1. SUMMARY

1.1 From 2003 and up to April 2014 elected members (Members) were eligible for active membership of the Local Government Pension Scheme (LGPS). In April 2014 that access was changed and this resulted in active membership coming to an end in line with each Member’s term of office. For Waltham Forest Members in the LGPS this meant that from the end of May 2014 they became deferred members of the LGPS.

1.2 The Returning Officer is a statutory office holder and Returning Officers are employers that have a duty to comply with the requirements of automatic enrolment legislation. A Returning Officer may already be a member of the LGPS by virtue of their employment with Waltham forest. However, the fees paid to Returning Officer's employees in respect of elections for local government are not pensionable under the LGPS.

1.3 Council on 25 May 2017 approved the budget provision for the proposed Pension scheme for Councillors and Election staff. Cabinet was asked to consider the creation of a Defined Contribution Scheme with a contribution rate provided by the Council of 6% for Councillors and statutory minimum contributions for election staff. If Cabinet approve the proposals, the Members allowances scheme should include a note on the availability of a pension scheme for members.
2. RECOMMENDATIONS

2.1 Cabinet is recommended to:

2.1.1 **Approve** the creation of a Defined Contribution Scheme for Councillors and Election Staff to join;

2.1.2 **Note** that whilst not part of the scheme, the Councillors allowances scheme should include a note on the availability of a pension scheme for members; and

2.1.3 **Delegate** the procurement of the Defined Contribution Scheme to the Strategic Director of Finance & Governance

3. PROPOSALS

3.1 In April 2014, Members lost their eligibility to be active members of the LGPS upon completion of their term of office. For Waltham Forest this was after the Local Elections and so from the end of May 2014 Members were no longer able to join the LGPS. Members felt that not having a pension scheme would be a major obstacle in attracting economically diverse and younger candidates due to either financial hardship or unwillingness to compromise work pensions (by working full or part time as members).

3.2 Workplace pensions law has changed significantly and it is now a legal requirement of all employers to have systems in place to automatically enrol eligible workers into a pension scheme at a specific time known as the ‘staging date’. Returning Officers are employers and therefore have a duty to comply with the requirements of automatic enrolment legislation and they must declare their compliance with the Pensions Regulator and adhere to its safeguards.

3.3 Council (25 May 2017) approved a budget provision for the creation of a defined contribution scheme and requested that Cabinet consider the creation of a scheme. It is proposed that the following requirements are required from the scheme:

- Advice and support in setting up a pension scheme for members and election staff;

- Scheme will be a defined contribution scheme with the Council’s contribution being 6% of allowances for Councillors and the statutory minimum employer contribution for election staff under automatic enrolment legislation. With members having the option to pay in 3% or 6%;

- Simple to administer, placing little burden on the Council, which would incur additional charges;

- Fees paid by the Council should be low;

- The scheme should be fit for purpose and well governed to minimise the risk the Council is exposed to, particularly relating to the section of the default fund; and

- Governance oversight and an annual governance report.
3.4 The Council would be looking to appoint a suitable pension consultancy service who will have reviewed the potential pension providers in the market and to have chosen a scheme that will includes offering a great track record of delivering for members, a charging structure that is competitive, fair and easy to understand and allow members to put as much into their pension as the rules allows.

3.5 There will be a charge to the Council in appointing a pension consultancy company to provide a pension scheme that complies with the new pension rules, and to support the Council in helping the members to make the most of their scheme from the day they join to the day they retire. The charge in the past, would have been part of the management charge, however, following the introduction of auto enrolment, these charges cannot be incorporated within the management charge. The charge for this service is likely to be around £2,000 to £3,000 which should be covered within the budget provision Council agreed on 25 May 2017 and would cover both Councillors and Election staff.

3.6 The pension provider will recoup their costs through the annual management charge that they deduct from the members fund. So, in effect, the members pay for the services available from the provider. There is a cap on management charges of 0.75% of funds held, but generally, would expect charges to be around 0.5% to 0.75%.

3.7 It is proposed that if Cabinet agrees to the creation of the Defined Contribution Pension Scheme for Councillors and Election staff, then the Councillors allowances scheme should include a note on the availability of a pension scheme for members. That the decision on which pension consultancy company is chosen is delegated to the Strategic Director of Finance & Governance to procure.

4. OPTIONS & ALTERNATIVES CONSIDERED

4.1 The alternative option to the above would be to do nothing. This would result in the following:

(a) The budget provision agreed by Council would no longer be required;
(b) It may have issues in attracting and retaining the right people to become Councillors; and
(c) Would require the Returning Officer to still procure a pension scheme for Election staff.

5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

5.1 There are no direct implications in this report.

6. CONSULTATION

6.1 Council had already received a report on the creation of a Defined Contribution scheme and approved a budget provision.
7. IMPLICATIONS

7.1 Finance, Value for Money and Risk

7.1.1 A budget provision was agreed at Council on 25 May 2017. The primary risk is around whether the Council has the power to establish a pension scheme, which is discussed in the legal implications below.

7.2 Legal

7.2.1 It will be necessary for the Monitoring Officer to provide a dispensation for Members to vote on these recommendations. This may be done on the grounds that without it, so many Members of the decision making body would have a disclosable pecuniary interest in the matter that it would impede the transaction of the business.

7.2.2 As this matter will have a potential impact on all Members it is considered appropriate to seek initial approval to progress such a scheme from Full Council. However ultimately it will be for Cabinet to decide on the final scheme and on the approval of the provider following the procurement process under section 9D of the Local Government Act 2000 (the LGA 2000) which stipulates that, unless specified in subsequent legislation or in regulations made by the Secretary of State, responsibility for functions are those of the executive (for those authorities which have executive arrangements). The relevant regulations are The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Function Regulations). Regulation 2(5) of the Function Regulations stipulates that the making of any Members' Allowances Scheme under Section 18 of the LGHA 89 is not to be an executive responsibility. This is also incorporated in Part 3 of Waltham Forest's constitution. However as the proposal will not be authorised under Section 18 of the LGHA 89, rather the Council will exercise its General Power and as such under law and the Council's constitution this decision must be taken by cabinet.

7.2.3 It is now a legal requirement of all employers to have systems in place to automatically enrol eligible workers into a pension scheme at a specific time known as the ‘staging date’. The new rules apply to all employees including casual staff such as those employed at election time. These people may already be members of the LGPS if they are current employees or in receipt of a workplace pension from Waltham Forest. However, if they qualify for automatic enrolment while working for the Returning Officer in any capacity, the Returning Officer is legally obliged to enrol them into a qualifying automatic enrolment scheme.

7.2.4 Whilst there is technically a requirement to provide a pension and to auto-enrol from the staging date it is possible that because of the levels of the trigger payments and ability to apply postponement for up to three months very few would be automatically enrolled. However a scheme needs to be available for them to join if they chose and if their annual pay in that employment is in excess of the threshold (of £5,824).
7.2.5 The Returning Officer must declare their compliance with the Pensions Regulator and adhere to its safeguards. They must also determine the correct category of worker under the automatic enrolment legislation for each of election employee and carry out their duties accordingly. The Council has made contact with the Pension’s Regulator and is currently seeking to determine the correct staging date and position on behalf of the Waltham Forest Returning Officer.

7.3 Equalities and Diversity
7.3.1 An EA screening has been completed which has resulted in a full EA not being necessary as there are no negative impacts on the protected characteristics.

7.4 Sustainability (including climate change, health, crime and disorder)
7.4.1 There are no direct implications in this report.

7.5 Council Infrastructure
7.5.1 There are no direct implications from this report. However, procuring a relevant scheme does ensure compliance by the returning officer with the guidance on access to pensions for election staff.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)

None.