



Pensions Committee

25 June 2014

Report title	Governance Reform 2014	
Originating service	Pension Services	
Accountable employee(s)	Rachel Howe	Head of Governance
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Report to be/has been considered by		

Recommendation(s) for action or decision:

The Committee is recommended to:

1. Note the report
2. Consider the proposed changes to the structure of Governance within the Fund.
3. Agree the creation of a Governance Reform Working Party together with its remit outlined in the report.
4. Delegate to the Head of Governance to manage the Working Party going forward.
5. Agree to receive back recommendations on the proposals at September committee.

1.0 Purpose

- 1.1 To provide an outline of the proposed changes to the Governance structure within Local Government Pension Funds brought about by the Public Service Pensions Act 2013 and associated Regulations.
- 1.2 To provide options for the future governance structure and to outline the proposal for consultation with employers and trade unions going forward.
- 1.3 To propose the creation of a Governance Review Working Party whose responsibility will be to consider the proposals, their advantages and disadvantages and to liaise with the Council in making recommendations as to the future structure of the Fund.

2.0 Background

- 2.1 Following the Independent Public Service Pensions Committee report in 2011, the Public Service Pensions Act 2013 brought about a significant number of changes to Local Government Pension Schemes and how they are to be administered.
- 2.2 Having taken effect from 1 April 2014, the West Midlands Pension Fund (WMPF) has successfully implemented the changes to the scheme with the Fund now fully operating under the LGPS 2014.
- 2.3 As well as reforming the administration of the pension scheme, the 2013 Act also proposes to change the way pension schemes are governed calling for a reform in their structure and decision making bodies.

3.0 Current Structure

- 3.1 Since 1986 Wolverhampton City Council ('The Council') has been the Administering Authority for pensions within the West Midlands and under Section 101 of the Local Government Act 1972, have delegated this function to the Pensions Committee.
- 3.2 Currently the Pensions Committee consists of 18 Councillors (drawn from the seven District Councils in the Fund) and 4 non-voting observers (trade unions). The Committee acts as Trustees to the fund ensuring best practice and compliance with the legislative duty.
- 3.3 To assist it in its role the Pensions Committee has delegated some of its responsibility to the Investment Advisory Sub-Committee who advise, monitor activity and performance and oversee the administrative investment management functions of the Fund.
- 3.4 Together with the decision making Committees, the Fund has also created a Joint Consultative Forum. While the Forum has no decision making powers it acts as a level of

scrutiny to the decisions of the Pension Committee who take account of the recommendations provided by the Forum.

3.5 The administrative management of the pension fund is delegated to the Director of Pensions, who together with her officers implements the decisions of the Pensions Committee.

3.6 Attached at Appendix One is the current structure chart of the Fund.

4.0 The Public Service Pensions Act 2013

4.1 The Public Service Pensions Act 2013 ('The Act') outlined new governance structures for Pensions Funds to take effect from 1 April 2015 and propose for a Scheme Manager to be advised by a Pensions Board which is to consist of a proportionate number of employer and member representatives.

4.2 The Act further provides for explicit regulatory oversight of pension schemes by the Pensions Regulator whose role will be to issue Codes of Practice on the governance, standards of conduct and general practices expected of local government pension schemes.

5.0 The Scheme Manager

5.1 Section 4 of The Act requires that each pension scheme has a Scheme Manager who will be responsible for administering and managing the Scheme. (It is generally accepted that this be the Administering Authority with the Secretary of State being the Responsible Authority.) The Scheme Manager will have the ultimate responsibility for the scheme.

5.2 The Scheme Manager is a function which can be delegated under S101 of the Local Government Act 1972, the same as the current Pensions Committee. Therefore the Administering Authority (in our case Wolverhampton City Council) can continue to delegate the responsibility for the administration and management of pensions to the West Midlands Pension Fund.

5.3 The Act further provides that the two roles of administration and management can be undertaken as separate functions by two scheme managers.

5.4 As the Scheme Manager is a function to be delegated by the Council, the Fund will need to be clear in its recommendations as to how best to implement the changes and its reasons for those recommendations.

6.0 The Pensions Board

- 6.1 Together with the Scheme Manager, the 2013 Act also requires a Pension Board whose responsibility is to assist the Scheme Manager in ensuring the Fund's compliance with the Act and associated Regulations. Where there is more than one Scheme Manager, the Act requires a Pension Board for each.
- 6.2 The Pension Board is required to include employer and member representatives in equal numbers. Currently within the Fund there are over 400 employers including local authorities, voluntary bodies and academies, together with over 200,000 members and consideration will need to be given as to how best to reflect this number and their variety in the formation of the Board.
- 6.3 The 2013 Act further requires that those appointed to the Board do not have a conflict of interest requiring each to declare any such conflicts imposing a responsibility on the Scheme Manager to ensure such conflicts do not interfere with the ordinary course of the Fund's business. There will therefore need to be established a process for monitoring interests much the same as Councillors currently have with their local authorities.
- 6.4 Section 5(7) of the Act enables subsequent legislation to provide that the scheme manager, where this has been delegated to a committee, to also be the Pensions Board. While appearing sensible, consideration will need to be given to this proposal when considering the different functions of each, the skills set and knowledge required, together with the potential for conflict in a committee that will in effect, be self-policing. A level of scrutiny and accountability created by having two bodies might be considered more appropriate. It is suggested that the proposal to join the two be more suited to smaller funds that do not have the numbers of representatives that would make two committees viable.

7.0 Pension Board: Information

- 7.1 Section 6 of the 2013 Act requires the Scheme Manager to publish information about the Pensions Board to include who sits on it, who they represent together with the Board's remit and responsibilities.
- 7.2 This requirement is no more onerous than the work already undertaken by the Fund in publishing details about its current Pension Committee, however there may be a higher level of scrutiny due to the public now being aware that this information is required.

8.0 Scheme Advisory Board

- 8.1 Section 7 of the 2013 Act requires the creation of a Scheme Advisory Board whose role will be to advise the Responsible Authority. A policy reform role, the Board is to identify operational issues either locally or nationally and can provide advice to Scheme Managers if requested or not.

8.2 Since the Act came into force that role has been fulfilled by the Shadow Scheme Advisory Board as a precursor to the final Board which will be defined and implemented under subsequent Regulations. The work of the Shadow Board during this time has been to advise on the LGPS Reform.

9.0 Governance in practice

9.1 In its basic form, the proposed structure of the Fund at national level will have the Responsible Authority (the Secretary of State), assisted by the Scheme Advisory Board. At the local level, there will be the Scheme Manager assisted by the Pension Board. Attached at Appendix Two is the proposed structure chart.

9.2 In comparing the proposed structure with the current structure, in all but name the two appear to be no different. However, their substance, function, role, remit and legislative accountability will change and it is this element that the fund needs to consider going forward.

9.3 It is proposed that a Governance Reform Working Party be established to move forward with the changes. It is considered that this will assist in the smooth transition when Council are asked to approve the final proposals. Committee are asked to note that the timetable for all work is subject to the issuance of the Regulations and may require adjusting should there be any delay.

9.4 It is proposed that the Working Party meet at least once a month with the ability to call it sooner should the position change or draft regulations be approved in their final form.

9.5 The remit of the Working Party will be to review the legislation, consider proposals for the future structure, consult with members and employers of the Fund and to recommend back to the Pensions Committee its proposals for the future structure.

9.6 In considering options for the structure, consultation with the Fund's current members and employers will be key and it is proposed that any final recommendation from the Working Party be circulated for consultation and approval to these groups before being presented back to Committee for approval.

9.7 Below is a suggested timeline for how the fund proposes to implement the changes (subject to Government issuing the Regulations as anticipated). As the Fund sits within Wolverhampton City Council, its Administering Authority, ('WCC') the Fund is required to consult with them on any changes to its governance structure. There will also be consequential action such as constitutional changes and training.

9.8 A further briefing note will be presented to the Fund's September committee updating any changes or delays to the proposed timeline.

9.9 Timeline

- Draft Regulations to be issued in June
- Followed by consultation with the Working Party and employers throughout July/August
- Once all responses have been received an update on the outcomes and a proposed structure will be presented to the September committee with a copy to WCC.
- Throughout October – November we will circulate the final proposals, arrange training/seminar sessions and progress the changes with WCC's Full Council as part of their constitution review in December
- January – March the new Governance structure will be implemented.

10.0 Financial implications

- 10.1 It is acknowledged that the reform required under the 2013 Act will create a significant pull on the resources of the Fund in administering not only the changes, but the consultation, feedback and training required by these changes together with the amendment to the Fund's literature, website and information mediums.
- 10.2 The Fund already updates its literature and policies on an annual basis therefore amendments required to these as a result of the changes can be incorporated into the Fund's general work.
- 10.3 The cost of this work is, in the current term, to be met from the Fund's own resources and it is not proposed at this time to increase the workforce of the Fund but for it to be absorbed into the available resources.

11.0 Legal implications

- 11.1 The changes outlined in the report are as a result of legislative reform and are not to be considered optional.
- 11.2 Failure by the Fund to implement the changes will result in a failure to adhere to its legislative duty and may result in judicial review or challenge from external parties. There is also the possibility of Government intervention which may impose its own structure on the Fund.

12.0 Equalities implications

- 12.1 At this stage the detail contained in this report is for information purposes to assist in the understanding of the proposals likely to come in due course. Currently no decision has been taken to change the structure of the Fund.
- 12.2 In considering recommendations that come about as a result of consultation and legislative analysis, the Committee will consider any Equalities issues as part of its final decision at that time as it is required to do under its delegated power.

13.0 Environmental implications

13.1 None identified

14.0 Human resources implications

14.1 The proposals may create a pull on staff within the Fund who will be required to assist with the administration of the changes. It is proposed that this be absorbed into the current duties and it is not proposed, at this time, to consider a review of the staff or their roles.

15.0 Corporate landlord implications

15.1 None identified.

16.0 Schedule of background papers

16.1 Public Services Pensions Act 2013

<http://www.legislation.gov.uk/ukpga/2013/25/contents>

16.2 Consultation paper and responses

<https://www.gov.uk/government/consultations/local-government-pension-scheme-england-and-wales-new-governance-arrangements>

16.3 Guidance issued by the Pensions Regulator

<http://www.thepensionsregulator.gov.uk/employers/detailed-guidance.aspx>