

Report to: **Governance Committee**

Date: **10 March 2015**

By: **Chief Operating Officer**

Title of report: **Local Government Pension Scheme (LGPS) – new governance arrangements**

Purpose of report: **To establish the new arrangements for the administration of the Local Government Pension Scheme (LGPS) in East Sussex.**

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

- 1. agree the Pension Board’s revised constitution and terms of reference (Appendix 1);**
 - 2. agree the changes to the appointment of scheme member representatives on the Board;**
 - 3. establish the Pension Committee and agree its Terms of Reference (Appendix 2); and**
 - 4. agree changes to the Terms of Reference of the Governance Committee that relate to the LGPS (paragraph 6.1d and Appendix 3).**
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1. Introduction

1.1 The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 (referred to as the “Regulations” in this report) require each Administering Authority to establish a *Local Pension Board* by 1 April 2015 for the purposes of “assisting” the Administering Authority (East Sussex County Council).

1.2 The Governance Committee at its meetings on 11 November 2014 and 16 December 2014 and Full Council on 2 December 2014 have already agreed to disband the Pension Fund Investment Panel and agreed to establish a new Pension Committee to have delegated authority for all pension related investment and administration decisions on behalf of the Administering Authority (ESCC). A local Pension Board was also created and its draft terms of reference were agreed based on the then draft Regulations.

1.3 The final version of the Regulations has now been published which enables the County Council to finalise the detailed LGPS management arrangements. This report sets out the remaining decisions that need to be made in order to comply fully with the Regulations.

2. The East Sussex Pension Board

2.1 The Regulations set out the role and constitutional requirements of the Pension Board. Its role is to assist the Administering Authority in carrying out its pension fund management functions. A draft constitution and terms of reference for the Board were agreed by the County Council in December 2014. Further to the publication of the final Regulations, the following amendments need to be made to the constitution of the Board in order to comply with the requirements:

- a) The “relevant experience” requirement for local Pension Board members has been relaxed. Board members will only be required to have the “capacity” to carry out their duties and to demonstrate a high level of knowledge and understanding of the Scheme and of their role.

- b) Voting rights on the Board are to be conferred only on the employer and scheme member representatives. Therefore, the independent chair cannot vote and will not have a casting vote.

2.3 The Pension Board shall consist of 7 members, and its constitution and terms of reference have been revised to reflect these changes and are shown in full at Appendix 1.

3. Composition of the East Sussex Pension Board – Consultation outcome

3.1 Employer representatives: Correspondence was sent to all employers after the 16 December 2014 Governance Committee meeting, setting out the final proposal regarding the employer representatives on the Board. The consultation with employers ended on 13 February 2015, with no change(s) proposed to the approved three Employer representatives nominated through the employer bodies.

3.2 Three scheme member representatives: the Committee at its meeting on 16 December 2014 agreed that the appointment of scheme member representatives will be by inviting applications from the Deferred, Pensioners, and Actives, through existing representative organisations, i.e., Union.

3.3 Consultation and discussion with Union members has been helpful in gaining views from interested parties, and highlighted key representation issues. This has led to a further review, reconsideration and changes to the scheme member’s representative appointment on the board as follows. In addition, it was asked that substitutes should be allowed, on condition that they have been as fully trained as the Board Member. It is proposed that this only takes place with the agreement of the Pension Board.

| | | Members | Rep. on the Board | |
|---|----------------------|------------------|-------------------|-------------|
| 1 | Actives/ Deferred | 21,966 24,049 | 2 | Union Rep. |
| 2 | Pensioners | 11,353 | 1 | Appointment |

3.4 Independent Chair: appointment into this role is in progress, and the applications will be subject to a selection process by the Governance Committee.

4. The East Sussex Pension Committee

4.1 In November 2014, the Governance Committee agreed the new LGPS management arrangements including the creation of a County Council Pension Committee to have full responsibility for dealing with the Pension Fund on behalf of the Authority. The terms of reference for the new Pension Committee have been drafted and are shown at Appendix 2.

5. Governance Committee – amended terms of reference

5.1 To complete the arrangements, and to avoid confusion and duplication of roles, it is proposed that the pension fund responsibilities that currently lie with Governance Committee are transferred to the new Pension Committee.

6. Conclusion and reasons for recommendations

6.1 The Committee is recommended to:

- a) Agree the revised constitution and terms of reference for the Pension Board as presented in Appendix 1.
- b) agree changes to the appointment of scheme member representatives on the Board;

- c) Establish a Pension Committee of the County Council with terms of reference set out at Appendix 2.
- d) Agree amendments to the terms of reference of the Governance Committee as follows and as set out in Appendix 3:
- The replacement of the reference to the “*Pension Fund Investment Panel*” with “*Pension Committee*” (relates to recommendations to County Council on membership – paragraph 2 e).
 - The deletion of sections 16(iii) and (iv) which relate to powers and duties in relation to pension fund management and admission agreements; these functions are to be incorporated into the terms of reference of the new Pension Committee.

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Local Member(s): All
Background Documents
None

Appendix 1: Constitution and terms of reference of the East Sussex Pension Board

1. Introduction

- 1.1 The Public Service Pensions Act 2013 requires the establishment of a Pension Board with the responsibility for “assisting the Scheme Manager” in securing compliance with all relevant pensions law, regulations and directions – as well as the relevant Pension Regulator’s codes of practice. This role is one of providing assurance in and governance of the scheme administration.
- 1.2 The *scheme manager (East Sussex County Council – ESCC) will provide the necessary input into the Pension Board to support the Board to deliver on its assurance responsibilities. This may require their attendance at meetings at the request of the Board.
- 1.3 The terms of reference, membership of the Pension Board and any variations thereof are determined by the Scheme Manager, i.e. ESCC.

2. Objectives of the Pension Board

- 2.1 To help to ensure that the East Sussex Pension Fund (ESPF) is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- 2.2 To provide assistance to East Sussex County Council as the LGPS Scheme Manager in securing compliance with:
 - LGPS Regulations and any other legislation relating to the governance and administration of the LGPS
 - requirements imposed in relation to the LGPS by the Pensions Regulator
 - the agreed investment strategy
 - any other matters as the LGPS regulations may specify.
- 2.3 To assist with securing effective and efficient governance and administration of the LGPS for the East Sussex Pension Fund by:
 - Seeking assurance that due process is followed with regard to Pension Committee, and any identified issues raised by Board members.
 - Retaining an overview of LGPS policy and strategy and business plan timetable.
 - Making representations and recommendations to the Pension Committee as appropriate.
 - Considering and, as required, responding to any Government / Responsible Authority performance data concerning the local fund.
- 2.4. The role of the Board will be oversight of these matters and not decision making.

3. Management and operation of the Pension Board

- 3.1 The Pension Board shall:
 - meet at least 4 times per year
 - have the power to establish sub committees or panels as required
 - agree a programme of training and development for its members.

- provide the Scheme Manager (ESCC) with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest.
- ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- consider any issue raised by any Board Member in connection with the Board's work.
- produce an annual report outlining the work of the Board throughout the scheme year, which will help to -
 - inform all interested parties about the work undertaken by the Panel
 - assist the panel in reviewing its effectiveness and identifying improvements in its future operations.
- help to ensure that decisions made by ESCC are fully legally compliant, 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;
- monitor administrative processes and supporting continuous improvements;
- ensure the scheme administrator supports employers to communicate the benefits of the LGPS Pension Scheme to scheme members and potential new members.

4. Membership - composition of the Pension Board

4.1 The Pension Board shall consist of:

- a) **3 employer representatives** - employer representatives that can offer the breadth of employer representation for the ESPF. (Regulation 107 of the Pension Act permits elected members to sit on a local pension board. However, under Regulation 107(3), elected members or officers of ESCC (as the Scheme Manager), who are responsible for the discharge of any function under the Principal 2013 Regulations, may not sit on the Pension Board.)
- b) **3 scheme member representatives** - member representatives nominated to ensure a broad representation of scheme membership (active, deferred, and pensioners).
- c) **1 Independent Chair**

4.2 The Pension Board shall be chaired by an Independent Chair.

5. Appointment of members of the Pension Board

5.1 The appointment process has been approved by the Governance committee

5.2 All appointments to the Board shall be by the Governance Committee under delegated authority from the County Council, including the Independent Chair and Vice Chair.

6. Term of office

6.1 The term of office for Board members shall be 4 years 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.

- 6.2 A Board member who wishes to resign shall submit their resignation in writing to the Pension Board Chair. A suitable notice period must be given, of at least 1 month, to enable a replacement member to be found.
- 6.3 The role of the Pension Board members requires the highest standards of conduct and the Code of Conduct of the East Sussex County Council will apply to the Board's members. The County Council's Standards Committee will monitor and act in relation to the application of the Code.
- 6.4 Poor performance will result in corrective action being taken, and in exceptional circumstances the removal of the Board member, which will be in accordance with the Code of Conduct of the East Sussex County Council.

7. Independent Chair

- 7.1 The Independent Chair will be the independent member appointed for a term of 4 years by Governance Committee or such time as resolved by the Governance Committee. A job description approved by the Committee will be used to identify the candidate best suited to the role.
- 7.2 It will be the role of the Chair to -
- Settle with officers the agenda for a meeting of the Board
 - Manage the meetings to ensure that the business of the meeting is completed
 - Ensure that all members of the Board show due respect for process and that all views are fully heard and considered
 - Strive as far as possible to achieve a consensus as an outcome
 - Ensure that the actions and rationale for decisions taken are clear and properly recorded.
- 7.3 Removal of the independent chair will be in accordance with the Code of Conduct of the East Sussex County Council and the County Council's Standards Committee decision.

8. Support arrangements

- 8.1 ESCC will provide secretariat, administrative and professional support to the Pension Board and as such will ensure that:
- 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 7 days before each meeting except in exceptional circumstances
 - minutes of each meeting are normally circulated 7 working days following each meeting.

9. Expert advice and information

- 9.1 The Board will have access to professional advice and support provided by officers of East Sussex Pension Fund and, via them and where appropriate, advisers to the East Sussex Pension Fund.

- 9.2 Insofar as it relates to its role, the Pension Board may also:
- request information and reports from the Pension Committee or any other body or officer responsible for the management of the Fund
 - examine decisions made or actions taken by the Pension Committee or any other body or officer responsible for the management of the Fund.
 - access independent professional advice from actuaries, other independent advisers, and investment managers as required, where there are major decisions, i.e., investment strategy, triennial valuation, etc.,
 - access to professional advice regarding non major decisions will require the approval of the Pension Committee for additional resources.

10. Knowledge and Skills

- 10.1 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:
- the scheme rules
 - the schemes administration policies
 - the Public Service Pensions Act (ie. being conversant with pension matters relating to their role).
- 10.2 A programme of updates and training events will be organised. Board members will be encouraged to undertake a personal training needs analysis or other means of identifying any gaps in skills, competencies and knowledge relating to Pension Board matters.

11. Minutes

- 11.1 The minutes and any consideration of the Pension Board shall be submitted to the Pension Committee.

12. Standards of Conduct

- 12.1 The main elements of East Sussex County Council's Code of Conduct shall apply to Board members.

13. Access to the Public and Publication of Pension Board information

- 13.1 Members of the public may attend the Board meeting and receive papers, which will be made public in accordance with the Access to Information Rules in East Sussex County Council's Constitution.
- 13.2 Up-to-date information will be posted on the East Sussex Pension Fund website showing:
- Names and information of the Pension Board members
 - How the scheme members and employers are represented on the Pension Board
 - Responsibilities of the Pension Board as a whole
 - Full terms of reference and policies of the Pension Board and how it operates.

14. Expense reimbursement, remuneration and allowances

- 14.1 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 East Sussex Council's Constitution. The Chair's remuneration will be agreed on appointment. All costs will be recharged to the Pension Fund.

15. Accountability

- 15.1 The Pension Board collectively and members individually are accountable to the Scheme Manager (ESCC), the Pensions Regulator, and the National Scheme Advisory Board. The National Scheme Advisory Board will advise the Responsible Authority (in the case of the LGPS the DCLG) and the Scheme Manager (in this case East Sussex County Council). The Pensions Regulator will report to the Responsible Authority (again, DCLG) but will also be a point of escalation for whistle blowing or similar issues.
- 15.2 In addition the Pension Board will continue to provide regular updates to the Pension Committee governance process. ESPF officers will be responsible for the contractual arrangements.

16. Decision Making Process

- 16.1 Employer representatives and scheme member representatives have voting rights albeit the Board is expected to operate on a consensus basis.
- 16.2 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.

17. Attendance and quorum

- 17.1 Four of the voting members of the Pension Board shall represent the quorum for Board meetings to discharge business. The Chair or Vice Chair must be present for any meeting to proceed.
- 17.2 Advisors and co-opted persons do not count towards the quorum.

18. Conflicts of Interest

- 18.1 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.

Appendix 2: Pension Committee terms of reference and membership (draft)

1. In accordance with the Local Government Pension Scheme Regulations and associated legislation, to exercise functions and responsibilities for dealing with the Pension Fund in conjunction with other bodies who contribute to the Fund.
2. To exercise the powers and duties of the County Council in respect of:
 - the pensions of all employees of the Council (except teachers), including the approval of pension fund admission agreements; and
 - management of the investment of the pension fund, receiving advice as appropriate from the Pension Board.
3. To make arrangements for the investment, administration and management of the Pension Fund.
4. To arrange for the appointment of investment managers and advisors.
5. To agree Policy Statements as required under the Local Government Pension Scheme regulations.
6. To agree the Investment Strategy having regard to the advice of the Fund's Managers and the Pension Board.
7. To set the Investment Policy and review the performance of the Pension Fund's external investment managers.
8. To determine the fund management arrangements and to appoint fund managers and fund advisers.
9. To decide on the admission and cessation of bodies to the Pension Fund.
10. To consider and agree actuarial variations.
11. To ensure that the Pension Fund administration is conducted in accordance with relevant legislation.
12. To appoint Additional Voluntary Contribution providers and to monitor their performance.

Membership

Five members appointed in accordance with political balance provisions.

Appendix 3: Governance Committee – proposed amended terms of reference (in bold)

Paragraph 2. To make recommendations to the County Council on the members to be appointed to:

- (a) the Regulatory Committee
- (b) the Planning Committee
- (c) the Scrutiny Committees
- (d) the Governance Committee
- (e) **the Pension Committee (Delete “Pension Fund Investment Panel”)**
- (f) the Joint Strategic Planning Advisory Committee
- (g) the Standards Committee
- (h) outside bodies to which the political balance provisions of the Local Government and Housing Act 1989 apply

Paragraph 16. To exercise the powers and duties of the County Council in respect of:

- (i) County Council elections and electoral matters; and
- (ii) the making of payments or the provision of other benefits in cases of maladministration.
- (iii) **[Delete] the pensions of all employees of the Council (except teachers), including the approval of pension fund admission agreements.**
- (iv) **[Delete] management of the investment of the pension fund, receiving advice as appropriate from the Pension Fund Investment Panel.**