



**REVISED 7.7.2014**

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

Meeting of:	Date	Agenda item	Ward(s)
Pensions Sub-Committee	15 July 2014	B6	n/a

Delete as appropriate		Non-exempt
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## **SUBJECT: DCLG STATUTORY CONSULTATION ON SCHEME GOVERNANCE**

### **1. Synopsis**

- 1.1 This report considers the DCLG's consultation paper on draft regulations that will introduce new governance arrangements for the 2014 local government pension scheme (the "scheme"). The regulations are expected to come into force from October 2014 onwards. The deadline for responses to the consultation is 15 August 2014

The 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.

### **2. Recommendations**

- 2.1 To note and consider the draft regulations in particular the need to set up a local pension board by 1 April 2015
- 2.2 To agree responses to the consultation items on the policy issues set out in paragraph 3.3 to be submitted to the Secretary of State by the deadline of 15 August 2014
- 2.3 To agree to that the Corporate Director of Finance and Resources in consultation with the Assistant Chief Executive, Governance and HR should consider how best to implement the regulatory requirements, updating the Committee at its next meeting.

### **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) Regulations 2014) –**

The provisions of the draft regulations are summarised below:

#### **Local Pension Boards**

1. Must be established no later than 1 April 2015, although could be earlier than this.
2. The role of the Board is set out and mirrors that defined in the PSPA13; namely to assist the administering authority in securing compliance with:
  - i. the LGPS Regulations,
  - ii. any other legislation, and
  - iii. requirements imposed by the Pensions Regulator.

The role is also extended to assist the administering authority in ensuring the effective and efficient governance and administration of the Scheme.

3. The draft Regulations provide that where the scheme manager of an LGPS fund is a committee of a local authority, then that committee may also act as the local board if approved by the Secretary of State, after having regard to any advice sought from the Scheme Advisory Board and the Pensions Regulator. Secretary of State approval may be withdrawn at any time if any conditions of that approval are no longer met, or if the combined body is no longer working as intended.
4. Costs associated with the board are to be regarded as administration costs charged to the local fund.
5. Membership/operation of the board is largely to be determined locally, in terms of
  - i. the manner in which individuals are appointed to or removed from the board,
  - ii. the terms of their appointment, and
  - iii. the number of employee & employer representatives, in equal numbers with a minimum of four in total (although these employee/employer representatives must not be Councillors, and in total must form a majority of all board members).
6. The administering authority must be satisfied that the employee & employer representatives have the relevant experience and capacity to perform their respective role, and any person appointed to the board does not have a conflict of interest. This no conflict of interest requirement must be monitored on an ongoing basis.

7. Supporting guidance for administering authorities will be issued by the Secretary of State in due course, although it is not clear what the timescales for the release of the guidance are.

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

8. As set out in the PSPA13, a Scheme Advisory Board is to be established to provide advice to the Secretary of State on the desirability of making changes to the scheme. In addition, the SAB will also be responsible for providing advice and assistance to administering authorities and local pension boards in relation to the effective and efficient administration and management of the Scheme and local funds.

9. The SAB may determine its own procedures, including voting rights, establishment of sub-committees and payment of remuneration and expenses.

10. The Chair is to be appointed by the Secretary of State. Membership of the SAB must comprise at least 2 but no more than 12 individuals appointed by the Chair with Secretary of State approval with regard to a "...desirability of there being equal representation of.....interests of Scheme employers and..... members". Members are to hold or vacate office in accordance with the constitution of the SAB (as noted in draft Regulation 110(4)).

11. Individuals who are not members of the SAB can be appointed as members to any sub-committees of the SAB.

12. Nominees and members can have no conflicts of interest as defined in PSPA13, that is no "financial or other interest which is likely to prejudice persons exercise of functions" although this does exclude simply being a member of the scheme.

13. The funding of the SAB is to be treated as an administration cost and will be met by administering authorities. The SAB must identify the amounts due from each administering authority based on the annual budget approved by the Secretary of State, and the membership of each LGPS fund.

### **3.3 Other policy issues**

The consultation invites comments on the following:

1. Consideration on dual-function bodies performing the role of the pension committee and local pension board

2. The options available when establishing local pension boards (as well as the potential for joint pension boards),

The draft regulations offer two alternative ways to establish a local pension board. It may be established as a committee under section 101 of the Local Government Act 1972 in which case the regime relating to the establishment and operation of committees would apply. Alternatively, the administering authority may establish the procedures relating to the local pension board.

Comments are invited on whether the regulations should provide for joint pension boards and if so, the qualifying test that should be applied and whether their establishment should be subject to the approval of the SAB or the secretary of State.

3.The standards of governance generally relating to AGMs/employer forums,

Comments are invited on whether administering authorities should be obliged to facilitate an annual meetings for employers and members

4. Knowledge and understanding requirements for members of local pension boards and committees

As drafted, the regulations would require members of local pension boards to have relevant experience and capacity to undertake that role. PPSA13 already requires pension board members to acquire knowledge and understanding. At present, members of Pension Committees although recommended to have regard to the Knowledge and Skills Framework (published by CIPFA) are under no regulatory requirement to do so

5 Funding of the Scheme Advisory Board

The objective is to ensure that the SAB is adequately funded to carry out its work plans whilst ensuring that its cost to administering authorities represents value for money. Comments are invited on how this can be achieved.

### 3.4 **Next steps for consideration**

Some of the key stages to establish a local pension board by 1 April 2015 will include:

#### **i. Design of the board**

- Review of current governance arrangements
- Define the objectives and terms of reference of the board
- Membership representation
- Resource and support

#### **ii. Implementing the board**

- Invite nominations and populate the board
- Assess training needs
- Provide training if required
- Workplan

#### **iii. Post 1 April 2015**

- Reporting requirements
- Officer support for the board
- Monitoring and assessment

3.5 Considering the limited time available for implementation, Members are asked to agree that the Corporate Director of Finance and Resources in consultation with the Assistant Chief Executive, Governance and HR will look at the appropriate options for policies, setting up and resourcing of the local pension board for approval by the Council. A progress report will be made to the next meeting in September.

## **4. Implications**

### **4.1 Financial implications**

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

## 4.2 Legal Implications

The draft Local Government Pension Scheme (Amendment) 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 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. Alternatively the Local Pension Body may be established as a separate body by the administering authority.

## 4.2 Environmental Implications

None applicable to this report.

## 4.4 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

## 5. Conclusion and reasons for recommendation

- 5.1 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:

### **Signed by:**

Corporate Director of Finance and Resources      Date

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