



Report of: **Corporate Director of Finance and Resources**

Meeting of:	Date	Agenda item	Ward(s)
Pensions Sub-Committee	25 November 2014		n/a

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## **SUBJECT: DCLG STATUTORY CONSULTATION ON SCHEME GOVERNANCE**

### **1. Synopsis**

- 1.1 This report considers the DCLG's further consultation paper on the new governance provisions, including cost control arrangements for the LGPS.

The main provisions include a requirement for the Secretary of State to establish a national scheme advisory board to advise him on the desirability of changes to the scheme. Provision is also made for administering authorities to establish local pension boards to assist them with the effective and efficient management and administration of the scheme. New cost control mechanisms are also to be introduced.

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### **2. Recommendations**

- 2.1 To note the requirement to set up a local pensions board by 1 April 2015 which includes at least two employee and two employer representatives.
- 2.2 To request the Audit Committee to establish a Local Pensions Board (including its terms of reference and membership) which will have responsibility for :
- 2.2.1 assisting the administering authority in securing compliance with the LGPS regulations and any requirements imposed by the Pensions Regulator and in ensuring effective and efficient governance and administration of the scheme;
  - 2.2.2 risk management: and
  - 2.2.3 scrutiny of decisions taken by the pensions sub-committee as a separate body from the pensions sub-committee with a separate chair by 1 April 2015.
- 2.3 To consult recognised Trade Unions, pensioner members and employers of the pensions scheme on the proposed local pensions board and invite them to nominate persons for appointment as board members.

- 2.4 To agree to that the Corporate Director of Finance and Resources in consultation with the Assistant Chief Executive, Governance and HR and the Chair should consider how best to implement the regulatory requirements, updating the Sub-Committee and the Audit Committee at their next meetings.

### **3. Background**

- 3.1 The recommendations made by Lord Hutton were accepted by the Government and were carried forward into the Public Service Pensions Act 2013 (PSPA13). The Act included a requirement for DCLG as a responsible authority to make regulations establishing a national scheme advisory board and requiring each LGPS administering authority to establish a local pension board. 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 that process.

#### **3.2 The Draft Regulations (The Local Government Pension Scheme (Amendment) (Governance) Regulations 2014) –**

A number of changes have been made to the draft regulations made since the previous set of proposals include the following:

##### **3.2.1 Local Pension Boards (LPB)**

- Establishment and procedures of the LPB to be determined locally rather than within the constraints of the Local Government Act 1972).
- A new provision to ensure LPBs are not unduly restricted in the way that they discharge their functions.
- Elected members are now permitted to become members of LPB, subject to a restriction that excludes those who are "...responsible for discharging of any function under....." the main Regulations (this exclusion also applies to officers)
- Removal of requirement for representative members (employer or member representatives) to form the majority of the LPB.

##### **3.2.2 Scheme Advisory Board.(SAB)**

- Extends responsibility of the SAB to include "connected schemes
- A new provision to ensure that the SAB activities are not unduly restricted in the way that they discharge their functions.
- All members of the SAB (at least 2 up to a maximum of 12) and the Chairman are to be appointed by the Secretary of State (having regard to the desirability of equal representation of persons representing the interests of scheme employers and members).
- The chairman may, with agreement of SAB, appoint a maximum of three non-voting advisory members to the SAB.

### 3.2.3 Cost Management

The proposal in this consultation is one element of the Government's reform agenda. The aim of the proposals is to develop a back stop protection to the taxpayer to ensure that some of the risks associated with pension provision are shared more fairly between employers and scheme members.

The draft regulations require the Secretary of State to appoint a scheme actuary (anticipated to be the Government actuary's department) to carry out actuarial valuations and apply two different mechanisms. The two mechanisms are:

- i. Treasury employer cost cap process and internal cost management process.
- ii. The regulations will set the employer's cost cap which is yet to be finalised. There is a detailed procedure for bringing the costs of the local government pension scheme back within the cap where those costs exceed or are less than the cap by more than a prescribed percentage (currently 2%).

## 4. Proposals

- 4.1 Members have agreed that the Corporate Director of Finance and Resources in consultation with the Assistant Chief Executive, Governance and HR look at the appropriate options for policies, setting up and resourcing of the local pension board for approval by the Council.

A draft terms of reference is being drawn up in light of these further changes and in consultation with the Chair these should formulate the basis to setting up a local pension board by 1 April 2015. A report will be made to the meeting of Audit Committee in March 2015.

- 4.2 The Local Pensions Board is required to have a minimum of two employer and two employee representatives. It is therefore proposed to ask recognised trade unions, scheme employers and pensioner members of the scheme to nominate representatives for appointment to the board. Regulations require the number of employee and employer members of the Board to be equal. If more than two employee representatives are nominated, a mechanism will be required for determining which nominees are appointed as Board members. In this event, it would make sense to appoint additional employee representatives as non-voting advisors, as is currently the case for the Pensions sub-committee.
- 4.3 The requirement for a separate Local Pensions Board is not absolute. The draft regulations permit the pensions sub-committee to carry out the Board's role, but the Board is supposed to scrutinise the actions of the sub-committee and specific approval from DCLG is required to allow this to happen.
- 4.4 Much of the business of the Board and of the sub-committee will be the same. For example, it would not make sense for the Board alone to consider risks. It is therefore proposed to set up a Board which is as well integrated with the sub-committee as possible, for example by the Board and the pensions sub committee meeting at the same time with the Board expressing their view on each report and the sub committee then taking account of those views before reaching its decision.

## 5. Implications

### 5.1 Financial implications

Any cost associated with the governance of the fund will be treated as administration cost and charged to the Fund.

### 5.2 Legal Implications

The draft Local Government Pension Scheme (Amendment) (Governance) Regulations 2014 provide for the establishment of a Scheme Advisory Board at national level and Local Pension Boards at local level.

The Local Pension Board must be established by the Council by no later than 1 April 2015. The regulations would permit a single dual function body to carry out the functions of both the Pension sub- committee to manage and administer the pension scheme and those of a local pension board subject to obtaining the Secretary of State's approval. . Alternatively the Local Pension Body may be established as a separate body by the administering authority.

### 5.3 Environmental Implications

None applicable to this report.

### 5.4 Equality Impact Assessment

None applicable to this report. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

## 6. Conclusion and reasons for recommendation

- 6.1 To consider the statutory consultation on draft regulations on scheme governance and begin the process of formulation and implementation in order to meet the regulatory requirements.

### Background papers:

DCLG consultation paper on draft regulations on scheme governance

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/322356/consultation\\_letter\\_on\\_June\\_2014\\_governance\\_regulations\\_final\\_version-23\\_june\\_-with\\_ISBN.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/322356/consultation_letter_on_June_2014_governance_regulations_final_version-23_june_-with_ISBN.pdf)

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Final report clearance:

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