

# COUNTY COUNCIL

Meeting date: 10 January 2019

From: The Leader of the Council

## UPDATE OF THE CONSTITUTION

### **1.0 EXECUTIVE SUMMARY**

**1.1** *This report recommends the Council adopt certain changes to the Constitution, to maintain it as an up to date, living document. The changes are; new Terms of Reference for Cumbria Local Pensions Board (Part 2P) and Cumbria Fire Local Pensions Board (Part 2Q), new Officers' Code of Conduct (Part 6B) and new Anti-Fraud, Bribery and Corruption Policy (Part 6D).*

### **2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS**

**2.1** *The Constitution is a key part of the Council's governance framework.*

**2.2** *There are no specific equality implications arising out of any of the recommendations in this report.*

### **3.0 RECOMMENDATION**

**3.1** *Members are recommended to approve the following documents as updates to Parts of the Constitution, replacing current Parts:*

- a)** *Appendix 1 – Terms of Reference Cumbria Local Pensions Board (Part 2P)*
- b)** *Appendix 3 - Terms of Reference Cumbria Fire Local Pensions Board (Part 2Q)*
- c)** *Appendix 5 – Officers' Code of Conduct (Part 6B)*
- d)** *Appendix 7 - Anti-Fraud, Bribery and Corruption Policy (Part 6D)*

### **4.0 BACKGROUND**

**4.1** Constitution Review Group met on the 03 December 2018 to consider reports recommending updates to four Parts of the Constitution. Constitution Review Group has subsequently agreed to refer the updates set out in Appendices 1 to 4 of this report to the full Council for adoption into the Constitution.

- 4.2 If adopted, the updated Parts will replace current Parts of the Constitution in full. The proposed changes and reasons for the proposals, in respect of each of the Parts, are explained below.

### **Cumbria Local Pensions Board (Part 2P) & Cumbria Fire Local Pensions Board (Part 2Q)**

- 4.3 The proposed Terms of Reference for the Local Pensions Boards are at Appendix 1 and 3, with the current Terms of Reference at Appendix 2 and 4.
- 4.4 The Chartered Institute of Public Finance and Accountancy (CIPFA) published updated guidance for Local Pension Boards in May 2018. As a result the opportunity has been taken to review the current Terms of Reference for Cumbria Local Pension Board and Cumbria Fire Local Pension Board with a view to updating these and ensuring they align to CIPFA guidance.
- 4.5 The provisions surrounding quorum have been updated to clarify that at least one representative of the employers and one of the scheme members must be present for the Boards to be quorate.
- 4.6 Board membership comprises of three scheme member representatives and three scheme employer representatives. Members are appointed to the Board through application, matching a role profile and interview and the three employer representatives are allocated one to the County Council; one to the District Councils and one for all other employers in the Fund. As a result the Boards are not politically proportionate and currently only contain one County Councillor.
- 4.7 The current terms of reference of the Boards do not permit substitution, as a result a new set of clauses on substitution have been included in the proposed terms of reference to permit each Board member to have a substitute. The substitutes will be appointed in the same way as the Board members.
- 4.8 In addition to this amendments have been made to the requirements on Local Pension Board Members to clarify that they attend 'sufficient' rather than 'all' training to fulfil the requirements of Board membership. This was considered by Constitution Review Group to be a proportionate approach to training and development in accordance with the CIPFA guidance.
- 4.9 Finally, a number of other minor other changes to wording have been made for the purposes of clarification.

### **Officers' Code of Conduct (Part 6B)**

- 4.10 The proposed Officers' Code of Conduct is set out at Appendix 5, with the current Officers' Code of Conduct set out at Appendix 6.
- 4.11 The Council has had an Officers' Code of Conduct in place for many years. It is an important part of the Council's governance framework, setting out the ethical standards and conduct expected of officers. As with the Member Code, the Officer Code has as at its foundation the Nolan standards of conduct in public life.

- 4.12 There is no statutory form of officer code, however, so the form and content of the Code remains a matter of discretion for individual local authorities. It is some years since the Council's Code has been reviewed and the current review has been carried out to ensure that the Code remains fit for purpose.
- 4.13 The review forms part of the Monitoring Officer's review of corporate governance, one of whose aims is to ensure that key policies and codes are accessible to readers. The Officer Code has been reviewed with this aim in mind.
- 4.14 The proposed Code provides greater clarity on its application to officers, including when acting externally, strengthening requirements regarding gifts and hospitality, and reinforcing required conduct regarding financial conduct.

### **Anti-Fraud, Bribery and Corruption Policy (Part 6D)**

- 4.15 The proposed Anti-Fraud, Bribery & Corruption Policy is set out at Appendix 7, with the current Anti-Fraud, Bribery & Corruption Policy set out at Appendix 8.
- 4.16 The Anti-Fraud, Bribery and Corruption Policy has been reviewed in the context of recent changes in the law requiring a more proactive approach to preventing tax evasion, promoting greater awareness of related offences to money laundering, including criminal & terrorist activity. A number of changes are proposed to the policy to reflect these changes, in relation to money laundering and the Proceeds of Crime Act, as well as to integrate money laundering and tax evasion measures into the main body of the Policy.
- 4.17 Another key change, in section 10 of the Policy, sets out a revised reporting structure for financial irregularities, which makes use of technology to streamline the process. In addition to this process the Policy draws attention to the Whistleblowing Policy & Speak Up statement which enables individuals to make disclosures in the public interest where they feel unable to report under other policies.

## **5.0 OPTIONS**

- 5.1 Members may approve amendments to the proposed documents. Members should satisfy themselves that they have fully appraised the implications of any such amendments for the relevant Part of the Constitution and the Constitution as a whole.
- 5.2 Members may choose not to approve the proposed documents. Previous versions of the relevant Parts will continue to apply.

## **6.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS**

Local Pension Boards: The proposed changes regarding substitutes on the Boards have minor implications in terms of additional administration and costs (predominantly in relation to appointment, training and reasonable travel expenses for attendance at meetings and training sessions, in line with the County Council's agreed policies and rates for elected members). The appointment of and training for substitutes will be undertaken in conjunction

with other members of the relevant Board, it is therefore anticipated that such costs will be marginal. All such costs of the Cumbria Local Pension Board will be met directly by the Pension Fund. All such costs of the Cumbria Fire Local Pension Board will be met by the service. There are no other material financial implications arising as a result of the recommended changes which are designed to ensure that the Cumbria Local Pensions Board and Cumbria Fire Local Pensions Board are up to date and facilitate the effective operation of the Pension Schemes.

## 7.0 LEGAL IMPLICATIONS

7.1 The amendments to the Constitution proposed above are reserved to full Council.

## 8.0 CONCLUSION

8.1 This report sets out proposed changes to the Constitution to ensure it is up to date and fit for purpose. Members are requested to approve the recommended changes.

**Iolanda Puzio**  
**Chief Legal Officer and Monitoring Officer**  
 21 December 2018

## APPENDICES

<b>Appendix 1</b>	<b><i>Proposed Terms of Reference for Cumbria Local Pensions Board</i></b>	<b>Part 2P</b>
<b>Appendix 2</b>	<b><i>Current Terms of Reference for Cumbria Local Pensions Board</i></b>	<b>Part 2P</b>
<b>Appendix 3</b>	<b><i>Proposed Terms of Reference for Cumbria Fire Local Pensions Board</i></b>	<b>Part 2Q</b>
<b>Appendix 4</b>	<b><i>Current Terms of Reference of Cumbria Fire Local Pensions Board</i></b>	<b>Part 2Q</b>
<b>Appendix 5</b>	<b><i>Proposed Officers' Code of Conduct</i></b>	<b>Part 6B</b>
<b>Appendix 6</b>	<b><i>Current Officers Code of Conduct</i></b>	<b>Part 6B</b>
<b>Appendix 7</b>	<b><i>Proposed Anti-Fraud, Bribery and Corruption Policy</i></b>	<b>Part 6D</b>
<b>Appendix 8</b>	<b><i>Current Anti-Fraud, Bribery and Corruption Policy</i></b>	<b>Part 6D</b>

Electoral Division(s): All

Executive Decision  No

Key Decision  No

If a Key Decision, is the proposal published in the current Forward Plan?  No

Is the decision exempt from call-in on grounds of urgency?  No

If exempt from call-in, has the agreement of the Chair of the relevant   N/A

Overview and Scrutiny Committee been sought or obtained? \_\_\_\_\_

Has this matter been considered by Overview and Scrutiny?  
If so, give details below.

	No
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Has an environmental or sustainability impact assessment been undertaken?

	No	
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Has an equality impact assessment been undertaken?

	No	
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***N.B. If an executive decision is made, then a decision cannot be implemented until the expiry of the eighth working day after the date of the meeting – unless the decision is urgent and exempt from call-in and the Head of Member Services and Scrutiny has obtained the necessary approvals.***

### **PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS**

***No previous relevant decisions.***

### **CONSIDERATION BY OVERVIEW AND SCRUTINY**

***Not considered by Overview and Scrutiny.***

### **BACKGROUND PAPERS**

***No background papers.***

### **RESPONSIBLE CABINET MEMBER**

***Mr Stewart Young - Leader of the Council***

### **REPORT AUTHOR**

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