

WIRRAL COUNCIL

PENSION COMMITTEE

15 SEPTEMBER 2015

SUBJECT:	DCLG CONSULTATION ON DRAFT SCHEME GOVERNANCE REGULATIONS
WARD/S AFFECTED:	ALL
REPORT OF:	STRATEGIC DIRECTOR OF TRANSFORMATION AND RESOURCES
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides an update on the consultation document on scheme governance issued by the Department for Communities and Local Government (DCLG) on 23 June 2014.
- 1.2 The closing date for responses to the consultation was 15 August 2014. Merseyside Pension Fund's response was approved by the Chair of Committee prior to submission and is attached as appendix 1.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The recommendations made by Lord Hutton with regard to the governance and administration of Public Service Pension Schemes were accepted by the Government and were carried forward into the Public Service Pensions Act 2013 (PSPA13). The Act includes a requirement for DCLG as the responsible authority to make regulations establishing a national scheme advisory board and for each LGPS administering authority to create a local pension board with effect from 1 April 2015.
- 2.2 A key aim of the reform process is to raise the standard of management and administration of public service pension schemes and to achieve more effective representation of employer and employee interests in the scheme.
- 2.3 The consultation document can be accessed from the following link : <https://www.gov.uk/government/consultations/the-local-government-pension-scheme-amendment-regulations-2014-draft-regulations-on-scheme-governance>

Synopsis of the draft Regulations.

- 2.4 The consultation effectively outlines the new regulations that will require each administering authority to set up a pension board to sit alongside the statutory committee to “assist” them in administering the LGPS, securing compliance with legislation and the requirements imposed by the Pensions Regulator.
- 2.5 The brevity of the regulations suggests a certain amount of local flexibility will be accommodated in how the pension boards are set up and operated. However, DCLG will be issuing statutory guidance to provide greater detail and outline best practice in the autumn.
- 2.6 The membership of the boards must include an equal number of employer and employee representatives, which must not be less than 4 in total. It should be noted that elected members of a local authority cannot be appointed as either an employer or employee representative. Other members can be added to this board who could be elected members, for example three other people could be appointed if only 4 employer and employee representatives were appointed but these must not form the majority.
- 2.7 It appears the terms of the appointment, governance and frequency of the meetings can be determined locally on the proviso that the authority is satisfied that all members of the board have the relevant experience and capacity to undertake the role
- 2.8 The expense of the local pension boards are to be treated as part of the costs of administration of the Fund.
- 2.9 The remaining regulations deal with the establishment of the national Scheme Advisory Board. The main item to note is the proposal that each Fund must contribute to the annual costs of the board based on a budget approved by the Secretary of State and the membership of each LGPS fund.

Areas for consultation

- 2.10 The first question is to whether the regulations should allow provision for a single, or dual function body to carry out both the functions of the statutory section 101 committee and those of the local pension board?

A single entity would appear untenable as the two roles are defined under separate legal codes; the Local Government Act 1972 and the Pension Service Pensions Act 2013. The regulations allow Funds to apply to the Secretary of State to combine these bodies. In practice there will be a very high hurdle to satisfy the Secretary of State that the new board can be combined into a single entity.

- 2.11 The second question is whether the local pension boards should be established reflecting the provisions used for the main committee or should a wider discretion be allowed to allow more flexibility bespoke to local needs?

- 2.12 The third question regards funding the Scheme Advisory Board and asks if any additional provisions are required in the regulations to ensure value for money is achieved for the work this body will undertake?
- 2.13 The fourth question outlines that the spirit of the pension regulations is not for local pension boards to be shared between pension funds unless the management and administration is undertaken by a joint committee. Comments are invited as to whether the regulations need to provide for shared local pension boards.
- 2.14 The fifth question discusses the use of AGMs and employer forums and whether the regulations should require administering authorities to facilitate these on an annual basis?
- 2.15 The sixth question asks whether the Equality Duty on all public bodies should be extended to the Scheme Advisory Board and local pension board.
- 2.16 The final question seeks views on whether it is an acceptable arrangement for the pension boards to acquire knowledge and capacity to undertake that role, but the main committee does not have to meet this statutory requirement?
- 2.17 The regulations are expected to be laid in the autumn and will take effect from 1 October to permit the pension boards to be established by 1 April 2015 as prescribed within the PSPA. However it is expected that the statutory guidance will not be available until the regulations are issued making it extremely challenging to meet the deadline. Consequently, officers are now looking to set up a working group with a view to implementing the regulations on time.

RELEVANT RISKS

- 3.1 There are no direct increased risks from the consultation being issued, but there remains a risk of the administering authority not being compliant with legislation on 1 April 2015 if the Pension Board is not in operation due to the delay in statutory guidance.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 Not relevant for this report

5.0 CONSULTATION

- 5.1 Not relevant for this report

6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

- 6.1 None associated with the subject matter.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

7.1 There are none arising from this report

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

8.1 Any cost associated with the national Scheme Advisory Board will be treated as an administration cost and charged direct to the Fund with the cost of the Pension Board likely to be met through the employer contribution rate.

9.0 LEGAL IMPLICATIONS

9.1 The establishment of the local Pension Board will require the approval of full Council and amendment of the council's constitution.

10.0 EQUALITIES IMPLICATIONS

10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(b) No, because Department of Communities and Local Government undertake equality impact assessments with regard to the statutory reform of the LGPS.

11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

11.1 There are none arising from this report

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 There are none arising from this report

13.0 RECOMMENDATION/S

13.1 To note the Fund's response to the consultation on the draft regulations, and the challenging timescale within which to set up a Pension Board by 1 April 2015.

14.0 REASON/S FOR RECOMMENDATION/S

14.1 There is a requirement for Members of the Pension Committee to be kept up to date with legislative developments as part of their decision making role

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BACKGROUND PAPERS/REFERENCE MATERIAL

Appendix 1 MPF Response to DCLG Consultation on LGPS Draft Regulations on Scheme Governance

BRIEFING NOTES HISTORY

Briefing Note	Date
LGPS Update – Covered DCLG’s Previous Discussion Paper on Scheme Governance	16 September 2013

SUBJECT HISTORY (last 3 years)

Council Meeting	Date