

COUNCIL
7 NOVEMBER 2019**CONSTITUTIONAL REPORTS**

(a) PENSION BOARD GOVERNANCE ARRANGEMENTS**Recommendation**

- 1. The Pensions Committee recommends that Council approves the revised Terms of Reference of the Pension Board set out at Appendix 1.**

Background Information

1. Strong governance of the Pension Fund has always been essential, and with the collapse of several private sector funds, alongside the set up of the pension pools and pressures to maintain balanced funds the need to maintain the strong governance of LGPSs has never been more important.
2. As a result of this level of inspection there have been two reviews by the Scheme Advisory Board (SAB) and the Pension Regulator looking at how to strengthen governance. Proposals to strengthen the Pension Board are therefore being considered as a first step. The Pensions Committee at its meeting on 16 October 2019 considered the proposed terms of reference changes which are set out at Appendix 1 and recommended them for approval by Council.

Pension Board

3. There is a legal obligation to have a Pension Board. That Board is responsible for assisting the Council to comply with legal obligations relating to the Scheme and any requirements imposed by the Pensions Regulator, and for assisting the Council to ensure the effective and efficient governance and administration of the scheme. This is an oversight role and the local Pension Board is not responsible for decision-making in relation to the management of the Scheme or the discharge of the Council's functions – that is a matter for the Pensions Committee and sub-committee
4. At the September meeting of the Pension Board, the Independent Chair stood down after four years as Chair. This allowed the Fund to review the working arrangements and to assess the performance of the Board and consider, in light of the reviews mentioned above and the Business Plan of the Fund, potential next steps to further strengthen the governance and administration of the Fund as well as the advice to the Committee.
5. A review of practices across the various LGPS Funds across the region and country have identified a real mix of practices. Firstly, not all Boards are chaired by independent members. The Regulations that set up Pension Boards allowed for two models: one chaired by an independent and one model chaired by a member selected from the Board members. There is no legal requirement to have an independent chair.

6. Whilst there are benefits of an independent chair, in terms of knowledge and advice there is also a cost and risk that there is a concentration of skills and responsibility in one individual. The independent chair was also a non-voting role. It is proposed that in the current position that the nature of the Board is changed and that going forward there is not an independent non-voting Chair but that a Chair is selected by the Board from the membership of the Board.

7. The second area of review is the membership itself. The Regulations are very clear that the membership must be 50:50 Employer and Member representatives. Currently the Pension Board consists of five members (the independent chair, two councillors representing employers and two trade union representatives for members). With only 4 voting members, this has often led to issues of quorum but also and importantly excludes representation from wider stakeholders. Therefore it is proposed to increase the membership to eight as follows:

Employer representatives	Member Representatives
<ul style="list-style-type: none"> Three Councillors – Two for Worcestershire County Council and one from Herefordshire Council One senior officer from an employer 	<ul style="list-style-type: none"> Two Trade Union representatives One active member
<p>Employer representatives must not be involved in the administration of the Fund and are to be nominated by the relevant body, and the Senior Officer appointed by the CFO</p>	
	<ul style="list-style-type: none"> One retired member

8. It is suggested that the two Fund member representatives outside of the unions (i.e. one active and one retired Fund member) are recruited by the CFO through invitation and interview, and appointment by the CFO. It is also recommended that members serve for four years subject to the terms attached in the Terms of Reference attached as Appendix 1.

9. It is proposed that the quorum for the Board be four with a 50:50 attendance being maintained, so two Employer and two Member representatives to be quorate.

10. The third area of review proposed is the timing of the Board. Presently the Board meets after Committee to consider the minutes of the Committee, but this does not meet good practice and the original objective of the Board to advise the Committee. It is proposed that the Board meets ahead of Committee to consider items that the Committee will be or need considering, so that the Committee can seek and hear the advice of the Board.

11. Finally, there are a number of changes proposed to the Terms of Reference of the Board outside of those necessitated by the above proposals. The changes proposed are more to tidy up the current ways of working to tie them in line with actual practice. So for example it is proposed the Board reviews the IDRP process and performance rather than assist. The current and industry standard is that this is an officer process and members of the Committee would be engaged in rare occasions, as such advice is limited to review rather than assist.

(b) HEALTH AND WELL-BEING BOARD GOVERNANCE ARRANGEMENTS

Recommendation

12. **The Health and Well-being Board recommends that Council approves the updated terms of reference for the Health and Well-being Board as set out as Appendix 2 to this report.**

Background

13. The Health and Well-being Board (the Board) has been operating as a statutory committee since April 2013. Under its current Joint Strategic Health and Well-being Strategy it has three priorities:

1. Improving mental health and well-being
2. Increasing physical activity
3. Reducing the harm caused by Alcohol.

14. The Board has a role in strategic commissioning of health and social care services and is expected to “sign off” a variety of plans such as the Carers Strategy and Autism Strategy; it also approves the use of the Better Care Fund.

15. The Board’s terms of reference were last agreed in January 2014 and they now need to be updated to reflect current practice due to various changes, which include revisions to the Board’s sub-groups, the implementation of the Integrated Care System and the re-organisation of the CCGs. Following initial consideration in a private development session on 30 April 2019, the Board considered the proposals in its public Board meeting on 24 September 2019 and is supportive of them.

Summary

16. The main changes which are proposed include:

- Updating the representatives from the CCG (which will come into force from April 2020 onwards provided their new organisation is approved) in order to maintain the voting balance between the CCG and Local Authority representatives
- Inviting Worcestershire Health and Care NHS Trust and Worcestershire Acute NHS Trust to become non-voting or Associate Members of the Board
- Making the Chairman of the Strategic Housing Partnership a permanent non-

- voting member of the Board, rather than an interim co-opted Member of the Board
- The reduction of Private Development Sessions from seven to three a year to reflect current practice

(c) LOCAL GOVERNMENT ETHICAL STANDARDS – UPDATED PAN-WORCESTERSHIRE CODE OF CONDUCT FOR MEMBERS

Recommendation

- 17. The Standards and Ethics Committee recommends that the draft Code of Conduct set out at Appendix 3 be adopted by Council.**

Summary

18. The Committee received a report at its April 2019 meeting on the Nolan Committee recommendations in relation to local government standards in relation to the legislative regime, and best practice recommendations to local government.

19. Legislation is naturally a matter for Government and Parliament, but the Committee asked the Monitoring Officer to discuss implications for the pan-Worcestershire Code of Conduct with his colleague Monitoring Officers, having regard to the initial views of the Committee, and receive a further report. Those discussions had taken place, and a consensus formed on updating the Code.

Background Information

20. Council will recall from previous reports that the National Committee on Standards and Public Life (often called the "Nolan Committee") visited the Council in September 2018 as part of its gathering of comments and evidence of good practice in local government – the Council was the only county council visited. Following the visit, the Chairman of the Committee was invited to attend the formal launch of the report at the end of January 2019.

21. The Nolan Committee was kind enough to write and say its delegation was impressed by the leadership demonstrated by senior officers and members of the Council, which has allowed the Council to cultivate a culture of high standards and a civil approach to politics. They considered it particularly insightful to see how proper governance structures have a substantial influence on the way in which ethical standards operate at the Council. There are clearly issues elsewhere in the country which have informed the recommendations and which do not exist here, so we need to be mindful of that context and the need for a proportionate response to the Best Practice recommendations.

Summary

22. There remained a consensus that a pan-Worcestershire Code remains the best approach for the benefit of the public, members, and good governance.

23. The Monitoring Officers shared the Committee's view that the current Code was fit for purpose, but would benefit from a few relatively small amendments flowing from some of the Nolan Best Practice (BP) recommendations relevant to the Code and as discussed by the Committee:

BP1 – the Code of Conduct should include prohibitions on bullying and harassment, with definitions and examples. Our current Code prohibits bullying but gives no definitions or examples. Members supported the principle and asked the Monitoring Officer to seek to agree a definition with his MO colleagues. This has been done and included in the new draft Code.

BP2 – Code should require councillors to comply with formal standards investigations, and prohibit trivial or malicious allegations by councillors. The Council has very few formal investigations and no history of councillors obstructing them. The best way of dealing with trivial or malicious allegations is through robust filtering right at the start of the process, and avoid tit for tat complaints. The consensus amongst the MOs was that a simple obligation to co-operate with any standards investigations would suffice.

BP5 – In line with proposed new legislation, authorities should update a Gifts and Hospitality Register at least quarterly. The Committee agreed that such a Register was expected by the public and should be re-introduced ahead of any legislation. In discussion, the MOs considered that £15 was a suitable value threshold for such registration to meet the purpose of transparency but not worry about trivial items.

24. The amendments to the Code were supported by all the MOs and the Committee, with the proposed redraft attached at Appendix 3. The Committee considered the amendments to be an appropriate way forward, and wished to draw all members' attention to the fact that the 7 original Nolan Principles have also been updated to 10. The Committee has endorsed the draft Code of Conduct and recommends that Council adopts it.

(d) CONSTITUTIONAL MATTER – APPOINTMENT OF THE CHAIRMAN OF THE OVERVIEW AND SCRUTINY PERFORMANCE BOARD

Recommendation

25. The Head of Legal and Democratic Services recommends that Council appoints the Chairman of the Overview and Scrutiny Performance Board.

26. The Chairman of the Overview and Scrutiny Performance Board, Mr C J Bloore, tendered his resignation in September 2019. At its meeting on 12 September, Council decided to defer the appointment of a successor Chairman until its November meeting.

27. Council therefore now needs to appoint a Chairman of the Overview and Scrutiny Performance Board to fill the vacant position. The Board is politically balanced in accordance with the legislation, but under the Council's Constitution, its Chairman cannot be a member of a political Group forming part of the Administration, or be a Group Leader.

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Supporting information

Appendix 1 – Pension Board Terms of Reference

Appendix 2 – Health and Well-being Board Terms of Reference

Appendix 3 – draft Code of Conduct

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services), the following are the background papers relating to the subject matter of this report:

Agenda papers for the Pensions Committee on 16 October 2019, Health and Well-being Board on 24 September 2019, and Standards and Ethics Committee on 23 October 2019