

**Report to:** Governance Committee

**Date of meeting:** 5 March 2024

**By:** Chief Finance Officer

**Title:** Amendment to the Constitution - East Sussex Pension Fund

**Purpose:** Governance Committee is to consider whether to recommend to Council to amend the Constitution in relation to the East Sussex Pension Fund

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## **RECOMMENDATIONS**

The Governance Committee is recommended to recommend to County Council to agree the proposed amendments to the Constitution:

- 1) agree the amendment to the write off of debt authorisation process in relation to the Pension Fund as set out in paragraph 2.4 of the report;
  - 2) agree to the amendment as set out in paragraph 3.4 and to amend the Scheme of Delegation to Officers as set out in Appendix 1 of the report.
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### **1. Background**

1.1. The East Sussex Pension Fund (the Fund) undertook a review of decision-making responsibilities in line with the recommendations of the Scheme Advisory Board "Good Governance Review". An external consultant was appointed to review existing decision-making levels documenting responsibilities into a decision-making matrix. As part of this review, proposed changes to the existing governance structure were identified in order to maximise best practice and ensure alignment with changes to the Constitution and the governance structure approved in 2020.

1.2. This paper sets out the recommended changes to ensure the efficiency of the day-to-day operations of the Fund.

### **2. Financial decisions: Debt Write Off**

2.1. The Fund is ring-fenced, with assets held separately from the general assets of the authority; the Fund's assets must be used for the sole purpose of paying Local Government pension benefits. The operational and financial decisions of the Fund are separate from those of the Council, with the budget, budget monitoring, outturn reports and Annual Report and statement of accounts being approved by the Pension Committee, rather than Full Council. The Pension Committee are charged with governance of all financial matters for the Fund.

2.2. The Financial Procedure Rules are set out in the Constitution. Rule A.13.4 sets out the rules in relation to Write Off of Debts, as follows:

*“A.13.4.1 The write-off of debts below £5,000 may be authorised by the Chief Officer. The write-off of debts in excess of £10,000 shall only be authorised by the Lead Member for Resources.*

*A.13.4.2 All other debts falling between these limits may only be written off by a Chief Officer after consultation with the Chief Finance Officer and Assistant Chief Executive.*

*A13.4.3 A complete record of debts written off shall be maintained by the appropriate Chief Officer and retained in accordance with Standard Financial Procedures”.*

2.3. The Constitution currently states that the Chief Operating Officer and the Lead Member for Resources are the decision makers for write off levels for debts owed to the Pension Fund. However, neither have direct operational oversight or responsibility for the debt or the wider financial position of the Fund. It is therefore proposed that the Constitution be amended so that the write-off of debt for the Fund is delegated to the Chief Finance Officer, in consultation with the Chair of the Pension Committee, who will advise the Pension Committee of such write offs.

2.4. The Committee is asked to consider an amendment to Rule A.13.4, by adding a new Rule A.13.4.4 as follows:

**A.13.4.4 Where the debt is owed to the East Sussex Pension Fund, the write of any value debt may be actioned by the Chief Finance Officer, in consultation with the Chair of the Pension Committee, and reported to the Pension Committee.**

### **3. Responsibilities of the Chief Finance Officer**

3.1. The responsibilities of the Chief Finance Officer are laid out in the Constitution. The existing responsibilities merge those relating to both County Council roles and Pension Fund roles. The Chief Finance Officer, as Section 151 officer, is required to wear two hats in some circumstances where the best interest of the Pension Fund may differ to the best interest of the County Council and it is recommended the role is clearly defined to separate out the Pension Fund responsibilities. A draft version of the revised Chief Finance Officer responsibilities is included as Appendix 1 to this report.

3.2. In addition to the revised format of the Chief Finance Officer responsibilities, it is proposed that decisions with financial implications sit with the Chief Finance Officer and Pension Committee. For example, under current arrangements, decisions relating to staffing (recruitment, training etc) are defined as responsibilities of the Chief Operating Officer. To support the efficient operation of the Pension Fund, it is proposed that the day-to-day operational responsibilities for the Pension Fund, including staffing, administration and investments, are delegated to the Chief Finance Officer and Head of Pensions, in consultation with the Pension Committee and Pension Board, rather than the Chief Operating Officer.

3.3. The Pension Committee, at its meeting of 30 November 2022, agreed for the Chief Finance Officer to have delegated authority to make decisions to invest up to 5% of the Fund

assets outside of the defined Investment Strategy Statement, Implementation Plan or rebalancing range in order to react to market risks or opportunities. It is proposed that this delegation is recorded within the delegations to the Chief Finance Officer in the Scheme of Delegations to ensure consistency in the governance documentation.

3.4. The Articles are set out in Part 2 of the Constitution. Article 12.04 sets out the functions of the Chief Finance Officer as a statutory officer, including at Article 12.04(e) that the Chief Finance Officer “*will provide financial information to the media, members of the public and the community*”. It is recommended that Article 12.04(e) is expanded to include *any* Pension Fund specific communications, including financial information, and be included within the Chief Finance Officer’s responsibilities as set out in Appendix 1.

#### **4. Conclusions**

4.1. These proposed amendments have been considered by the Pension Board at its meeting of 6 February and Pension Committee at its meeting of 22 February and the Pension Committee recommends them to the Governance Committee.

4.2. The Governance Committee is recommended to recommend to County Council to agree the proposed amendments to the Constitution as set out in this report. The changes are proposed to better align the decision-making process for the Fund in relation to financial matters and to improve the efficient functional operation of the Fund.

**IAN GUTSELL**

**Chief Finance Officer**

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Local Member: All

Background Documents: None