

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 23 June 2020. Attendances:

Councillor Glazier (Chair)

Councillors Bennett, Godfrey Daniel, Simmons and Tutt

1. Amendment to Constitution – Pension Board and Pension Committee Terms of Reference and Scheme of Delegations to Officers

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.

1.4. 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).

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

- 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)

1.6. The three documents were considered by the Pension Board and Pension Committees in June.

1.7. 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

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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

Scheme of delegation to Officer

- 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.

1.8 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. 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.

1.9 The Committee recommends 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

2. Review of Members' Allowances Scheme

2.1 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.

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2.2 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.

2.3 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.

2.4 A copy of the Independent Remuneration Panel report is attached at Appendix 4 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.

2.5 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.

2.6 The Independent Remuneration Panel is required to review allowances based on the facts and information provided to it. Councillors are required to give due consideration to the recommendations of the Panel but are not bound by them

2.7 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.

2.8 The Committee recommends 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.

3 Virtual meetings – supplementary Standing Orders

3.1 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.)

3.2 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.

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3.3 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.

3.4 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.

3.5 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 5. 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.

3.6 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.

3.7 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.

3.8 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.

3.9 The Committee recommends the County Council to:

☆ 1) agree the supplementary Standing Orders at appendix 5 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.

4. Amendments to Constitution – Health and Wellbeing Board

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

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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.

4.2 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.

4.3 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

4.4 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.

4.5 In order to maintain the balance of CCG membership on the Board, it is proposed that the terms of reference be amended to allow for three representatives of the East Sussex Clinical Commissioning Group. The revised terms of reference are attached as appendix 6.

4.6 The Committee recommends the County Council to:

☆ 1) approve the revised terms of reference for the East Sussex Health and Wellbeing Board as set out in Appendix 6; and

2) agree to amend the Constitution accordingly.

5. Amendment to Constitution - Disciplinary Process for Senior Officers

5.1 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.

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5.2 In July 2015, the County Council 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.

5.3 As a result of the above, further revisions to the arrangements set out in the County Council's Constitution are now recommended. A copy of the revised process is attached at Appendix 7.

5.4 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.

5.5 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.

5.6 The Committee recommends the County Council to:

- ✧ 1) approve the amendments to the Council's Constitution as set out in Appendix 7

23 June 2020

KEITH GLAZIER
(Chair)