



<u>Committee and Date</u>	<u>Item</u>
Council	9
18 December 2014	
10.00	

CREATION OF NEW PENSION BOARD

Responsible Officer James Walton

e-mail: james.walton@shrophire.gov.uk

Tel: (01743)
255011

Fax (01743)
255901

1. Summary

- 1.1. The report provides an update on the introduction of a Pension Board under the requirements of the Public Service Pensions Act 2013 including information relating to the draft Local Government Pension Scheme (LGPS) governance regulations.

2. Recommendations

- 2.1. To note the contents of the report, and in particular the:
 - content of the draft LGPS governance regulations and
 - progress made by the Task and Finish Group in implementing the changes for the Shropshire County Pension Fund.
- 2.2. Approve the setting up of the Pension Board from 1 April 2015.
- 2.3. Delegate authority to the Head of Finance Governance & Assurance to make minor changes to the Terms of Reference if required once the final regulations are issued.

REPORT

3. Risk Assessment and Opportunities Appraisal

3.1. Risk Management

Risk management is considered by the Pension Committee in making decisions under the governance compliance statement and in line with all relevant legislation.

3.2. Human Rights Act Appraisal

The recommendations contained in this report are compatible with the provisions of the Human Rights Act 1998.

3.3. Environmental Appraisal

There are no direct environmental, equalities or climate change consequences of this proposal.

3.4. Financial Implications

There are no direct financial implications arising from this report.

4. Public Service Pensions Act (PSPA) 2013

4.1. During the last year the Pensions Committee have been made aware of the requirements of The Public Service Pensions Act 2013, in particular the need to introduce a new local Pension Board to assist the Scheme Manager (i.e. Shropshire Council) in ensuring compliance with legislation and the Pensions Regulator's requirements.

4.2. The Act requires that:

- the members of the Pension Board must not have a conflict of interest (though being a member of the LGPS is specifically mentioned as not being treated as a conflict in this circumstance), and
- the Pension Board must have equal numbers of employer representatives and member representatives.

4.3. It further puts a requirement on each Pension Board member to have an appropriate level of knowledge and understanding in relation to the scheme, local policy and overall pension legislation to properly exercise their function as a Pension Board member.

5. LGPS Pension Board Requirements

5.1. Draft regulations and an associated consultation were issued on 23 June outlining how these new Pension Boards are likely to be set up by administering authorities (including Shropshire Council) within the LGPS. It is worth noting that the provisions included in the draft LGPS governance regulations are relatively light touch, providing administering authorities with a significant amount of flexibility when developing their local Pension Board. In many places the provisions are effectively repeating the requirements of the PSPA.

5.2. Some of the key elements included in the draft LGPS governance regulations are outlined below:

Establishment

- Each administering authority is required to establish a local Pension board no later than 1 April 2015

- As well as assisting the administering authority with securing compliance with regulations and requirements imposed by the Pensions Regulator, the new Pension Board will also be responsible for assisting in ensuring effective and efficient governance and administration of the Scheme
- Where a pension committee already exists as a committee of a local authority (which is the case with most administering authorities), there is an option to create one combined Pension Committee and Pension Board. However, this will be subject to the Secretary of State's approval because the practical and legal hurdles for doing so are considered extremely challenging (and accordingly it is not expected that any local authorities will be able to adopt this route).

Membership

- There must be equal numbers of scheme member representatives and employer representatives
- There must be at least two of each of these representatives (so a Pension Board must comprise of at least four individuals)
- However, these representatives:
 - **cannot** be a member of the Board if they are an officer or elected member of the Administering Authority who is "responsible for the discharge" of any LGPS function
 - must have "relevant experience and capacity", although the covering letter explains that this experience requirement is not to be confused with the PSPA requirement to have ongoing knowledge and understanding of pension matters; it will be up to each administering authority to determine what they consider to be 'relevant experience'
- Other members can be appointed to the Pension Board in addition to the representatives but the number of these other members must be less than the total number of representatives

Conflicts of Interest

- Each administering authority must be satisfied that appointees to the Pension board do not have a conflict of interest (initially and on an ongoing basis).
- This is defined in the PSPA as "'a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme)".

- 5.3. It is important to note that local authority legislation (such as the delegating of functions via a local authority committee or allowing co-opted members to sit on such a committee) will not apply to this new Pension Board as it will be constituted under the Public Service Pensions Act (rather than any Local Government Act). Accordingly the LGPS

regulations, when made, will include the appropriate powers and limitations for the creation of the Pension Board.

6. Creation of the Shropshire Pension Board

6.1. The consultation on the draft regulations closed on 15 August 2014. Since the first set of draft regulations were issued a further set of draft regulations were issued with a five week consultation period which closes on the 21 November. There were only a few minor differences between the second set of draft regulations and the first set which were issued at the end of June and these are summarised below:-

- Previously elected members of any authority were not permitted to sit on the local Pension Board but this will now be permissible albeit this has been introduced with the proviso that any elected member or officer of the Administering Authority who is responsible for the discharge of any LGPS function cannot be a member of the Board.
- It is now quite clear that Administering Authorities will have their own flexibility to draft the terms of reference rather than being required to fit within section 270 of the Local Government Act 1972.

6.2. Final regulations are expected to be made in late December 2014 with some of the provisions effective from 1 January 2015 to allow the establishment of these bodies before the deadline date of 1 April 2015.

6.3. The key stages to implementing the new Pension Board include:

- Developing terms of reference
- Formally agreeing creation of the Pension Board (by Council)
- Inviting nominations to sit on the Pension Board and then holding interviews
- Training (likely three separate days)
- Agreeing and developing the format of reporting packs.

6.4. The end result will likely be as illustrated overleaf:



- 6.5. At Pensions Committee in June 2014 it was agreed a Task and Finish Group would be created to take forward these proposals with decisions around the final recommendations to Council relating to the creation of the Pension Board delegated jointly to the Chairman of the Pensions Committee and Head of Finance, Governance and Assurance.
- 6.6. Since the Pensions Committee in June 2014, the following discussions have taken place:
- preparation meeting (Head of Treasury & Pensions, Pensions Administration Manager, Monitoring Officer, Head of Finance, Governance and Assurance, Aon Hewitt Governance Specialists) – consideration of key principles and timetable,
 - Task & Finish Group (Head of Treasury & Pensions, Vice-Chairman of Pensions Committee, Aon Hewitt Governance Specialist) – review of draft terms of reference.
- 6.7. The following timetable has been developed for implementation of the Shropshire Pension Board however dates may change depending on when the final regulations are issued:

Drafting Terms of Reference (complete)	August / September 2014
Task & Finish Group (complete)	September 2014
Update Pension Committee (complete)	September 2014
Group Leaders sign off (complete)	November 2014
Council	18 December 2014
Final Regulations expected	Late December 2014/January 2015
Review Terms of Reference (if required)	January 2015
Elections/nominations	February 2015 – March 2015
Training of Board Members	February 2015 – April 2015
Commencement Date	1 April 2015

- 6.8. In accordance with the delegations agreed at the last Pensions Committee, a set of draft Terms of Reference has been agreed by the Vice-Chairman (in the absence of the Chairman) and Head of Finance, Governance and Assurance, following the advice of the Task and Finish Group. They have also been considered and approved by the Council's Monitoring Officer. The key elements of these Terms of Reference (subject to the final regulations) are summarised in Appendix A for noting by Council.
- 6.9. Due to a revised set of draft regulations being issued, the final regulations which were originally expected to be issued in October 2014, have been delayed until late December 2014 or January 2015. Although the setting up of the new Pension Board requires approval by Council before the deadline of the 1 April 2015 it is likely that the election of representatives to the Board and the training of Board Members will now be undertaken after this date due to this delay by Government.
- 6.10. Council are asked to approve the setting up of the new Pension Board and delegate authority to the Head of Finance Governance and Assurance to make any minor amendments to the Terms of Reference if necessary once the final regulations have been issued.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Pensions Committee, 20 June 2014 & 19 September 2014, Fund Governance & Creation of Pension Board.

Cabinet Member

Keith Barrow – Leader of the Council.

Local Member

N/A.

Appendices

Appendix A – Key Principles of Pension Board.

Appendix A – Key Principles of Pension Board Proposal

Role of the Local Pension Board

Restricted to requirements of Public Service Pensions Act i.e. assisting in:

- securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS.
- securing compliance with requirements imposed in relation to the LGPS by the Pensions Regulator.
- ensuring the effective and efficient governance and administration of the LGPS for the Shropshire County Pension Fund.

The role of the Board will be oversight of these matters and not decision making.

Composition of the Pension Board

The Pension Board shall consist of 4 members as follows:

- 2 employer representatives
- 2 scheme member representatives.

An independent member and substitute members may also be included in the composition of the Pension Board at the discretion of the Appointment Panel (a panel of two officers consisting of the Monitoring Officer or Deputy Monitoring Officer and Section 151 Officer or Deputy Section 151 Officer).

Appointment of members of the Pension Board

The Appointment Panel will determine any eligibility and/or selection criteria.

- Employer representatives – each employer will be invited to nominate one representative to represent employers on the Pension Board.
- Scheme member representatives – all active, deferred and pensioner scheme members will be invited to submit applications to join the Pension Board.
- no officer or elected member of an Administering Authority who is responsible for the discharge of any LGPS function can be a member of the new board

The applications and nominations will then be subject to a selection process by the Appointment Panel.

Term of Office

The term of office will be for 4 years with a possible extension for up to 2 years, with reappointment permitted after a further appointment process.

Location and Timing

The Board will meet a minimum of twice in each calendar year.

Receipt of Advice and Information

The Board will have access to the officers of Shropshire County Pension Fund and, via them, and where considered appropriate, access to the advisers to the Shropshire County Pension Fund. In addition Pension Board members will receive the final reports, minutes and agendas relating to all Pensions Committee meetings and may attend Pensions Committee meetings (including during exempt items).

Insofar as it relates to the role of the Pension Board, it may also;

- request and receive information and reports from the Pensions Committee or any other body or officer responsible for the management of the Fund

- examine decisions made or actions taken by the Pensions Committee or any other body or officer responsible for the management of the Fund.

Knowledge and Skills

Board members will be required to the knowledge requirements of the Public Service Pensions Act (i.e. being conversant with pension matters relating to their role), including participating in training events, undertaking a personal training needs analysis or other method to identify gaps in skills, competencies and knowledge, complying with the Pension Fund's Training Policy insofar as it relates to Pension Board members.

Minutes

The minutes of the Pension Board will be submitted to the Pensions Committee as standard.

Standards of Conduct

The main elements of the Council's Code of Conduct will apply to Board members.

Access to the Public and Publication of Pension Board information

The Pension Board will be treated in the same way as a Committee of Shropshire Council and, as such, members of the public may attend and papers will be made public in accordance with the Access to Information Rules in Shropshire Council's Constitution.

Expense reimbursement, remuneration and allowances

An allowance will be made to both Employer and Scheme Member Representatives for attending meetings relating to Pension Board business (including attending training) at the rates contained in the Members' Allowances Scheme in the Shropshire Council's Constitution for co-opted members of a Shropshire Council Committee. No allowance will be paid if the Board member is performing this role within their normal working day without any reduction in pay. All Pension Board members will also be entitled to claim travel and subsistence allowances at rates contained in the Members' Allowances Scheme in the Shropshire Council's Constitution. All costs will be recharged to the Pension Fund.