

HERTFORDSHIRE COUNTY COUNCIL

**PENSION COMMITTEE
FRIDAY, 14 NOVEMBER 2014 AT 10.30AM**

Agenda Item No. 2

**LOCAL GOVERNMENT PENSION SCHEME – CREATION OF LOCAL PENSION
BOARDS**

Report of the Deputy Chief Executive

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1. Purpose of Report and Summary

- 1.1 The purpose of this report is to share with members of the Pension Committee and Council the revised governance arrangements for the local government pension scheme (LGPS).
- 1.2 The Public Sector Pensions Act 2013 (PSPA 13) introduces new regulations that require each administering authority to establish a Local Pension Board (LPB). The membership of the LBP will be derived equally from both scheme employers and membership of the scheme. Appendix A sets out the proposed draft constitution to establish the Hertfordshire LPB as well as the structure of this board.

2. Summary

- 2.1 The Public Sector Pensions Act 2013 (PSPA 13) introduces new regulations that require each administering authority to establish a Local Pension Board for the purposes of assisting the administering authority in line with the following requirements:

To secure compliance with:

- The Regulations;
- Other legislation relating to the governance and administration of the LGPS; and
- The requirements imposed by the Pension Regulator in relation to the LGPS; and
- To ensure the effective and efficient governance and administration of the LGPS.

- 2.2 The regulations require that Local Pension Boards must be established by no later than 1 April 2015. This means that the Administering Authority must have approved the establishment of the Local Pension Board and its composition and also the terms of reference. It does not necessarily mean that the Local Pension Board has to be fully operational by this date. However, it is anticipated that a Local Pension Board should be operational within a reasonably practicable period after 1 April 2015 (being no longer than 4 months).
- 2.3 The Pensions Committee at its meeting on 12 September 2014 reviewed a proposed structure for the future governance of the Hertfordshire LGPS. The Department for Communities and Local Government (DCLG) issued in October further draft regulations and guidance on the creation and operation of Local Pension Boards. The revised draft regulations and guidance provide officers with sufficient information to establish a LPB for the Hertfordshire LGPS and share with members the proposed constitution for the operation of the board.

3. Recommendations

- 3.1 That Pension Committee recommend to County Council:-

“That County Council approves the following:

- a) *The creation of a Local Pension Board for the Hertfordshire LGPS and draft constitution as set out in Appendix A.*
- b) *To commission officers to develop detailed terms of reference to be incorporated in the constitution for approval at the next pension committee on 27 February 2015.*
- c) *To delegate to the Deputy Chief Executive in consultation with the Executive Member for Resources and Transformation approval of final job descriptions and the appointment process for members of the board to be in place by April 2015.*
- d) *The employer representative for Hertfordshire County Council, the administering authority, is an elected member.*

4. Background

- 4.1 Lord Hutton was appointed by the Government to chair the Independent Public Service Pensions Commission (IPSPC) and undertake a fundamental review of public service pensions. The final report produced by the IPSPC made 27 recommendations for the reform of public service pension schemes. These recommendations included:

- A properly constituted, trained and competent pension board with member nominees, responsible for meeting good standards of governance including effective and efficient administration;
- A pension policy group for each public service pension scheme at national level for considering major changes to scheme rules; and
- Independent oversight of the governance, administration and data transparency of public service pensions.

4.2 The majority of recommendations from the IPSPC report were implemented as part of the Public Sector Pensions Act (PSPA) 2013. The areas relating to governance and in particular the introduction of Local Pension Boards were incorporated in draft regulations for the LGPS issued by DCLG for consultation in June 2014, to which this authority responded. A further set of updated draft regulations for consultation was issued by the DCLG on 10 October 2014 to reflect the responses received from interested parties. Further guidance was issued by DCLG on 17 October 2014.

5. Current Regulations

5.1 The latest draft regulations and draft guidance provides local administering authorities with further information on the creation of local pension boards and addresses some of the concerns about the participation of elected members on the board as well as the process of setting up the local board. The revised regulations now permit elected members to sit on the board. There is, however, a restriction to membership of the board in that no officer or councillor of an Administering Authority who is responsible for the discharge of any function under the regulations may be a member of a Local Pension Board. The draft consultations issued on 10 and 17 October, which closes on 21 November, provides sufficient information and assurance to proceed with the creation of a LPB and constitution for the Hertfordshire LGPS.

5.2 The draft scheme guidance provides for local determination in many areas and is not overly prescriptive as to the creation and operation of these local pension boards and is broadly in line with the earlier information shared with the Pensions Committee at the 12 September meeting. Due to the short time scale for the creation and implementation of the local pension board and to allow officers sufficient time to recruit, make appointments to the board and train the new board members it is necessary to make a recommendation to Council to approve the creation of the Local Pension Board, its constitution and revised governance structure for the Hertfordshire LGPS. Officers will report back to Pensions Committee in February 2015 with further recommendations on the final terms of reference for the board.

5.3 If an Administering Authority fails to establish its Local Pension Board by 1 April 2015, or having done so the Board fails to exercise its role, then there are a number of potential actions that could be taken against the Administering Authority such as:

- Intervention by the Pension Regulator
- Intervention by legal action
- A complaint to the Local Government Ombudsman or Pensions Ombudsman
- Adverse comment by the Administering Authority's district auditor in the context of the annual audit and management letter
- Adverse comment by the Scheme Advisory Board

5.4 The proposed constitution of the Board, attached as appendix A, sets out the role of the LPB, and how the board will be run and its membership. The administering authority is given power under regulation 106(5) of the regulations to determine the procedures applicable to its LPB, including voting rights, the establishment of sub-committees and the payment of expenses.

5.5 A Local Pension Board must include an equal number of employer and member representatives with a minimum requirement of no less than four in total. The composition of the Board is left to the discretion of the local Administering Authority. The constituent membership of the employer bodies in the Hertfordshire Scheme is as follows:

- Schools and Academies – 48.7%
- Administering Authority – 18.2%
- District/Borough Councils & Police – 15.4%
- Others – 17.7%

In addition to employer and member representatives, independents can be appointed to the Board.

6. Appointment Process

- 6.1 Each employer or member representative on a Local Pension Board will potentially represent a significant range of employers or members. It is therefore important that the methodology for appointment ensures that representative members are truly representative. The draft guidance does not prescribe any particular methodology for the appointment of employer and member representative and leaves it to the Administering Authority to establish an appropriate process. Options include a direct appointment process through nomination by representative bodies or by a selection process by inviting applications. For example the guidance suggests that employer representatives could be selected through existing employer forums, e.g. nominations.
- 6.2 The regulations require Administering Authorities to ensure that any person appointed to the Board has the relevant experience and the capacity to represent employers or members and commitment to attending meetings. A working knowledge of the LGPS, pension legislation, and investments will be a requirement for those sitting on the Board.
- 6.3 It is proposed that employer bodies are invited to nominate representatives, so for example the Schools Forum¹ would nominate a representative to represent the schools and academies. The district and borough councils could nominate an officer or elected member to be their representative member. The County Council as administering authority can appoint an elected member or officer as long as that officer or elected member is not responsible for the discharge of any functions under the LGPS regulations. As for the appointment of membership representatives, it is suggested that this is through an appointment by inviting applications. A job description for both member and employer representatives would need to set out essential and desirable criteria such as commitment to the role, experience of understanding complex financial matters, working effectively with colleagues as part of a team, as well as knowledge of pensions and the LGPS regulations.

¹ The schools forum is made up of head teachers, governors and other non-school members who represent maintained schools, academies, the private voluntary sector and elected members.

7 Terms of Reference

7.1 There will be a requirement when establishing the Local Pension Board for Hertfordshire to create terms of reference for the Board, these will be the rules that set out how the Board will be constituted and operate on a day to day basis.

7.2 The guidance suggests that the terms of reference for the Board should include the following:

- Function of the Board
- Membership
- Code of Conduct
- Voting Rights
- Conflicts of Interest
- Appointment of a Chair/Vice-Chair
- Role of Advisors
- Role of Officers
- Administration
- Number of meetings and Quorum
- Attendance requirements
- Creation of working groups/sub-boards
- Allowances/Expenses
- Budget
- Knowledge and understanding
- Reporting

The constitution will be the terms of reference for the board subject to a review of the final issued regulations. The draft guidance suggests that the terms of reference should be approved by the Administering Authority and then formally adopted by the Local Pension Board once it is established. Officers will bring back to Pension Committee at its meeting in February a final constitution for formal approval. Amendments to the Council's constitution will be taken to County Council in March 2015.

8. Equality Implications

8.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the equalities implications of the decision that they are taking.

8.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.

8.3 The Equality Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who

do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.

Appointment Process

- 8.4 It will be important to ensure that the appointment process to the Board is equitable and that all employers and members have the opportunity to be represented on the Board. The appointment process will be designed to attract people with relevant experience and skills required to undertake the role and representative of the constituent membership of both employers and members.
- 8.5 The appointment process for the Board will need to be well publicised and a role specification setting out the desirable criteria will need to be created to assist with assessing whether an individual has the relevant experience and capacity for the role. It is suggested that the Administering Authority publicises the Board appointment process through the Hertfordshire Pension Website at <http://www.yourpension.org.uk/Hertfordshire/Pensions-Home.aspx> , the monthly employer newsletter, annual employer body meeting to be held in December 2014, and mailshot to membership.
- 8.6 It will also be necessary to have a formal interview process before appointments are made to assess the ability of the individual to meet the requirements of the role and make appointment on merit.