

**Report to:** Pension Committee

**Date of meeting:** 17 June 2022

**By:** Chief Finance Officer

**Title:** Governance Report

**Purpose:** To provide an update on various governance workstreams completed and changes effecting Local Government Pension Schemes and the East Sussex Pension Fund

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## **RECOMMENDATIONS**

The Pension Committee is recommended to:

- 1) **Approve the revised Governance and Compliance Statement (Appendix 1)**
  - 2) **To note the updates in this report**
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### **1 Background**

1.1 This report is brought to the Pension Committee to provide an update on the steps being taken to adopt good practice and ensure compliance with regulatory requirements for the East Sussex Pension Fund (the Fund or ESPF).

1.2 This report outlines changes to Pension Fund policy for comment and noting.

### **2 Governance and Compliance Statement**

2.1 Local Government Pension Scheme (LGPS) funds are required to publish and keep under review a Governance and Compliance Statement. Regulation 55 of the LGPS Regulations 2013 prescribes the content of the governance compliance statement. The governance compliance statement should outline the overall governance structure in place including whether the authority delegates its LGPS functions to a committee or officer. If delegation has taken place the report should then lay out the terms, structure and operational procedures of the delegation; the frequency of meetings; whether any such committee includes representation of scheme members or employers and whether these representatives have voting rights; the extent delegation complies with statutory guidance; and details relating to the Local Pension Board.

2.2 The Governance and Compliance Statement must be kept under review and updated following material change. The Fund must consult persons it considers appropriate and publish the statement.

2.3 In addition to the details within the regulation, the Chartered Institute of Public Finance and Accountancy (CIPFA) require the Governance and Compliance Statement to be included in the annual report. CIPFA's guidance for LGPS Funds preparing the annual report suggests the Statement should include the overall governance structure in place including, in addition to the regulations, application of how the CIPFA knowledge and Skills Framework has been applied; how oversight of the asset pool takes place; and policies and procedures for managing conflicts of interest.

2.4 The Governance and Compliance Statement requires an annual review.

2.5 The main changes are the addition of a compliance statement table. As well as expansion of the responsibilities of the Pension Committee to align with the terms of reference for more consistency with this section to the responsibilities of the Pension Board; reference has been made to working through the pandemic; Pension Board appointment has been expanded based on

recent experience; Update to the working groups currently in place; and addition of a section on audit of the Fund.

2.6 The revised Governance and Compliance Statement is included in **Appendix 1** for discussion.

### **3 Changes in Legislation and Regulation**

3.1 The initial consultation of Pension Dashboard has now closed. Concerns have been raised in the market around how the Dashboard Regulations will interact with the requirements of the UK GDPR, which are expected to be changed in turn following the Queen's Speech. Further consultations are expected from the Information Commissioner's Office and The Pensions Regulator.

3.2 The Pensions Regulator [opened a consultation on 4 May 2022 on its enforcement policy](#). The consultation lays out how the Regulator would look to act in a number of scenarios, which are connected to the objective behind taking action. The possible objectives are noted as being: Prevention; remedy; restoration and deterrence. The powers available to the Regulator have not changed since the Pension Board and Committee were previously notified of changes in the law and the Regulator is seeking to provide clarity as to its proposed approach.

### **4 Privacy notices**

4.1 Since the last meeting, Officers have reviewed the existing long and summary privacy notices. They have been updated in line with the recommendations made by the Local Government Association (LGA). This concludes the annual review of our privacy notices. The new privacy notices are available on our website and are included at **Appendix 2**.

4.2 Very few changes have been made and these focus on clarifying we are able to use member contact details in order to issue surveys and the impact of the UK leaving the European Union.

### **5 Pension Board and Pension Committee appointments**

5.1 During the February 2022 meeting Officers provided an update on progress being made on the appointment of someone to the vacant position on the Pension Board. On 1 March 2022 the Governance Committee took the decision to appoint Neil Simpson as the new pensioner representative for a term of 4 years. In welcoming Neil to the Board an induction training plan has been put in place.

5.2 The previous pensioner representative was one of the Vice Chairs of the Pension Board. The constitution calls for both an employer and member representative vice chair to be in place to cover any occasion where the Independent Chair is not available. An employer representative Vice Chair is currently in place; this is currently Stephen Osborne.

5.3 The constitution of the Council requires the Governance Committee to appoint a Vice Chair. The Pension Board has been asked to agree which member representative should be nominated as a Vice Chair of the Pension Board for approval by the Governance Committee ahead of the next meeting of the Pension Board.

5.4 On 10 May 2022 the Full Council agreed a change to the makeup of Pension Committee with Cllr. Hilton being replaced by Cllr. Georgia Taylor, both of which are members of the Green Party which leaves the political makeup of the Committee unchanged. We welcome Cllr. Taylor to the Pension Committee.

### **6 Pension Board Representation and Governance Discussion**

6.1 At the Pension Board meeting on 27 May 2022 a paper was discussed on representation on the Pension Committee. This item was brought by Cllr Druiitt, as an employer representative,

and in addition there was a petition presented by a scheme member. The discussions had various layers around divestment which was deemed not relevant under the Board's terms of reference, plus the requests for resident representation on the Pension Committee, specifically for two seats for Brighton and Hove City Council Members. The relevant part of the discussion was around whether the Board believed there should be a review carried out as to the governance of the Pension Committee structure for it to be more representative.

6.2 The Board meeting was quorate however two employee representatives sent their apologies.

6.3 The paper provided to the Board included clear legal advice over the required structure of an LGPS Pension Committee, as complied with by the ESPF Pension Committee. In compliance with the Local Government Act 1972, the Committee must be solely appointed from elected members of the Administering Authority (as defined in the Local Government Pension Scheme Regulations 2013 as East Sussex County Council), as the work of the Pension Committee includes decisions regarding investments, which are deemed to regulate and control the finance of the Fund. In addition, the Pension Committee is politically balanced to represent the Administering Authority in line with rules under s15 of Local Government and Housing Act 1989, the Local Government (Committees and Political Groups) Regulations 1990.

6.4 The Board recognised that a Good Governance Review had been undertaken in 2020, which revised the Terms of Reference of the Pension Board and Committee, together with revising a range of governance policies, together with expanding the Pension Team. It was also noted that a number of different governance structures existing across the LGPS landscape. A recommendation was passed to ask the Governance Committee to review the governance structure of the Pension Committee in consideration of how other Pension Committees in the LGPS are structured.

## **7 Prudential Additional Voluntary Contributions (AVCs)**

7.1 The Local Government Association has been contacted by Prudential about the ongoing services issues that have previously been identified. To date, the LGA has not fully digested the content of the letter but believes the service being provided is not improving. Officers continue to monitor the situation and will provide updates to the Pension Board and Pension Committee when relevant.

## **8 ACCESS Joint Committee and governance**

8.1 In the February 2022 meeting the Pension Board agreed that the Chair should write to Cllr. Kemp-Gee, the Chair of the ACCESS Joint Committee, regarding its recommendation that members from the pension boards of the 11 participating funds should be elected for a term of 3 or 4 years to provide more permanent representation for members on the Joint Committee.

8.2 On 7 March 2022 the ACCESS Joint Committee met and discussed the approach to be taken in relation to governance and member representation. A proposal was put forward more aligned with the Pension Board's views on this matter, however this was not passed. It was decided that each Fund participating in ACCESS should send two Pension Board members to observe on a rotational basis. The observers can be independent, member representative or employer representatives with a preference that at least one observer be a member representative. The decision is scheduled to be reviewed in 12 months.

8.3 Pension Board members have been asked to nominate two representatives as observer attendees of the ACCESS JC when there is the opportunity to attend during the meeting cycle. The Chair, Ray Martin, has put himself forward and Officers are awaiting a nomination from amongst the member representatives.

8.4 When the Pension Committee met in February 2022 it was identified that if Cllr. Fox, the Fund's representative on the ACCESS Joint Committee, is unable to attend a meeting no substitute has been appointed. The Pension Committee recommended that Cllr. Redstone be the nominated substitute and a paper was sent to Governance Committee covering this request.

8.5 The Governance Committee met on 22 March 2022 and agreed with the Pension Committee's recommendation.

## **9 Conclusion**

9.1 The Committee is asked to Approve the revised Governance and Compliance Statement (Appendix 1) and note the updates provided within this report.

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