

# LONDON BOROUGH OF CROYDON

<b>REPORT TO:</b>	General Purposes Committee	
<b>DATE OF DECISION:</b>	9 October 2023	
<b>REPORT TITLE:</b>	Proposed Changes to the Constitution Relating to Pensions Matters	
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	Jane West, Corporate Director of Resources and Section 151 Officer	
<b>LEAD OFFICER:</b>	Matthew Hallett, Acting Head of Pensions and Treasury	
<b>LEAD MEMBER:</b>	Councillor Sean Fitzsimons	
<b>DECISION TAKER:</b>	Full Council following Consideration by General Purposes Committee	
<b>AUTHORITY TO TAKE DECISION:</b>	The terms of reference of the General Purposes Committee (see Part 3 of the Constitution, Responsibility for Functions) allow it to conduct periodic reviews of the Constitution and consider changes to the Constitution recommended by the Constitution Working Group and to refer any proposals to full Council for approval.	
<b>KEY DECISION?</b>	No	N/A
<b>CONTAINS EXEMPT INFORMATION?</b>	No	Public
<b>WARDS AFFECTED:</b>	All	

## 1 SUMMARY OF REPORT

- 1.1 This report contains proposed changes to the Constitution of the London Borough of Croydon relating to pensions matters. The changes are recommended by the Constitution Working Group (CWG) following their consideration and deliberations on 19 September 2023.
- 1.2 The proposals have been developed in consultation with the Pension Committee, Pension Board and Aon (the Pension Fund governance advisers) to improve governance and other arrangements and to update the Constitution.
- 1.3 The purpose of this report is for the General Purposes Committee to consider the proposals and make recommendations to full Council for final approval.

## 2 RECOMMENDATIONS

2.1 For the reasons set out in the report and its appendices, the General Purposes Committee is recommended:

2.1.1 To review and comment on the proposed changes to the Constitution relating to pensions matters as detailed in the report and its appendices; and

2.1.2 To recommend to full Council the adoption of the proposed changes.

## 3 REASONS FOR RECOMMENDATIONS

3.1 The aim of the proposed changes is to improve governance and other arrangements and to update the Constitution.

## 4 BACKGROUND AND DETAILS

4.1 Following external governance reviews of the London Borough of Croydon Pension Fund carried out by Aon (Pension Fund governance advisers) and meetings of the Pension Committee and the Pension Board, a number of changes to the Constitution are proposed.

4.2 The governance reviews highlighted three key issues:

4.2.1 Non-councillor representation on the Pension Committee and associated voting rights;

4.2.2 Pension Board member allowances; and

4.2.3 Current London CIV (Collective Investment Vehicle) structures being reflected in the Constitution.

## 5 PROPOSALS

5.1 In basic outline, and as recorded in the Constitution, the Pension Committee (PC) discharges the functions of the Council relating to pensions matters with the support of the Pension Board (PB).

5.2 The current membership of the PC is 8 members (4 Conservative and 4 Labour) plus:

- 1 staff side non-voting co-opted member;
- 1 pensioner side **voting** co-opted member; and
- 1 pensioner side non-voting co-opted member.

- 5.3** As an exception to the general rule, section 13 of the Local Government and Housing Act 1989 allows co-opted members of the PC to have voting rights.
- 5.4** To achieve a more balanced representation of other stakeholders on the PC which reflects better the membership of the Pension Fund it is proposed that:
- A non-Council employer **voting** co-opted member be appointed; and
  - The staff-side co-opted member be given **voting rights**.
- 5.5** As set out below, it is also proposed that textual improvements be made to the terms of reference of the PC.
- 5.6** The PB is not constituted as a committee or sub-committee of the Council but is a statutory non-decision making body. More specifically, it is established under section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended). The PB assists the Council in its role as scheme manager of the Pension Fund and to secure legal and regulatory compliance and good governance and administration of the Pension Fund.
- 5.7** The payment of an allowance to those members of the PB who otherwise act on an unpaid basis form part of the costs of the administration of the Pension Fund and is therefore a matter for the PC. The allowance recognises the time commitment the role demands as well as the experience, knowledge and skills requirements.
- 5.8** There is a section of the Constitution dedicated to the PB i.e. Part 4M – Local Pension Board Procedure Rules. There are other references to the PB in the Constitution but as explained below there is some duplication and confusion which the proposed changes address.
- 5.9** Running through the Constitution, the proposed direct, incidental and consequential changes to the Constitution are set out in the three appendices attached to this report.

## **6 ALTERNATIVE OPTIONS CONSIDERED**

- 6.1** The proposed changes are informed by external reviews and have been developed over a period of time in discussion with the PC, PB and Pension Fund advisers. At various stages of the decision making process, if considered appropriate and relevant, alternative options were considered.

## **7 CONSULTATION**

- 7.1** Consultation on the proposals has been with the PC, PB and CWG.

## **7. CONTRIBUTION TO COUNCIL PRIORITIES**

### **7.1 Outcome 1; Priority 4:**

Ensure good governance is embedded and adopt best practice.

## **8. IMPLICATIONS**

### **8.1 FINANCIAL IMPLICATIONS**

**8.1.1** There are no material financial implications related to the proposals. The payment of allowances to the Chair and certain other members of the PB give rise to a relatively small additional cost to the Pension Fund.

### **8.2 LEGAL IMPLICATIONS**

**8.2.1** The law relevant to the proposed changes has been referenced in the body of the report.

**8.2.2** Adopting changes to the Council's Constitution is a non-executive function reserved to Full Council which is why the Committee is asked to consider the proposed changes and make a recommendation.

**8.2.3** According to s9P of the Local Government Act 2000 the Council must keep its Constitution up to date.

### **8.3 HUMAN RESOURCES IMPACT**

**8.3.1** There are no direct workforce implications arising from the proposed changes.

### **8.4 EQUALITIES IMPLICATIONS**

**8.4.1** Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have "due regard" to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

**8.4.2** "Due regard" is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the Council is properly aware of the effects and has taken them into account, the duty is discharged.

**8.4.3** There are no equalities impacts directly arising from the proposed changes.

## **9. APPENDICES**

**9.1 Appendix 1:** Various proposed changes to the Constitution relating to Pensions matters.

**9.2 Appendix 2:** Part 4M of the Constitution – Local Pension Board Procedure Rules (with tracked changes).

**9.2 Appendix 3:** Part 4N of the Constitution – Pension Committee Terms of Reference (with tracked changes).