



WORTHING BOROUGH  
COUNCIL

Worthing Joint Strategic Sub-Committee  
5 December 2022

Key Decision - Yes

Ward(s) Affected: All  
Cabinet Portfolio: Culture & Leisure

## **Review of the Pensions Fund arrangements for South Downs Leisure Trust and Worthing Theatres and Museum Trust**

**Report by the Director for Digital, Sustainability and Resources**

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### **Executive Summary**

#### **1. Purpose**

1.1 Following a request from Worthing Theatres and Museum Trust, the Council is reviewing the contractual arrangements for both Trusts with respect to the pension fund.

1.2 The revised arrangements, if approved, will provide the Council with a significant saving in annual pension contributions and will benefit the Trusts by supporting better management of the risks associated with the cost of pensions.

#### **2. Recommendations**

2.1 The Worthing Joint Strategic Sub Committee is recommended to:

- i) Approve that both South Downs Leisure Trust and Worthing Theatres and Museum Trust contracts are revised to include new clauses regarding pension risk sharing arrangements.
- ii) Agree to extend the Pension Guarantee for Worthing Theatres and Museum Trust for the duration of the contract in line with the arrangements for South Downs Leisure Contract
- ii) Delegate to the Director of Economy in consultation with the Council's monitoring officer and the Chief Financial Officer the agreement of the final wording for the new contract clauses.
- iii) Note that this change will save Worthing Borough Council approximately £106,660 per year in additional pension costs.

### 3. Context

- 3.1 Under the Best Value Authorities Staff Transfer (Pension) Direction 2007, Council staff who transfer to any contractor will have the right to access either the Local Government Pension Scheme (LGPS) or a scheme with equivalent benefits.
- 3.2 When the services were procured from South Downs Leisure Trust and Worthing Theatres and Museum Trust, this right was embedded in the contracts governing both Trusts for any Council staff who transferred to the new bodies. The right to access the LGPS was confined to ex employees of Worthing Borough Council with both bodies providing different schemes for new employees.
- 3.3 Both SDLT and WTaM opted to become admitted bodies within the West Sussex Pension Fund to meet these obligations.
- 3.4 The Council also agreed to underwrite some of the risks associated with pensions as part of the contracts, an arrangement colloquially known as a 'pass through arrangement'. The contracts although similar, are not identical, with the risks shared as follows:

	South Downs Leisure Trust	Worthing Theatres and Museum
The admitted bodies were set up on a fully funded basis. (i.e. Sufficient resources were transferred within the	Yes	Yes

pension fund to the new admitted bodies to fund the assessed costs associated with the transferred staff)		
Annual pension contribution rate fixed for the contractor for the duration of the contract based on a defined initial contribution rate	Yes	Yes
Pension fund guarantee is in place to ensure that the pension contributions are paid to the Pension Fund throughout the duration of the contract. (There are also contractual obligations on the Trusts to ensure that they meet the requirements of the Pension Fund)	Yes	See exempt appendix
Exit payment funded by the Council at the end of the contract	Yes	See exempt appendix
Responsibility for early retirement costs either as a result of redundancy or ill health sits with the Trust	Yes	Yes
The cost associated with exercising any allowable pension discretion is the responsibility of the Trust	Yes	Yes

The benefit of under writing these risks at the time of letting the contract was that it provided any potential contractor certainty about pension costs, enabling them to price appropriately. This prevents excessive financial provision for uncertainty regarding pension costs being potentially built into the contract price.

- 3.4 The actuary values a closed pension fund with an external contractor on a different basis from the Council. The intention behind the valuation method is that by the end of the contract, all pension liabilities associated with the transferred staff are fully funded.
4. Paragraph 4 to this report can be found in the Exempt Appendix to this Report. Members will note that for ease of reference the entire report has been duplicated in the exempt appendix.

## **5. Engagement and Communication**

- 5.1 The proposed changes have been discussed with the individual trusts, the pension fund actuary and administrators.
- 5.2 Officers and members of the Council with responsibility for resources and the Cultural and Leisure contracts have been consulted with.

## **6. Financial Implications**

- 6.1 Currently the Council has a budget of £106,660 for pension contributions associated with the Trusts which can be broken down as follows:
  - South Downs Leisure Trust £74,400
  - Worthing Theatres and Museum £32,260

It is expected that these costs will reduce if a new risk sharing agreement is approved.

## **7. Legal Implications**

- 7.1 The Council entered into a Management and Operation Agreement with WTM on 19th September 2019 and with South Downs Leisure on 1st May 2015.
- 7.2 Under Section 111 of the Local Government Act 1972, the Council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.
- 7.3 Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 7.4 s1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation.
- 7.5 At clause 2.5.1 of the Scheme of Delegations the Director for the Economy has a delegated authority to manage the relationship between Worthing Borough Council and Worthing Theatres and Museum and at Clause 2.5.2 to manage the relationship between Worthing Borough Council and South Downs Leisure.

7.6 Both Worthing Theatres and Museum and South Downs Leisure have entered into an Admission Agreement with Worthing Borough Council and West Sussex County Council pursuant to the Local Government Pension Scheme Regulations 2013 (SI 2012/2356) and (where applicable) the Transition Regulations.

### **Background Papers**

- West Sussex Pension Fund - Funding Strategy

## **Sustainability & Risk Assessment**

### **1. Economic**

Matter considered and no issues identified

### **2. Social**

#### **2.1 Social Value**

Matter considered and no issues identified

#### **2.2 Equality Issues**

Matter considered and no issues identified

#### **2.3 Community Safety Issues (Section 17)**

Matter considered and no issues identified

#### **2.4 Human Rights Issues**

Matter considered and no issues identified

### **3. Environmental**

Matter considered and no issues identified

### **4. Governance**

The proposed arrangements will support better financial management for two local charitable Trusts that operate within the community, promoting good working relationships with key partners.