service, or the Chair of the Governance Committee, as appropriate, will decide whether to suspend and will have authority to suspend if it is considered appropriate. This may be necessary, for example, if an allegation is such that if proven it would amount to gross misconduct or if the Statutory Officer's continuing presence at work might compromise the investigation or impair the efficient exercise of the Council's functions. If it is decided that the Statutory Officer should be suspended, the Statutory Officer will be informed in writing of this and of the reason for the suspension without delay and shall have the right to present information before such a decision is made.

- (iii) Where an allegation is made, the Head of Human Resources and Organisation Development will write to the Statutory Officer to invite the Statutory Officer to an IDC investigative meeting within 10 working days of the meeting. The invitation should set out the allegation(s)/issues, and provide any evidence to be considered. The invitation will also invite the Statutory Officer to submit a written response to the IDC not less than 5 working days before the meeting.
- (iv) Following the investigative meeting, the IDC will determine the course of action to be either:
 - a) no further action required; or
 - b) informal, un-recorded warning given; or
 - c) an Independent Investigator to be appointed to investigate the allegations and report to the IDC with their findings and recommendations.

- (v) The Chair of the IDC will confirm the outcome of the investigative meeting in writing to the Statutory Officer without delay.
- (vi) If the IDC decides to appoint an Independent Investigator, a list of suitably qualified individuals is provided by the JNC Joint Secretaries and the Statutory Officer may choose from the list provided. If genuine conflicts of interest are raised these will be considered by the IDC but if the Statutory Officer does not agree within 14 days, the IDC should be free to appoint their choice from the list.
- (vii) The Independent Investigator will conduct an investigation and produce a written report to the IDC:
 - a. Stating in his/her opinion whether (and if so, the extent to which) the evidence he/she has obtained supports the allegation of misconduct or other issue under investigation; and
 - b. Recommending any disciplinary action or range of actions (if any) which appear to him/her to be appropriate for the authority to take against the Statutory Officer.
- (viii) Where the Statutory Officer is suspended, the suspension should be reviewed by the Chair of the IDC after two months, and only continued following consultation with the Independent Investigator. The Chair of the IDC should confirm the outcome of the review in writing to the Statutory Officer without delay and after taking into account any representations made by the Statutory Officer.
- (ix) If the Independent Investigator considers that there is a case to answer, the Head of Human Resources and Organisation Development will arrange a hearing in accordance with the Code of Practice on Disciplinary and Grievance Procedures and invite the Statutory Officer to attend, giving at least 10 working days' notice including any associated paperwork from the Independent Investigator. The Statutory Officer has a right to be accompanied in the normal way. Any written response to the documents provided by the Independent Investigator should be received from the Statutory Officer at least 5 working days' in advance of the hearing.
- (x) At the hearing, the Independent Investigator should present their findings, including calling any witnesses they may wish to. After this presentation, the Statutory Officer may ask questions. The Statutory Officer will then have the opportunity to present their case and call any witnesses.
- (xi) The IDC will then consider which of the following outcomes is appropriate:
 - a) no further action; or
 - b) refer back to the Independent Investigator for further investigation and report; or
 - c) disciplinary action short of dismissal or other appropriate procedure; or

- d) recommend dismissal.

If the IDC decide on disciplinary action short of dismissal then the Statutory Officer will have the right of appeal. Appeals should be heard by an Appeals Committee, drawn from Full Council, and which will be a politically balanced committee of normally 5 members who were not part of the IDC. The appeal must be submitted in writing within 10 working days' of the hearing. Full details setting out the grounds of appeal must be provided.

- (xii) Where the IDC propose dismissal, the IDC will inform the Proper Officer that it is proposing to the Council that the Statutory Officer be dismissed. In the case of any proposal to dismiss the Head of Paid Service, the Proper Officer will be the Monitoring Officer and in all other cases, the Proper Officer will be the Head of Paid Service. The Proper Officer should then notify all members of the Council of:
 - a. The fact that the IDC is proposing to the Council that it dismisses the Statutory Officer.
 - b. Any other particulars relevant to the dismissal.
 - c. The period by which any objection to the dismissal is to be made by the Leader to the Proper Officer.
- (xiii) At the end of this period, the Proper Officer will inform the IDC either:
 - a. That the Leader has notified him/her that neither he/she nor any member of the Cabinet has any objection to the dismissal.
 - b. That no objections have been received from the Leader, or
 - c. That an objection or objections have been received and provide details of the objections.
- (xiv) The IDC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If there are any material and/or well founded objections to the proposal to dismiss the IDC will consider the impact of any objections on the decision and commission further investigation by the Independent Investigator and report if required. If there is no material and/or well founded objections to the proposal to dismiss, the IDC will inform the Statutory Officer of this decision. Thereafter, the IDC will put the proposal to recommend dismissal to an Independent Panel (IP) that should be convened, giving at least 5 working days' notice to all concerned. The IP members must be appointed to the IP at least 20 working days before the Full Council meeting at which it considers whether to approve a proposal to dismiss.
- (xv) The IP should comprise two or more relevant Independent Persons who accept the invitation in the following priority order:
 - a) an Independent Person who has been appointed by the council and who is a local government elector in the authorities area;

- b) any other Independent Person who has been appointed by the council; and
- c) an Independent Person who has been appointed by another council or councils.

The IP members will be appropriately supported on matters of process and compliance with employment law..

- (xvi) The role of the IP is to offer any advice, views or recommendations it may have to the Council on the proposal for dismissal. The IP will receive the IDC proposal and reasons in support of the proposal, the report of the Independent Investigator and representations (oral and/or written) from the Statutory Officer and their representative. Any written response to the proposal to dismiss, including the Independent Investigator's report should be received by the IP from the Statutory Officer at least 5 working days' before the IP meeting. The IDC should be represented by its Chair or other nominated person at the IP meeting. The Independent Investigator may also be invited to attend the IP meeting to provide clarification if required. Members of the IP may ask questions of either party who have been given reasonable opportunity to be present or represented. While representations may be made, the IP will not conduct a rehearing of the evidence.
- (xvii) The IP should then formulate any advice, views or recommendations it wishes to present to the Council. If the IP is recommending any course of action other than that the Council should approve the dismissal, then it should give clear reasons for its point of view.
- (xviii) Where dismissal is recommended, Full Council must consider the proposal and reach a decision before notice of dismissal is issued. The Statutory Officer will be provided with all relevant papers or documents in advance of the meeting and will be allowed to attend (and be accompanied by their representative) and put forward his/her case before a decision is reached. Written representations may also be given by the Statutory Officer in advance of the meeting. The Independent Investigator may also be invited to attend.
- (xix) Full Council will consider which of the following outcomes is appropriate:
 - a) Approve dismissal; or
 - b) Reject the proposal to dismiss; or
 - c) Substitute a lesser sanction; or
 - d) Refer the matter back to the IDC to determine such appropriate lesser sanction
- (xx) No notice of dismissal shall be given until the decision has been approved by Full Council.
- (xxi) Where the IDC has made a proposal to dismiss, the hearing by Full Council will also fulfil the appeal function.

- (xxii) Any discussion at the Full Council or the Governance Committee under these rules regarding an individual officer would be conducted under the exempt part of the meeting.

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