

# WIRRAL COUNCIL

## PENSION COMMITTEE

19 January 2015

<b>SUBJECT:</b>	<b>LGPS UPDATE – CREATION OF WIRRAL COUNCIL'S PENSION BOARD</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR TRANSFORMATION AND RESOURCES</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks Members comments on the proposed composition and terms of reference of Wirral Council's Pension Board.
- 1.2 At the time of writing, the final Governance Regulations are still awaited from the Department for Communities and Local Government (DCLG). However, due to the short timescale to implement the board, it is necessary to put arrangements in place to ensure compliance with the regulations.
- 1.3 A first draft of the proposed Terms of Reference for the Pension Board, Member Role, Specification and Appointment Process are attached as appendices to the report. The Committee's comments on this draft can be incorporated into a revised draft which may be subject to review upon the issue of the final regulations and the Shadow Scheme Advisory Board's guidance.

The final draft will be considered by the Head of Legal and Democratic Services before submission to Council or a suitable sub-group.

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Public Service Pensions Act 2013 requires each Local Government Pension Fund to set up a Local Pension Board. DCLG has been consulting on the regulations relating to the governance framework for the reformed scheme and Pension Committee was apprised of the recent consultation which ended on 21 November 2015 at its last meeting.
- 2.2 The final regulations are expected to be laid in January 2015 and the supporting Shadow Scheme Advisory Board Guidance is also expected in January. The final guidance will take account of any changes made to the regulations and the Pension Regulators Code of Practice on the Governance and Administration of Public Service Pension Schemes.

- 2.3 Administering authorities are statutorily required to have approved the composition and terms of reference of the Pension Board by 1 April 2015.

### **The Functions and Position of the Pensions Board in the Fund's Governance Structure**

- 2.4 It is noteworthy that the Board is not a committee set up under the Local Government Acts, but a specific creation of the relevant regulations under general public sector pension legislation; therefore requirements such as political balance do not apply.

The Board is not a decision making body, its role is to "assist" the Administering Authority/Scheme Manager, with the Pension Committee retaining responsibility for all decisions in respect of the management of investments and the administration of the LGPS .

- 2.5 There are restrictions on which Wirral Council Members or officers may be members of the Board in order to prevent a conflict of interest.

In essence, from a Member's point of view, it is not possible to sit on both the Pension Fund Committee and the Pension Board, whilst no officer involved in the running of the Fund can be either an employer or employee representative.

- 2.6 It is possible to appoint other Board members who do not fall into either the employer or employee category, for example an independent Chair.

- 2.7 The roles of the various governance bodies are:

**Administering Authority / Scheme Manager** – The Council responsible for making appropriate arrangements for the effective management of the Fund. This function has been delegated to the Pension Committee with specific duties delegated to officers.

**The Pension Board** – Responsible for providing advice to ensure the administration and management of assets and liabilities are carried out efficiently, effectively and in accordance with the relevant regulations.

- 2.8 It is expected that an ongoing dialogue will be maintained between the Pension Board and the Pension Fund Committee and that the Board will produce an annual report to the Pension Committee/ Section 151 Officer of the administering authority.

It is proposed that any concerns requiring reporting outside of the annual process should, in the first instance, be raised with Pensions Committee and exceptionally may be referred to Audit and Risk Management Committee.

## **Proposed Composition of the Wirral Pension Board**

- 2.9 Given the need for a relatively small but representative body and to ensure that the Board is able to provide appropriate and knowledgeable challenge to Pensions Committee (as Scheme Manager) it is suggested that:

The Wirral Pensions Board is chaired by an independent member with significant relevant experience either as a Pension Fund trustee or in the running of Pension Funds, preferably, within the Local Government Pension Scheme.

The membership of the Board consists of up to four employer and four employee representatives.

The four employee representatives are drawn:

- a/ two from active members of the Fund;
- b/ two from pensioner/ deferred members of the Fund.

The four employer representatives are drawn:

- a/ two from Local Authorities, Police/ Fire/ Transport Authorities, Parish Councils
- b/ one from the Academies / Further/Higher Education Bodies
- c/ one from Admitted Bodies, excluding employers admitted by virtue of undertaking a commercial contract connected to a function of a scheme employer.

- 2.10 This composition provides representation for the broad range of employers in the Fund. The employees' membership in the three categories is roughly equal, although it is felt likely to be easier to secure representation from the active membership.

There is an expectation nationally from the Trade Unions that the employee representatives will be drawn from their membership. However, the guidance sets out the requirement that "ensures that representative Board members are truly representative"; there is the view that as they do not represent all of the membership of a pension fund, it may be necessary to seek wider representation when sourcing candidates.

Enquiries have been received from the Head Offices of Unison and GMB on the proposed make-up of the Wirral Pension Board. Officers have responded to confirm that Unison and Unite are represented on the Pension Committee, and they are being kept abreast of proposals for the Pension Board. It was also confirmed that it is important that our scheme members are appropriately represented and we will have regard to the statutory guidance as to how this is achieved.

- 2.11 It will be a separate matter for the Local Authority employers to determine whether to appoint elected members or officers to represent them.

## **Appointment Process**

- 2.12 The following appointment process, which meets the criteria of openness and transparency set out in the relevant guidance, is proposed for each category of membership:

**Independent Chair** – to be advertised publicly with appointment following an interview process. This process is similar to that used by the Fund for its independent investment advisors.

The appointment of the chair would be subject to confirmation by the membership of the Pension Board. This will ensure the role of the chair has the full backing of the board membership and that no potential barriers are in place to prevent the effective working of the local pension board.

**Employer representatives** – each employer will be invited to nominate one representative. The successful candidate will be selected by the Scheme Manager having taken account of his or her relevant experience, capacity to represent other scheme employers and knowledge and understanding of the Local Government Pension Scheme.

**Employee representatives** – The Scheme Manager shall contact all scheme members, including unions advising them of the role, the necessary knowledge and understanding required, together with the process to register their interest. Individual members may put themselves forward and there will be a selection process undertaken by the Scheme Manager to assess relevant experience, their capacity to represent scheme members and their knowledge and understanding of the Local Government Pension Scheme.

- 2.13 It is proposed that appointments would be for a term of four years although for any councillors appointed this would be subject to the results of any local election in the intervening period. A term of office of this length, with the potential for reappointment, provides the opportunity for members of the Board to develop a degree of expertise, which will be of value to the Board. If elected members of the Council are appointed this will be mid-way through their four year term and thus there is the potential for some staggering in the turnover of members to be introduced from the beginning of the life of the Board which is desirable.
- 2.14 The "relevant experience and capacity" test will need to be applied in line with the provisions of the guidance produced by the Shadow Scheme Advisory Board to ensure both that it operates effectively, but at the same time does not act as an unnecessary deterrent to potential members who are able to undertake appropriate development activity.
- 2.15 The Scheme Manager will be required to appoint a Selection Panel comprising three Member representatives who are not involved in the discharge of the LGPS. The panel can seek advice from appropriate officers with experience of the requirements to efficiently manage the investment and administration function of the scheme.

## **Remuneration of Board Members**

- 2.16 Consideration needs to be given as to whether members of the Board should be remunerated to ensure there is no financial detriment which may deter suitable representatives from applying for board membership if there is no remuneration.
- 2.17 As these appointments are not subject to the Remuneration Panel's recommendation, these are matters for the Council, acting as Administering Authority to decide - although clearly reference to the policies and principles recommended by the Remuneration Panel is good practice.
- 2.18 It is therefore suggested that all Employer and Employee representatives will receive an annual fee of half the special responsibility allowance paid to the Members of Pension Committee. This is on the basis that the role of the Board is to assist the Pension Committee to secure compliance with the statutory requirements to administer the LGPS - with responsibility for key decisions and managing key risks remaining with the Pension Committee.
- 2.19 It is proposed that the Chair should receive the full rate of the annual special responsibility allowance for membership of Pension Committee as it is likely that there will be additional duties outside of attendance at meeting and training events - for example, attendance at agenda planning meetings, and preparation of the Board's Annual report.
- 2.20 All members of the Board shall be reimbursed for travel and subsistence expenses incurred in their duties as a member of the Board, including attendance at relevant training and development activities.
- 2.21 The purpose of the suggestion above is to ensure that no member of the Board will be at a financial loss as a result of his or her attendance and seeks to remove potential disincentives to membership whilst not providing a solely financial incentive to take part in the work of the Board.

## **Terms of Reference**

- 2.22 It will be necessary to agree appropriate terms of reference for the Board and reflect these within the Fund's Governance Policy Statement, which details the arrangements for management and the stewardship of the Fund.

## **Timetable**

- 2.23 The first meeting of the new Board must be held before July 2015 with the membership of the Board in place by April 2015.

Subject to approval of the arrangements set out in this report by Wirral Council in March this should be achievable and an outline timetable is set out below. The process for the Independent Chair will run in parallel with this.

<b>Selection by Appointment Panel</b>	
By 31 January 2015	Finalise Role Map and employer/employee specification to qualify as a representative on the Board.
By 13 February 2015	Advertise vacancies and invite Nominations and expressions of interests from employer and employee representatives.
6 March 2015	Closing date for Nominations papers and expression of interest to be returned.
16 March 2015	Notify Council of the requirement to appoint a Panel for the Selection Process.
Starting April 2015	Selection Process and Appointment of employer/member representatives.
June 2015	Report results of process to Pension Fund Committee.

### 3.0 **RELEVANT RISKS**

- 3.1 The creation of the Board and its effective operation is intended to reduce the Fund's exposure to a range of risks associated with regulatory compliance and the Pensions Regulator's Code of Practice for Public Service Pension Schemes.

### 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 costs incurred in the establishment and running of the Pension Board are chargeable to the Pension Fund under the terms of the relevant regulations.

## 9.0 **LEGAL IMPLICATIONS**

- 9.1 The establishment of the local Pension Board will require the approval of Wirral Council, amendment to the Fund's Governance Policy Statement and the Council's Constitution

## 10.0 **EQUALITIES IMPLICATIONS**

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

That Members consider the proposals for the Wirral Pension Board set out in this report and the draft Terms of Reference and advise officers of any required amendments before submission for approval and implementation by Wirral Council.

## 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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**APPENDIX 1 Draft Terms of Reference for the Wirral Council Pension Board.**

**APPENDIX 2 Draft Member Role Specifications**

**APPENDIX 3 Draft Member Appointment Process**

## **BRIEFING NOTES HISTORY**

<b>Briefing Note</b>	<b>Date</b>

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>LGPS Update – Covered DCLG'S Previous Discussion Paper on Scheme Governance</b>	<b>16 September 2013</b>
<b>DCLG Consultation on Draft Scheme Governance Regulations</b>	<b>15 September 2014</b>
<b>Creation of New Pension Board</b>	<b>17 November 2014</b>