

**CAMBRIDGESHIRE
PENSION FUND**



Pension Fund Board

Date: 19 March 2015

Report by: Deputy Head of Pensions

Subject:	New legislation and guidance on governance and administration of the Local Government Pension Scheme
Purpose of the Report:	To inform the Board of the revised proposals for the format of the local pension board following the issuance of final LGPS Governance Regulations and Shadow Advisory Board guidance.
Recommendations:	That the Board notes the revised proposals for the format of the local pension board.
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1. Background

- 1.1 In 2011, the Government accepted the recommendation made by Lord Hutton and the Independent Public Services Pensions Commission that all public services pension schemes should have a board that is properly constituted and is responsible for meeting good standards of governance including effective and efficient administration.
- 1.2 The Public Services Pensions Act 2013 captured this recommendation and as a result every public service pension scheme must establish a local pension board, which, in the case of the Local Government Pension Scheme, is an addition to the existing governance arrangements that are already in place.
- 1.3 The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 which incorporate the requirements of The Public Services Pensions Act 2013 in respect of the creation of local pension boards were laid before Parliament on 28 January 2015 and came into force on 20 February 2015.
- 1.4 The local pension board must be formalised in the County Council's constitution by 1 April 2015.
- 1.5 To avoid confusion, from 1 April 2015, the current Pension Fund Board will be renamed the Pension Fund Committee.

2. Role of the local pension board

- 2.1 The role of the local pension board as defined in the Regulations is to assist the administering authority (Cambridgeshire County Council) to:
- secure compliance with the Local Government Pension Scheme (LGPS) regulations and other legislation relating to the governance and administration of the LGPS and also the requirements imposed by the Pensions Regulator in relation to the LGPS; and
 - ensure the effective and efficient governance and administration of the LGPS.
- 2.2 The local pension board is a non-decision making body and is designed to act as a critical friend to the Pension Fund Committee (as the Pension Fund Board will be known from 1 April 2015) and Investment Sub-Committee.
- 2.3 The local pension board will each year produce, in consultation with the Pension Fund Committee, an annual report on its activities to be presented to Council.

3. Format of the local pension board

- 3.1 The Regulations stipulate that there must be equal numbers of member representatives and employer representatives with a minimum of two representatives per representative category. All representatives have equal voting rights. It is proposed that there will be three member representatives and three employer representatives in order to maintain a quorum.
- 3.2 It is proposed that two of the employer representatives will be County Councillors with the third representing that of a non-tax raising organisation such as an admission body or academy via the open selection process as detailed in section 7. In respect of the member representatives, it should be noted that any person to be appointed to the local pension board as a member representative must have the capacity to represent members. A proposal will be put to the Constitution and Ethics Committee as to how the recruitment of member representatives will be conducted.
- 3.3 An independent chairman is permitted but they are restricted from having any voting rights. It is anticipated that for the local pension board of Cambridgeshire County Council, the chairman will be selected from the two groups of representatives.
- 3.4 It is proposed that the local pension board will meet four times a year but will have the ability to call an extraordinary meeting should the need arise. The first meeting must take place by 31 July 2015.
- 3.5 Representatives will be engaged in four year terms of office or until their qualification for membership ceases (for example if an employer representative who is a councillor ceases to be a councillor during their term of appointment).
- 3.6 Individuals that are precluded from being a representative on the local pension board are those who are already engaged in the activity of the Fund as either an officer of the Administering Authority or as a member of the Pension Fund Committee and Investment Sub-Committee.

4. Knowledge and understanding requirements of local pension board members

4.1 The Regulations and also the guidance on the creation and operation of local pension boards issued by the LGPS Shadow Advisory Board stipulate that in accordance with section 248A of the 2004 Pensions Act, every individual member of a local pension board must be conversant with:

- the rules of the LGPS (the Regulations i.e. the Transitional Regulations, earlier regulations and the Investment Regulations); and
- any document recording policy about the administration of the Fund.

Local pension board members must also have knowledge and understanding of:

- the law relating to pensions; and
- such other matters as may be prescribed.

4.2 Conversant, in the Shadow Advisory Board guidance, is defined as having a working knowledge (i.e. a sufficient level of familiarity) of the LGPS rules and any document recording policy about the administration of the Fund. In particular, members of a local pension board should understand the rules and documents in enough detail to know where they are relevant to an issue and where a particular provision or policy may apply.

4.3 Local pension board members need also to be aware of the range and extent of overriding law which applies to the LGPS and have sufficient knowledge and understanding of the content and effect of that law to recognise when and how it impacts on their role, responsibilities and duties.

4.4 Members of a local pension board should have a breadth of knowledge and understanding that is sufficient to allow them to:

- challenge any failure by the Administering Authority to comply with the Regulations and other legislation relating to the governance and administration of the LGPS;
- challenge any failure to meet the Pensions Regulator's Code of Practice;
- understand fully any professional advice; and
- be able to challenge that advice or information and understand how that advice or information impacts on any decision relating to the local pension board's duty to assist the Administering Authority.

4.5 Section 248A of the Pensions Act 2004 is clear that the knowledge and understanding requirement applies to every individual member of a local pension board rather than to the members of a local pension board as a collective group.

4.6 In the final Regulations, the requirement for local pension board members to have appropriate experience (and therefore knowledge) upon appointment has been dropped following DCLG's acknowledgement that this could represent a barrier to funds finding suitable candidates. It is now accepted that local pension board

members will meet the knowledge and understanding requirements of the Pensions Act 2004 over time by undertaking suitable training following appointment.

5. Capacity requirements of the local pension board

- 5.1 The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 requires the Administering Authority to ensure that all representatives have the capacity to represent employers or members (as appropriate) of the Fund.
- 5.2 Members of the local pension board must be able to commit to attend meetings and undertake the necessary training. Representatives will need to ensure that they have their employer's full support (where relevant).
- 5.3 It will be essential for a member of the local pension board to possess the ability to properly represent the interests of scheme employers and members (as appropriate) and channel information back to those persons effectively. All representatives will need to be able to represent the wide range of membership that exists in the Fund to ensure all employers and all members are represented.

6. Formalising the local pension board in the County Council's Constitution

- 6.1 A report containing the above proposals and the local pension board terms of reference will be presented to the Cambridgeshire County Council Constitution and Ethics Committee on 3 March 2015.
- 6.2 Following this a final report will be presented to full Council on 24 March 2015 for final approval.

7. Recruitment of local pension board representatives

- 7.1 Following the approval of local pension board by full Council, the recruitment and selection of board representatives can commence.
- 7.2 The Shadow Advisory Board guidance advises that the recruitment and selection process be carried out in an open and transparent manner providing all potential representatives with the ability to take part in the process.
- 7.3 Three proposals as to method of recruitment for employee representatives will be presented to the Constitution and Ethics Committee. The proposals are as follows:
 - Appoint three Unison representatives without any formal application and selection process but with an understanding that the representatives have the desired level of knowledge and capacity to undertake the role effectively.
 - Appoint two Unison representatives without any formal application and selection process but with an understanding that the representatives have the desired level of knowledge and capacity to undertake the role effectively. The third representative will be selected from a formal application and selection process as detailed in 7.4 and 7.5
 - Appoint 3 representatives regardless of union membership via a formal application and selection process as detailed in 7.4 and 7.5.

- 7.4 An application pack containing the terms of reference and an outline of the knowledge and understanding and capacity requirements will be made available providing an outline of the role, the knowledge and understanding and capacity requirements.
- 7.5 Following receipt of applications from potential representatives, a short listing and interview process will determine that the representative has the required attributes to carry out the role effectively.
- 7.6 As part of the initial proposals on board membership in 3.2, two County Councillors were expected to assume roles on the board leaving employer representative being selected through the application and selection process as detailed in 7.4 and 7.5. It should be noted that as the local pension board is not a committee as defined under Section 101 of the Local Government Act 1972, the requirements relating to political balance do not apply.
- 7.7 Once appointments to the roles have been made the representatives will be provided with the details on where to access the scheme rules and associated documents as detailed in section 4.1. There will also be the opportunity to attend relevant training courses in preparation for the first meeting of the local pension board.

8. Relevant Pension Fund Objectives

Perspective	Outcome
Administration	<ul style="list-style-type: none"> • Provide a high quality, friendly and informative administration service to the Funds' stakeholders. • Administer the Funds in a cost effective and efficient manner utilising technology. • Ensure the Funds and its stakeholders are aware of and understand their roles and responsibilities under the LGPS regulations and in the delivery of the administration functions of the Funds. • Put in place standards for the Fund and its employers and ensure these standards are monitored and developed as necessary. • Ensure benefits are paid to, and income collected from, the right people at the right time in the right amount. • Maintain accurate records and ensure data is protected and has authorised use only. • Understand the issues affecting scheme employers and the LGPS in the local and national context and adapt strategy and practice in response to this.

Perspective	Outcome
Governance	<ul style="list-style-type: none"> To have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies. Ensure the Fund and its stakeholders have the appropriate skills and receive training to ensure those skills are maintained in a changing environment.

9. Finance & Resources Implications

- 9.1 As per Regulation 106(9) of Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, specifies that the expenses of a local pension board shall be regarded as part of the costs of administration of the Fund.
- 9.2 These expenses will include (but are not limited to) the cost of secretarial support and any necessary advisory support, overheads attaching to the arranging of meetings and, if the Administering Authority makes provision, payment of allowances and/or expenses to members of the local pension board.

10. Risk Implications

a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
The Council do not agree with the proposals for the format of the local pension board.	Meeting with Cambridgeshire County Council Constitution and Ethics Committee on 3 March 2015 to identify any potential issues and rectify before submitting to full Council.	Green

b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
Failure to create the local pension board in the Council's constitution before 1 April 2015 will be in direct violation of the Regulations potentially resulting in the intervention of the Pensions Regulator who acts as an enforcer of the requirements of the Public Service Pensions Act 2013. Failure to create a local pension board is likely to be considered maladministration on the part of the Administering Authority and a complaint to the Local Government Ombudsman or Pensions Ombudsman could therefore be made.	Red

11. Communication Implications

Website	Details of the local pension board can be found on the LGSS Pensions Service website.
Newsletter	Details of the local pension board will be communicated to members via the annual newsletter.

Training	Training will be provided to members of the local pension board prior to the first meeting.
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12. Legal Implications

- 12.1 Failure to implement the local pension board prior to 1 April 2015 will be in direct violation of the Public Service Pensions Act 2013. Failure to establish a local pension board could lead to intervention by The Pensions Regulator, the Local Government Ombudsman or the Pensions Ombudsman.

13. Consultation with Key Advisers

- 13.1 There has been no consultation with key advisers, however, the proposals contained in this report have been based on guidance provided by the Shadow Advisory Board and the Pensions Regulator's Code of Practice.

14. Alternative Options Considered

- 14.1 The option of forming a joint local pension board under regulation 106(3) of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 with Northamptonshire Pension Fund due to the fact that there is shared and converged administration has been considered but deemed impractical at the current time.
- 14.2 The option of forming a combined board under Regulation 106(2) of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 whereby the Pension Fund Committee and the local pension board form one board with secretary of state approval has been considered but deemed that it would detract away from the effective good governance already in place within the decision making body.

15. Background Papers

- 15.1 Business Plan Update 3 as presented at the 18 December 2014 Pension Fund Board meeting which detailed the proposals for the creation and operation of the local pension board based on draft regulations and guidance.
- 15.2 Cambridgeshire County Council full Council report – 24 March 2015.

16. Appendices

Not applicable.

Checklist of Key Approvals	
Is this decision included in the Business Plan?	No.
Will further decisions be required? If so, please outline the timetable here	No.
Is this report proposing an amendment to the budget and/or policy framework?	No.
Has this report been cleared by Chief Finance Officer/Section 151 Officer?	Chris Malyon – 06/06/2015
Has this report been cleared by Deputy Head of Pensions?	Mark Whitby – 11/02/2015
Has the Chairman of the Pension Fund Board been consulted?	Councillor Count, 19/02/2015
Has this report been cleared by Legal Services?	Laurie Gould on behalf of Quentin Baker – 02/03/2015