

PART 2 – ARTICLES OF THE CONSTITUTION

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Articles of the Constitution

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Article 1 – Purpose of the Constitution

1.1 Discharge of Functions

This constitution and all its appendices comprises the constitution of the South Yorkshire Pensions Authority. The Authority will exercise its functions, powers, duties and responsibilities in accordance with this constitution, within the law, fairly, equitably, openly and transparently.

1.2 Purpose of the Constitution

The purpose of this constitution is to set out in a single place and in clear language, how the Authority works and how it makes decisions, thereby:

(1) Assisting Members to discharge their role as decision makers efficiently and effectively;

and

(2) Ensuring that the decision making processes are clearly identifiable to citizens.

1.3 Monitoring

The Authority will monitor and review the operation and content of this constitution at least once a year and, consequential upon any review, make any changes deemed appropriate.

Article 2 – Members of the Authority

2.1 Composition and Eligibility

(a) Composition – The Authority comprises 12 members, each of whom must be an elected councillor, elected to one of the four constituent district councils in the former Metropolitan County of South Yorkshire. The constituent councils appoint members to the Authority in accordance with the provisions of the Local Government Act 1985. These appointments are made (subject to compliance with the political balance requirements of the Local Government and Housing Act 1989) in the following proportions:

Sheffield 5

Doncaster 3

Rotherham 2

Barnsley 2

Members may be removed by their appointing council, subject to their Council complying with the statutory requirements of the Local Government Act 1985 as to periods of notification etc.

Each District Council will in accord with the provisions of the Local Government Act 1985 designate one of their appointed members to answer questions concerning the work of the Authority at meetings of the Full Council. These members are referred to as Section 41 Members.

2.2 Roles and Functions of Members

All Members are expected:

(i) to act corporately for the good governance of the Authority

(ii) on a regular basis, to attend meetings of the Authority and any committees, subcommittees, working parties or external bodies to which the Member has been appointed and to fully participate in policy formulation and decision making in accordance with principles of good public governance, including a requirement to act at all times in accordance with:

statutory and other legal requirements

the Code of Conduct for Members applying to them

Standing Orders of the Authority

the member/officer relations protocol.

(iii) If appointed by the Authority to an external body, to represent the interests of the Authority on that body.

(iv) To undertake learning and development activity, including an annual needs assessment and mandatory elements in line with the requirements set out in the Members Learning and Development Strategy.

2.2.1 Roles and Responsibilities of Designated Office Holders

Chair of the Authority

(i) To chair meetings of the Authority and to ensure their overall effectiveness.

(ii) To provide effective leadership in the development of the Authority's policy, strategy and budget proposals.

(iii) To lead on the implementation of effective service delivery and the Authority's approved policies and strategies.

(iv) To act as the Authority's principal spokesperson at local, regional and national level.

(v) To seek to ensure that good working relationships are established with external public and private sector bodies and networks relevant to the efficient discharge of the Authority's functions.

Vice-Chair of the Authority

(i) To support the Chair of the Authority in discharging the roles associated with the office of the Chair.

(ii) To deputise for the Chair in his/her absence.

Chairs of Committees

All Committee Chairs:

(i) To chair the Committee and ensure its overall effectiveness.

(ii) To have a working knowledge of the Authority's relevant policies and strategies and to ensure he/she is sufficiently and effectively briefed by officers on matters coming before the Committee.

(iii) To co-ordinate and manage the work of the Committee.

(iv) To support the role of the Chair of the Authority in the development of policy, strategy and budget proposals.

All Committee Vice-Chairs

(i) To support the Committee Chair in discharging the roles of the Chair.

(ii) To deputise for the Committee Chair during any absence of the Chair.

2.3 Rights and Duties of Members

2.3.1 Members will have such rights of access to such documents, information, land and buildings of the Authority as are necessary for the proper discharge of their functions and in accordance with the law.

2.3.2 A Member of the Authority may, for the purposes of his/her duty as such Member but not otherwise, on application to the Clerk inspect any document which has been considered by a Committee or a Sub-Committee or by the Authority, and shall on request be supplied for the like purposes with a copy of such a document if practicable. Provided that a Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he/she is professionally interested in or in which he/she has directly or indirectly any prejudicial interest within the meaning of the Local Government Act 2000 and/or regulations made thereunder or the Code of Conduct. This provision shall not preclude the Clerk from declining to allow inspection of any document which is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.

2.3.3 All reports made or minutes kept by any Committee or Sub-Committee shall be open for the inspection of any Member of the Authority during office hours.

2.3.4 Subject to any statutory provision in that behalf, no Member of the Authority shall without the consent of the Authority, be entitled to inspect any document in the custody of any officer of the Authority if, in the opinion of that officer and of the Clerk, the document is of a confidential nature.

2.3.5 Inspection of Lands, Premises etc.

A Member of the Authority shall not issue any order respecting any works which are being carried out by or on behalf of the Authority or unless authorised by the Authority claim by virtue of his/her membership of the Authority any right or inspect or enter upon any lands or premises of the Authority or which the Authority has the power or duty to inspect or enter.

2.3.6 Appointment of Relatives of Members

A candidate for any appointment under the Authority who knows that he/she is related to any Member of the Authority shall, when making application, disclose that relationship in his or her application. A candidate who fails to disclose such relationship shall be liable to be disqualified for the appointment and, if appointed shall be liable to dismissal without notice. Every Member and senior officer of the Authority shall disclose to the Clerk any relationship known to him/her to exist between himself/herself and any person whom he/she knows is a candidate for any appointment under the Authority.

2.3.7 Failure to Attend Meetings

(a) Subject to the provisions of Section 85 Local Government Act 1972, any Member failing to attend any meeting of the Authority or its Committees for a period of six months ceases to be a Member of the Authority unless within that period the Member's absence is approved by the Authority.

(b) The Clerk will monitor absences from meetings and unless approval for any absence is given by the Authority will report the failure to attend to the Authority in order that it may declare a vacancy and notify the relevant constituent council.

2.4 Conduct

Members will, at all times, observe the Members Code of Conduct approved by their District Council and the Member/Officer relations protocol set out in Part 5 of this constitution.

Article 3 – Citizens and the Authority

3.1 Citizens Rights

Citizens have the following rights:

(a) Information – Citizens have the right to:

(1) Attend meetings of the Authority, its committees and sub-committees, except during items of business where confidential or exempt information is likely to be discussed or disclosed, in which case the meeting or that part of any meeting will be held in private to the exclusion of citizens.

(2) See reports and background papers (except for confidential or exempt reports and papers) and any record of decisions by the Authority and its committees or sub-committees.

(3) Inspect the Authority's accounts and make representations to the external auditor about the contents of those accounts.

(b) Complaints – Citizens have the right to complain to:

(1) The Authority, under its complaints scheme.

(2) The Local Government Ombudsman.

Article 4 – The Role of the Authority

4.1 Roles and Responsibilities

South Yorkshire Pensions Authority is responsible for the functions, property, rights and liabilities of the South Yorkshire Pension Fund, including the management of the Pensions Fund's investments, the payment of pensions to former local authority employees in South Yorkshire and the administration of the scheme rules for its contributors. In order to fulfil these duties the full Authority has responsibility for:-

- (1) Determining the Authority's priorities through the Corporate Planning Framework which comprises:
 - a. The Corporate Strategy
 - b. The Annual Budget and Medium Term Financial Strategy
 - c. The Treasury Management Strategy and Policy Statement
 - d. The Human Resources Strategy
 - e. The Information and Communications Technology Strategy
 - f. The Equality and Diversity Scheme
- (2) Issuing a levy on the District Councils in respect of the residual liabilities for pension payments of the former South Yorkshire County Council.
- (3) Reviewing the effectiveness of strategies and plans to deliver the priorities and targets set by the Authority; and maintaining a performance framework covering all aspects of the Authority's work, including provision for the holding of external suppliers to account for their performance.
- (4) Ensuring the Authority is adequately resourced to carry out its duties.
- (5) Appointing Committees and Boards with appropriate terms of reference and necessary delegated powers.
- (6) Reviewing the Work Programmes of the Committees and Boards to ensure they are up to date and moving the Authority towards delivering its Corporate Plan.
- (7) Ensuring Section 41 Members provide feedback in relation to District Council activity regarding their responsibilities as an employer in relation to LGPS.
- (8) Approving and maintaining the Pensions Policy Framework, comprising:
 - a. The Funding Strategy Statement
 - b. The Investment Strategy Statement
 - c. The Responsible Investment Policy and Voting Guidelines
 - d. The Stewardship Code and Myners Principles Compliance Statements
 - e. The Governance Compliance Statement
 - f. The Pensions Administration Strategy Statement
 - g. The Communications Policy Statement
 - h. The Policy on Exercise of Discretions under the Local Government Pension Scheme Regulations

i. The Admissions and Terminations Policy

(9) Exercising the Authority's responsibilities under the Health and Safety at Work Acts.

(10) To authorise participation by the Authority in membership organisations and collaborations (for example the Local Authority Pension Fund Forum and the Pensions and Lifetime Savings Association).

(11) To approve and monitor compliance with the Members' Learning and Development Strategy.

Article 5 – Chairing the Authority

5.1 Electing the Chair and Vice-Chair of the Authority

The Chair and the Vice-Chair of the Authority will be elected by the Members at the Annual Meeting.

5.2 Roles and Responsibilities of the Chair and in his absence the Vice-Chair of the Authority.

The Chair will preside over Authority meetings and ensure that they are conducted in accordance with the Standing Orders and procedural rules of the Authority as set out in Part 4 of this constitution. In addition, the Chair will discharge the roles and responsibilities set out in Article 2.2 of this constitution.

Article 6 – The Audit Committee

6.1 Membership

The Authority has appointed an Audit Committee comprising five members.

6.2 Terms of Reference

To fulfil the following core audit committee functions:

a) Consider the effectiveness of the Authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.

b) Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.

c) Be satisfied that the Authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it.

d) Approve (but not direct) internal audit's Charter and annual plan.

e) Monitor performance against internal audit's Charter and annual plan.

f) Review summary internal audit reports and the main issues arising, and seek assurance that action had been taken where necessary.

g) Receive the annual report of the Head of Internal Audit.

h) Consider the annual reports of external audit and inspection agencies.

i) Ensure that there are effective relationships between internal audit and external audit, inspection agencies and other relevant bodies, and that the value of the process is actively promoted.

j) Review financial statements, external auditor's opinion and reports to Members, and monitor management action in response to the issues raised by external audit.

k) To oversee the production of and approve the Authority's Annual Governance Statement.

l) To review and approve the annual Statement of Accounts and the Authority's Annual Report, focusing on:

- the suitability of, and any changes in accounting policies;

- major judgemental issues e.g. provisions.

m) To receive and agree the response to the external auditor's report to those charged with governance on issues arising from the audit of the accounts, focusing on significant adjustments and material weaknesses in internal control reported by the external auditor.

(7) Monitor the Authority's risk register and annual governance action plan, reporting issues of concern to the full Authority.

Article 7 – The Staffing Appointments and Appeals Committee

7.1 Membership

The Authority has appointed a Staffing Appointments and Appeals Committee comprising 5 members.

7.2 Terms of Reference

(1) To exercise all the Authority's functions in respect of:

a) Appeals by staff (where a right of appeal exists).

b) Complaints against senior officers.

(2) To exercise the Authority's functions in relation to the appointment of Statutory Officers and Chief Officers, subject to legislative requirements regarding the approval of statutory officer appointments by the Authority.

(3) To approve proposals for changes to the organisation of the Authority's staffing where more than 5 posts are affected.

(4) Determining appeals and requests under the Local Government Pension Scheme Regulations not otherwise delegated to officers.

(5) To make appointments of Independent Investment Adviser(s) on behalf of the Authority.

(6) To approve arrangements for the procurement of external fund managers, the Fund Actuary and Custodian

(7) To deal with all matters concerning complaints concerning member conduct under the Standards regime.

Article 8 – Joint Arrangements

- 8.1 The Authority has determined to participate in the Border to Coast Pensions Partnership in order to fulfil the regulatory requirement to pool its investment assets.
- 8.2 The Authority's representative on the Joint Committee convened to oversee the work of the Border to Coast Operating Company will be the Chair.
- 8.3 Exercise of the Authority's rights as a shareholder in the Border to Coast Operating Company will be undertaken by the Chair in consultation where practical with the s 41 members.

Article 9 – Urgent Decisions between Meetings of the Authority and its Committees

- 9.1 In the event that an urgent decision that cannot be taken by officers under delegated powers is required between meetings of the Authority and its committees it will be taken by the Chair in consultation with the s 41 members.

Article 10 – Statutory Officers

10.1 Management Structure

(a) General – The Authority may appoint such staff (officers) as it considers necessary to carry out its functions.

(b) Statutory Officers – The Authority has appointed the following Statutory Officers:

Clerk (officer appointed under s 34(8) of the Local Government Act 1985).

Treasurer (officer responsible for the proper administration of the Authority's financial Affairs under s 73 of the Local Government Act 1985).

Monitoring Officer (officer appointed under s5 of the Local Government and Housing Act 1989).

Head of Paid Service (officer appointed under s4(1) of the Local Government and Housing Act 1989)

(c) Subject to meeting the necessary qualification requirements the roles of Clerk and Head of Paid Service may be combined with that of Treasurer.

10.2 Functions of the Clerk

The role of the Clerk is to oversee and ensure the effective functioning of the Authority's democratic processes and to ensure effective liaison and collaboration between the Authority and the constituent councils.

10.3 Functions of the Treasurer

(a) Ensuring lawfulness and financial prudence of financial decision making – after consulting with the Monitoring Officer, the Treasurer will report to the Authority and to the Authority's external auditor, if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and likely to cause a loss or deficiency, or if the Authority is about to enter an item of account unlawfully. He/she will also make a report to the Authority if it appears that the expenditure of the Authority (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure.

(b) Administration of financial affairs – the Treasurer has responsibility for the administration of the financial affairs of the Authority.

(c) Contributing to corporate management – the Treasurer is required to contribute to the corporate management of the Authority, in particular through the provision of professional financial advice.

(d) Providing advice – the Treasurer will provide advice on the scope and powers of the Authority to take decisions about financial impropriety, probity and budget and policy framework issues to the Authority, its Committees and Sub-Committees, Members and officers and will support and advise Members and officers in their respective roles.

10.4 Functions of the Monitoring Officer

(a) Maintaining the constitution – the Monitoring Officer will maintain an up to date version of the constitution and will ensure that it is available for inspection by Members, staff and the public.

(b) Ensuring lawfulness and fairness of decision making – after consulting with the Clerk [Head of Paid Service] and the Treasurer, the Monitoring Officer will report to the Authority in relation to any proposal, decision or omission which, in his/her view would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Providing advice –the Monitoring Officer will provide advice on the scope of the powers of the Authority, its Committees and Sub-Committees and officers to take decisions and in connection with matters involving maladministration and probity.

(d) Restriction on appointment – the Monitoring Officer cannot be the Chief Finance Officer.

10.5 Functions of the Head of Paid Service

The Head of Paid Service has overall responsibility for the management and coordination of the employees appointed by the Authority. They are required to report to the Authority as appropriate with regard to the way in which the overall discharge by the Authority of its functions is coordinated, the number and grades of staff required for the discharge of these functions, the way in which these people are organised and managed, and the way in which they are appointed.

As such the Fund Director is responsible for the production of the Authority's Corporate Strategy and any supporting strategies, and acts as the Authority's principal policy adviser.

10.6 Duty to Provide Sufficient Resources to the Monitoring Officer and the Chief Finance Officer

The Authority will provide the Monitoring Officer, and the Treasurer with such offices, accommodation and other resources as are in the opinion of those officers sufficient to allow their duties to be performed.

Article 11 – Decision Making

11.1 Responsibility for Decision Making

Responsibility for decision making by the Authority, its committees, sub-committees and officers is in accordance with Articles 4 to 12 of this constitution and the Officer Delegation Scheme set out in Part 3 of this constitution which together comprise the record of responsibility for decision making.

11.2 Principles of Decision Making

All decisions by the Authority will be made in accordance with the following principles:

- (a) be within the lawful powers of the Authority
- (b) due consultation (including the taking of relevant professional advice from officers)
- (c) respect for human rights
- (d) presumption in favour of openness
- (e) clarity of aims and desired outcomes
- (f) within the letter and spirit of the constitution

11.3 Decision Making by the Authority and its Committees and Sub-Committees

The Authority, Committee and Sub-Committee meetings will comply with the Authority's procedural rules and Standing Orders set out in Part 4 of this constitution when considering any matter.

11.4 Decisions Made by Authority Bodies Acting as Tribunals

The Authority and its Committees and Sub-Committees, members or officers when acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

11.5 Decision Making by Officers

Officers have full authority for operational and managerial decision making and for any necessary action within their authorised remit in accordance with the terms of the officer delegation scheme set out in Part 3 of this constitution. Officers in making decisions should follow the principles set out in Article 10.2 of this Constitution and ensure that decisions are recorded in writing and that details of decisions are published in line with guidance issued from time to time by the Clerk.

Article 12 – Finance, Contracts and Legal Matters

12.1 Financial Management

The management of the Authority's financial affairs will be conducted in accordance with the Financial Regulations and Procedure Rules set out in Part 4 of this constitution.

12.2 Contracts

Contracts made by the Authority will comply with the contracts procedural rules and Standing Orders set out in Part 4 of this constitution.

12.3 Legal Proceedings

The Clerk is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority (or any Committee, Sub-Committee or officer) or in any case where the Clerk considers that such action is necessary to protect the Authority's interests.

12.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Authority, it will be signed by the Clerk or by some person duly authorised by the Authority. The procedural rules/Standing Orders of the Authority in relation to contracts, set out in Part 4 of this constitution, make further provision in relation to formal processes involving the award of contracts.

12.5 Common Seal of the Authority

The common seal of the Authority will be kept in a safe place in the custody of the Clerk. A decision of the Authority, a Committee or a Sub-Committee or any authorised officer, will be sufficient authority for sealing any document necessary to give effect to such a decision. The common seal will be affixed to such documents as are, in the opinion of the Clerk, appropriate for sealing. The Clerk, or some other person authorised by the Authority shall witness the affixing of the common seal.

Article 13 – Review and Revision of the Constitution

13.1 Duty to Monitor and Review the Constitution

(a) The Monitoring Officer will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect.

(b) A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the constitution adopted by the Authority and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In performing this duty the Monitoring Officer may, in his/her discretion:

(i) attend and observe meetings of different parts of the Member and officer structure

(ii) examine the audit trail relating to decision making

(iii) record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders and,

(iv) compare practices in the Authority with those in other comparable Authorities or national examples of best practice.

13.2 Changes to the Constitution

(a) Approval

Changes to the constitution will only be approved by the Authority after consideration of proposals submitted by the Monitoring Officer.

Article 14 – Publication of the Constitution

14.1 Publication

(a) The Clerk will arrange to provide access to a copy of this constitution to each Member of the Authority as soon as practicable after that Member has signed the Code of Conduct declaration, following appointment to the Authority.

(b) The Clerk will arrange for copies to be made available for inspection at the Authority's offices and by publication on the Authority's official website.