

## WIRRAL COUNCIL

### PENSION COMMITTEE

24 March 2015

|                         |   |
|-------------------------|---|
| <b>SUBJECT:</b>         | <b>PENSION BOARD – REVISED TERMS OF REFERENCE</b>         |
| <b>WARD/S AFFECTED:</b> | <b>ALL</b>  |
| <b>REPORT OF:</b>       | <b>STRATEGIC DIRECTOR OF TRANSFORMATION AND RESOURCES</b> |
| <b>KEY DECISION?</b>    | <b>NO</b>   |

#### 1.0 EXECUTIVE SUMMARY

- 1.1 This report informs Members that the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 were laid before Parliament on 28 January 2015. These regulations include provisions for new local pension boards, the Scheme Advisory Board at a national level as well as provisions for the employer cost cap.
- 1.2 The Shadow Scheme Advisory Board simultaneously issued its guidance on the creation and operation of Local Boards, including template terms of reference.

As a result, the draft terms of reference for Wirral's Pension Board, presented to Pension Committee at its last meeting of 19 January 2015, have been updated to reflect the revised regulatory provisions. The changes to the document have been agreed by the Chair of the Committee and the authority's Monitoring Officer for formal submission to Council on 16 March for approval. The revised document is attached as Appendix 1.

- 1.3 In accordance with the Public Service Pension Act 2013, (The Act) which defines the statutory governance framework of public service pension schemes, the Pensions Regulator has also commenced the parliamentary process to bring into force the Code of Practice 14: Governance and Administration of Public Service Pension Schemes.

This sets out the legal requirements, gives practical guidance and sets expected standards for those responsible for the operations and management of public service pension schemes.

## 2.0 BACKGROUND AND KEY ISSUES

2.1 The Department of Communities and Local Government have been consulting on Lord Hutton's recommendations regarding the governance and administration arrangements of the LGPS since June 2014. The governance regulations have been through two rounds of public consultation and Pension Committee has been apprised of the matter at previous meetings.

2.2 Many of the provisions in the final Regulations are, as expected, generally in line with previous consultations and draft regulations. However, there are some key differences to those documents issued for consultation last year.

These are:

- New regulation 106 (7) provides that voting rights only apply to members of a Board who are either an employer or a member representative.

In effect this means that the Chair of the Board does not have a decisive influence on the Board. Given the equal representation of the Board it is possible that deadlock scenarios could emerge requiring the Chair to use his/her skills and best endeavours to seek consensus on the matter. This amendment to the regulations appears to chime with the spirit of the Public Service Pension Act 13 which only makes specific reference to employer and member representatives on the Board.

- An elected member of an administering authority can only sit on the local board as an employer or member representative and not as an 'other' member of the board.
- Clarification that only officers or elected members of the administering authority responsible for the discharge of any function under the LGPS Regulations are precluded from being members of the administering authority's Board. It is implicit within the regulations that these officers or elected members could serve on another administering authority's Board.
- The requirement that employer and member representatives must have appropriate "experience" has been dropped, with DCLG acknowledging concerns that this could represent a barrier to funds finding suitable candidates.

The requirement for local pension board members to acquire appropriate "knowledge and understanding" of pension matters, under the Pensions Act 2004, will remain, but can be satisfied by board members undertaking suitable training following appointment. The initial qualifying criteria that employer and member representatives must have the "capacity" to represent employers/members as appropriate has been retained

- New Regulation 106(3) provides for the establishment of a joint local pension board where the administration and management of a Scheme is wholly or mainly shared by two or more administering authorities. Approval for such a Board would have to be obtained from the Secretary of State. In practice, use of this new option is likely to be quite limited, and the administering authorities involved will need to give careful consideration to how a joint board will operate.
- 2.3 On a more technical note the Regulations confirm the cost provisions showing the employer cost notional “cap” set at 14.6% of pay under the HMT process

The final regulations can be accessed via the link below:

[http://www.legislation.gov.uk/ukxi/2015/57/pdfs/ukxi\\_20150057\\_en.pdf](http://www.legislation.gov.uk/ukxi/2015/57/pdfs/ukxi_20150057_en.pdf)

## **GUIDANCE FROM THE SHADOW ADVISORY BOARD AND THE PENSION REGULATOR’S CODE OF PRACTICE**

- 2.4 To accompany the final regulations, the Shadow Scheme Advisory Board has issued detailed guidance on the creation and operation of local pension boards in England and Wales, timed to coincide with the making of the local governance regulations. The guidance aims to assist administering authorities on the creation and operation of local pension boards, and is accompanied by a template terms of reference for a local pension board.

- 2.5 The regulations state that administering authorities ‘must have regard’ to this guidance. The Shadow Scheme Advisory Board guidance and the template terms of reference can be accessed via the links below:

[http://www.lgpsboard.org/images/Guidance/LGPS\\_Board\\_Guidance\\_FINAL\\_PUBLISHED.pdf](http://www.lgpsboard.org/images/Guidance/LGPS_Board_Guidance_FINAL_PUBLISHED.pdf)

[http://www.lgpsboard.org/images/Guidance/Template%20ToR%20LPB\\_PUBLISHED.pdf](http://www.lgpsboard.org/images/Guidance/Template%20ToR%20LPB_PUBLISHED.pdf)

- 2.6 The Pensions Regulator’s Code of Practice on the governance and administration of public service pension schemes has also recently been laid before Parliament and is also due to come into effect on 1 April 2015. This sets out the knowledge and understanding required of local board members and how potential conflicts of interest should be managed. The code of practice can be accessed via the link below:

<http://www.thepensionsregulator.gov.uk/docs/draft-code-14-governance-administration-public-service-pension-schemes.pdf>

2.7 TPR has launched an online e-learning programme aimed at those who are involved in the management of public service pension schemes, including Scheme Managers and Local Pension Board members. The programme covers the following seven modules:

- Conflicts of interest
- Managing risk and internal controls
- Maintaining accurate member data
- Maintaining member contributions
- Providing Information to members and others
- Resolving internal disputes
- Reporting breaches of the law

The learning module can be accessed from the following link on:

<https://education.thepensionsregulator.gov.uk/login/signup.php>

As the programme is aimed at all public pension schemes, it is not anticipated that undertaking this e-learning course alone would satisfy the 'Knowledge and Understanding' requirements for members of Local Pension Boards in the LGPS.

## **TIMETABLE**

- 2.8 As the final Regulations and guidance have been issued, it is imperative that the arrangements are completed to ensure the Board's composition and Terms of Reference are approved by Council by 1 April 2015.
- 2.9 The Board must be fully operational by the end of July 2015. In order to meet this deadline, the Fund's website has been updated with the application process, together with the role maps and person specifications for the employer/member representatives and also the Independent Chair.
- 2.10 All participating employers have been notified of the vacancies, with best endeavours undertaken to raise awareness amongst the membership base - including email alerts to members signed up to the website service and direct communication with the trade unions.

The closing date for expressions of interest is Friday 13 March 2015

### **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.

The key objective is to assist the Fund in meeting its administration responsibilities as defined within the Pensions Regulator's Code of Practice for Public Service Pension Schemes, with a focus on mitigating risk.

### **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 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**

13.1 That members note the final Regulations and the updated Terms of Reference for the Wirral Pension Board, as agreed by the Chair of Committee and the Monitoring Officer submitted to Council for approval on 16 March 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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**APPENDIX 1 Revised Draft Terms of Reference for the Wirral Council Pension Board.**

**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>  |

**LGPS UPDATE – CREATION OF WIRRAL  
COUNCIL'S PENSION BOARD**

**19 January 2015**