



Pensions Committee

10 December 2014

Report title	Governance Reform 2014	
Originating service	Pension Services	
Accountable employee(s)	Rachel Howe	Head of Governance
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Consulted parties	Governance Review Working Party	14 November 2014
	Constitution Review Group	14 October 2014
	Special Advisory Group	5 November 2014
This report has been considered by	Geik Drever, Director of Pensions	
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Recommendation(s) for action or decision:

The Committee is recommended to:

1. Approve the final terms of reference for the Pension Committee after 1 April 2015
2. Approve the final terms of reference for the Pension Board from 1 April 2015
3. Agree the commencement date of the changes to be in line with the next municipal year
4. Approve the recommendation to appoint employer representatives from the working party as employer representatives on the Pension Board
5. Approve the recommendation for recruitment of Pension Board member representatives.
6. To recommend to Full Council all of the above.

1.0 Purpose

- 1.1 To seek agreement from Committee on the final proposals of the governance reform after 1 April 2015 for recommended adoption by Council.

2.0 Background

- 2.1 Committee will recall that since June 2014 officers of the Fund have been working with the Governance Review Working Party in the consideration and formation of the new Governance structure required after 1 April 2015 in line with the Public Service Pensions Act 2013.
- 2.2 The Committee will recall that at the last meeting in September draft terms of reference were produced based on our understanding of the draft regulations issued in June. The June draft regulations implied that we would have a final set of regulations by October with statutory guidance to follow.
- 2.3 Following the consideration of the consultation responses, government in October, issued a second round of draft regulations for further consultation which also includes regulations for cost management. That consultation closed on 21 November.
- 2.4 Together with this October draft, we also received draft statutory guidance from the Scheme Advisory Board. The consultation on that also closed on 21 November.
- 2.4 Following receipt of those documents the working party were recalled to discuss their contents and our proposed response.
- 2.5 At the time of writing we understand from DCLG that the final regulations might not be formalised until the New Year with the possibility of further consultation before the end of December. However, we do not anticipate our understanding to change.

3.0 The October (second) draft regulations

- 3.1 Attached at Appendix One is a breakdown of the differences between the first and second draft of the governance regulations.
- 3.2 The key things to highlight are
 - The pension board will be formulated through local choice and will not be a S101 committee
 - Elected Councillors are no longer prevented from sitting as employer or member representatives on the pension board. Councillors of the administering authority cannot sit on both the committee and the pension board of their Administering authority.

- The October draft regulations have carried through the requirement for Funds to contribute to the cost of the Scheme Advisory Board. The group will recall we responded with a request that funding be requested on a banding of fund size, this is not picked up in the October draft.
 - Further the Regulations provide for the Scheme Advisory Board to appoint 3 non-voting advisors. It is the position of the Fund in our response that these persons should be voting practitioners.
 - Due to come into force on 1 January 2015.
- 3.3 On assessment of the October draft, it does not appear that the proposals so far put forward by the working party and approved by Committee are impacted or require changing to meet the legislative requirement.
- 3.4 As stated in addition to the governance reform, this second draft also makes provision with regards cost management of funds.
- 3.5 New Regulations 115 and 116 introduce the cost control provisions into the LGPS, being the government's methodology for addressing recommendation 12 of the Hutton report: "The Government, on behalf of the taxpayer, should set out a fixed cost ceiling: the proportion of pensionable pay that they will contribute, on average, to employees' pensions over the long term. If this is exceeded then there should be a consultation process to bring costs back within the ceiling, with an automatic default change if agreement cannot be reached."
- 3.6 In essence, the proposed Regulations are enabling ones, and we do not see anything of substance here which was not already in the public domain. In particular, there are two cost control mechanisms which will run in parallel with one another:
- An HM Treasury (HMT) process, the details of which are covered under papers and draft valuation directions released previously by HM Treasury.
 - An LGPS Advisory Board (LGPSAB) process
- 3.7 A copy of our response to that consultation is attached as Appendix Two.

4.0 Draft Statutory Guidance

- 4.1 As anticipated we have also received the draft guidance from the Scheme Advisory Board on how pension boards are to be created and governed. The guidance proposes that funds need to draft a number of policies to outline how they will govern the pension board after 1 April 2015. Officers will draft those policies based on the discussions of the working party and will include policies on recruitment to the pension board, declarations of conflict and internal reporting procedures. The final version of those policies will be presented to Committee at a later meeting for formal adoption.
- 4.2 Attached at Appendix Three is a breakdown of the key elements of the Guidance.

4.3 Attached at Appendix Four is the Fund's response to the consultation on the guidance.

5.0 Steps to Implementation

5.1 Committee will recall from the last meeting that in order to pass the constitution amendments through Full Council, we are required to have the amendments considered by a number of WCC committees first.

5.2 A report has been presented to both the Constitution Review Group and the Special Advisory Group who have approved the amendments subject to the nomination of the Chair being reserved to Full Council as is currently the practice.

5.3 The constitution amendments will now be presented to Standards Committee in January to be recommended to Full Council on 28 January 2015.

5.4 A final copy of the proposed amendments is attached as Appendix Five

6.0 Points of clarity

6.1 As previously detailed the requirement to establish a pension board comes into effect on 1 April 2015. However, the statutory guidance together with comments from DCLG have suggested that to "establish" the pension board means to have amended our constitution and that the board could actually take effect at a later date.

6.2 This question was put to the working party who had previously raised concerns regarding the incompatibility of a 1 April timetable with the municipal year.

6.3 It is the recommendation of the working party that the changes to the governance structure take effect from the next annual meeting of Full Council and that it runs currently with the municipal year. Committee are asked to agree this recommendation.

7.0 Recruitment to the Pension Board

7.1 Committee will recall that the legislative requirement on Administering Authorities is to have a pension board with equal employer and member representation and that in acknowledging this requirement, committee agreed that the board would consist of five employer representatives, one from each employer group, five member representatives together with two Wolverhampton City Councillors.

7.2 The statutory guidance proposes a number of ways in which Funds could appoint persons to the pension board including the use of all-out elections.

7.3 At their meeting on 14 November the working party considered these proposals and how they could seek nominations from the widest audience efficiently and agreed that the method used in the recruitment of the working party was most appropriate.

7.4 Following approval to create the Governance Review Working Party in June 2014, officers approached the Fund's employer and member representatives to seek nominations to sit on the working party. These nominations were sought and, successfully, appointed through the employer peer group, the mid-year review and our website. It is therefore the recommendation of the working party to the committee that this method be used again for the recruitment of persons to the pension board.

8.0 Working Party to Pension Board

8.1 In considering the role of the pension board and the current lack of clarity from government about what the board will be asked to do after 1 April 2015, officers discussed with the working party the possibility of them transferring over to the pension board after 1 April 2015.

8.2 The advantage to be gained from this comes in the knowledge and experience the working party has gained over the last 6 months in setting up the board, drafting the terms of reference and determining its remit. To appoint new representatives would require the fund to train and develop those persons when we already have a group capable of understanding the governance structure.

8.3 Those persons currently on the working party representing employer groups are

Name	Employer group
Paul Sheehan	Schedule body - Local Authority
Caroline Jones	Scheduled body - University
Joe McCormack	Scheduled body – Academy
Mike Sutton	Admission body - Community

Together with representatives from our trade unions who currently sit and will continue to sit on the Pensions Committee.

8.4 It is therefore recommended to Committee to approve the appointment of these employer representatives to the pension board and to seek nominations from both our Admission body - contractors employer group (vacant employer representative) and the trade unions for the member representatives.

9.0 Financial implications

9.1 The financial implications of the reforms were highlighted in the June committee report. This report is an update on the actions taken and poses no further financial implications other than those previously identified. The budget will be provided as part of the Service Plan 2015/20 consideration on March 2015.

9.2 The proposed changes to the constitution will further clarify the financial governance and procedural rules that underpin the Fund's ability to operate effectively and efficiently.

10.0 Legal implications

- 10.1 The 2013 Act requires local government pension schemes to have established the Pensions Board by 1 April 2015, that is to have amended their constitutions. Further, Section 37 of the Local Government Act 2000 requires local authorities to have in place a constitution detailing the governance of the authority including those with decision making powers and responsibilities. Failure to adhere to these requirements exposes the Council to significant challenge and potential interference from the Secretary of State.

11.0 Equalities implications

- 11.1 There are no equalities implications

12.0 Environmental implications

- 12.1 There are no environmental implications

12.0 Human resources implications

- 13.1 There are no Human Resources implications

13.0 Corporate landlord implications

- 13.1 There are no corporate landlord implications

14.0 Schedule of background papers

- 14.1 Pension Committee 25 June 2014 Governance Reform report
<http://wolverhampton.moderngov.co.uk/ieListDocuments.aspx?CId=186&MId=4112&Ver=4>
- 14.2 Pension Committee 24 September 2014 Governance Reform update report
<http://wolverhampton.moderngov.co.uk/ieListDocuments.aspx?CId=186&MId=4113&Ver=4>
- 14.3 Report to Special Advisory Group 5 November 2014
<http://wolverhampton.moderngov.co.uk/ieListDocuments.aspx?CId=165&MId=4323&Ver=4>
- 14.4 Public Service Pensions Act 2013
<http://www.legislation.gov.uk/ukpga/2013/25/contents/enacted>
- 14.5 Consultation on October (second) draft regulations
<https://www.gov.uk/government/consultations/local-government-pension-scheme-regulations-2014-better-governance-and-improved-accountability>

14.6 Consultation on the draft statutory guidance
<http://www.lgpsboard.org/index.php/about-the-board/board-consultations>

15.0 Appendices

Appendix One – Comparison of the first and second draft regulations

Appendix Two – Consultation response to the October (second) draft regulations

Appendix Three – Briefing note highlighting the key elements of the draft statutory guidance

Appendix Four – Consultation response to the draft Statutory Guidance

Appendix Five – Final constitution amendments.