



OFFICER REPORT TO COUNCIL

AMENDMENTS TO THE CONSTITUTION

KEY ISSUE/DECISION:

Surrey County Council has a Constitution which is agreed by Members and sets out how the Council operates, how decisions are made and the procedures to be followed to ensure that they are efficient, transparent and accountable to the residents of Surrey.

It is the Council's responsibility to approve changes to the Council's Constitution. Amendments to Executive functions are the responsibility of the Leader and are brought to Council to note.

This report sets out proposed changes to:

- Part 3 – Responsibility for Functions and Scheme of Delegation (Section 2 and Section 3 Parts 3A and 3B)
- Part 5 – Rules of Procedure (Part 5(02) Financial Regulations)
- Part 6 – Codes and Protocols (Part 6(02) – Arrangements for dealing with Member Conduct)

These changes are brought to Council for formal approval in accordance with Articles 4.09, 5.02 and 13.01(a) of the Council's Constitution.

BACKGROUND:

Improvements to the Governance of the Surrey Pension Fund

1. On 13 September 2024, the Pension Fund Committee considered a report that made the case for Surrey County Council to make changes to the Council's Pension Fund Committee Terms of Reference, Scheme of Delegation and Financial Regulations to more effectively recognise the distinct relationship and management of conflicts of interest between Surrey County Council in its dual role as employer and administering authority of the Surrey Pension Fund.

2. Every Local Government Pension Scheme (LGPS) is legislatively required to have an Administering Authority that is ultimately responsible for managing and administering the scheme. At SCC this responsibility is delegated to the Pension Fund Committee, as laid out in the Constitution of Surrey County Council, Part 3, Section 2. There is also a Local Pension Board which is charged with ensuring the SPF complies with relevant LGPS regulations and pension law.
3. A review of the current governance artefacts was completed by an independent pensions industry expert in late 2023. This review, combined with internal audit recommendations, the Scheme Advisory Board (SAB) Good Governance project and the new Pensions Regulator's (TPR) General Code of Practice suggests that SPF should evolve its governance to:
 - a) ensure it has sufficient independence to effectively manage conflicts of interest enable SPF to achieve its vision
 - b) future proof the organisation to any governance changes proposed by the Government as part of its review of pensions safeguard the interests of its members and employers.
4. This paper recommends that, in order to deliver the Strategic Plan and provide a first class and cost-effective service for the benefit of its members and employers (including SCC), the SPF requires greater recognition of its autonomy within existing structures. The SPF has drawn on four sources of evidence to inform its recommendations:
 - a) An independent governance review
 - b) Recommendations of Internal Audit
 - c) Recommendations of the SAB Good Governance Project
 - d) Guidance from TPR in its new General Code of Practice

Further information on these sources of evidence is provided in **Annex 1**.

5. A number of minor proposed changes are recommended to the Pension Fund Committee's Terms of Reference and the Council's Scheme of Delegation.
6. It is proposed to amend the Pension Fund Committee's Terms of Reference to allow for formal recognition of the potential conflict of Surrey County Council in its dual role as Administering Authority for and scheme employer of the Surrey Pension Fund. The following addition is recommended:

"To consider and approve an annual conflict of interest policy, which shall include how the potential conflict of Surrey County Council in its dual role as Administering Authority for and scheme employer of the Surrey Pension Fund is managed."

7. Proposed changes to the Council's Scheme of Delegation primarily reflect the current ways of working - where responsibility for the operation of the SPF is delegated to the Senior LGPS Officer and will formalise the reporting line directly to the Section 151 Officer. These changes help to ensure that the SPF has appropriate senior representation in the organisation, enabling a clear line of sight and support to the Section 151 Officer and providing unimpeded dialogue and response for what is a key part of the Section 151 responsibilities.
8. An example of changes on a day-to-day basis would be the formal identification of the LGPS Senior Officer as lead officer for the SPF in reports to the Pension Fund Committee and Local Pension Board. In addition, decisions regarding pension fund matters (e.g. cash transfers) will be exclusively delegated to pension fund officers with appropriate expertise.
9. The full list of proposed changes to the Terms of Reference, Scheme of Delegations and Financial Regulations is included at Annex 2 of this report.

Consequential amendments to People, Performance and Development Committee (PPDC) Terms of Reference

10. As a result of the above proposals, consequential amendments to the terms of reference of the PPDC, as set out in Part 3, Section 2 of the Constitution are required as follows:

Paragraph 6.13(c)

determine the Council's Policy Statement in respect of Employing Authority and Administration Authority Discretions under regulations relating to the ~~Local Government Pension Scheme (LGPS); Teacher's Pension Scheme (TPS) and Firefighter's Pension Scheme (FPS);~~

Paragraph 6.13(d) – NEW

determine the Council's Policy Statement in respect of Employing Authority Discretions under regulations relating to the Local Government Pension Scheme (LGPS).

Existing Paragraphs 6.13(d) to (g) to be renumbered 6.13(e) to (h)

Updated Arrangements for Dealing with Member Conduct

11. At its meeting on 11 September 2024, the Audit & Governance Committee considered proposed amendments to the Arrangements for Dealing with Member Conduct following a review by the Monitoring Officer and the introduction of a form to help complainants focus their complaint and identify where they believe a breach of the Member

Code of Conduct has occurred. The Committee agreed the proposed amendments and now recommends them to Council.

12. The updated arrangements are set out in Annex 3 of this report.

RECOMMENDATIONS:

- A. That the amendments to Part 3 - Section 2 and Section 3 Parts 3A and 3B and Part 5(02) in relation to improvements to the governance of the Surrey Pension Fund, as set out in Annex 2 of this report be approved.
- B. That the consequential amendments to Part 3 – Section 2 (the terms of reference of the PPDC) as set out in paragraph 10 of this report be approved.
- C. That the amendments to Part 6(02) of the Constitution (Arrangements for dealing with Member Conduct) as set out in Annex 3 of this report be approved.

Lead/Contact Officers:

Asmat Hussain

Interim Director of Law & Governance and Monitoring Officer

asmat.hussain@surreycc.gov.uk

Neil Mason

LGPS Senior Officer, Surrey Pension Team

neil.mason@surreycc.gov.uk

Sarah Quinn

Regulatory Business Manager, Democratic Services

sarah.quinn@surreycc.gov.uk

Annexes:

Annex 1 – Report to Surrey Pension Fund Committee, 13 September 2024

Annex 2 - Detailed amendments to the Constitution in respect of Pension Fund Governance

Annex 3 – Detailed amendments to Constitution - Part 6(02)

Sources/background papers:

Constitution of the Council

Report to Audit & Governance Committee, 11 September 2024
