

**REPORT TO: PENSION INVESTMENT SUB-COMMITEE
OF THE POLICY AND RESOURCES COMMITTEE – 27TH OCTOBER 2014**

REPORT ON: LGPS (Scotland) – NEW GOVERNANCE ARRANGEMENTS

REPORT BY: DIRECTOR OF CORPORATE SERVICES

REPORT NO: 387-2014

1 PURPOSE OF REPORT

This report provides an overview of the new governance arrangements and documentation available which accompany the 2015 scheme and the steps required by each administering authority to form a local Pension Board by 1st April 2015.

2 RECOMMENDATION

The Sub-Committee are asked to:

- Note the contents of this report;
- Provide advice on employer representative membership of the Pension Board;
- Agree that authority be delegated to the Chair to approve the Tayside Pension Fund response to the draft regulations in consultation with the members of the Sub-Committee.

3 FINANCIAL IMPLICATIONS

The cost of set up of the Pension Board and the training expenses involved will have to be met by the fund as will be a proportion of the costs relating to the national Scheme Advisory Board which should be in line with the size of fund. These costs are unknown at present.

4 BACKGROUND

Following a discussion paper presented at the Pension Investment Sub-Committee meeting on 3rd March 2014 on the Tayside Pension Fund response to Scottish Government relating to new governance arrangements as introduced by the Public Services Pensions Act 2013 which changes the role of the Pensions Regulator in respect of public service schemes and the set up of 2 new bodies (a Scheme Advisory Board to act at a national level and each scheme having a Pension Board at a local level). The Act also introduced the new terminology for administering authorities and their respective committees to be known as “scheme managers”. Following consideration of these stakeholder responses agreements have been made and timetables have been formalised to implement the changes to scheme governance.

4.1 SCHEME ADVISORY BOARD

This body will have responsibility for providing advice to the responsible authority (Scottish Ministers), at the authority's request, on the desirability of changes to the scheme as well as providing advice to the scheme managers or the scheme's pension boards in relation to the effective and efficient administration and management of their schemes.

4.2 **PENSION BOARD**

This body set up locally will have the responsibility for assisting the scheme manager in securing compliance with requirements imposed by the Pensions Regulator and the scheme regulations or other legislation relating to the governance and administration of the scheme.

5 **HEADS OF AGREEMENT FOR NEW GOVERNANCE ARRANGEMENTS**

In June 2014, employers and trade unions approved Heads of Agreement for the new governance arrangements. The intention is that the regulations will reflect these and the requirements of PSPA 2013. The Heads of Agreement document is included at Appendix A.

6 **MODEL CONSTITUTION OF PENSION BOARDS**

The model constitution was agreed in September by Scottish Local Government Pension Administration Group (SLOGPAG). This sets out the administrative arrangements for pension boards. Representatives of employers and trade unions will agree the local parameters. The Model Constitution document is included at Appendix B and attention is drawn to the requirement for a minimum of 4 local authority employer representatives and 4 trade union employee representatives.

7 **DRAFT REGULATIONS**

Draft regulations were released on 30th September with the consultation period running from then until 11th November. In light of the timescales, it is proposed that authority be delegated to the Chair to approve the response in consultation with members of the sub committee.

8 **TIMETABLE FOR IMPLEMENTATION**

The regulatory timetable does not allow sufficient time for implementation of the new arrangements to begin after the regulations are laid. Implementation will therefore need to begin on the basis of the Heads of Agreement, Model Constitution and draft regulations. A timetable of proposed establishment and implementation provided by COSLA is attached at Appendix C.

9 **CONCLUSIONS**

A number of key decisions will need to be taken by administering authorities before Pension Boards can be formed.

10 **POLICY IMPLICATIONS**

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

11 **CONSULTATIONS**

The Chief Executive and the Head of Democratic and Legal Services have been consulted in the preparation of this report.

12 **BACKGROUND PAPERS**

None

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27 OCTOBER 2014

SCOTTISH LOCAL GOVERNMENT PENSION SCHEME GOVERNANCE – HEADS OF AGREEMENT

Introduction

The UK Public Service Pensions Act sets out new governance requirements for pension funds across the UK, implementing the Hutton recommendations. The SPPA has recently consulted on new arrangements and SLOGPAG has considered the responses and the views of key stakeholders. This paper sets out the Heads of Agreement for a new governance structure in Scotland.

It is recognised that governance arrangements will be subject to on-going review to reflect changes in, or interpretation of, legislation and best practice. For example, interpretation of the current legal requirements of the Institutions for Occupational Retirement Provision (IORP) Directive and any changes as a result of the new proposed IORP Directive. The Heads of Agreement for the new scheme (agreed in December 2013) also sets out the process for a wider review of structures which could impact future governance arrangements.

It is also recognised that these arrangements will be subject to the views and agreement of Scottish Ministers.

Scheme Advisory Board

The Scheme Advisory Board is the body responsible for providing advice to the Responsible Authority (Scottish Ministers), on the desirability of changes to the scheme. The Scheme Advisory Board also provides advice to the Scheme Managers and Pension Boards in relation to the effective and efficient administration and management of the scheme.

The new scheme advisory board is not a big change in Scotland as we have had a similar body in SLOGPAG for many years. The main elements of the Scheme Advisory Board should be as follows:

- It will be a bipartite body with representatives from local government employers and trade unions. The Scottish Government will be present as observers.
- There will be 7 employer and 7 trade union representatives. Substitute representatives will be available and will have undergone the requisite training and development to inform their role.
- The Chair will be rotated on an annual basis or an independent Chair may be appointed by Scottish Ministers.
- The secretariat will be provided by two Joint Secretaries, appointed from COSLA and the Trade Unions.
- Advisors e.g. Directors of Finance will also attend the Board but will not have membership status.

- Observers e.g. Scottish Government will also attend the Board but will not have membership status.

Pension Boards

Pension Boards will be established covering each fund in Scotland and will be the body responsible for assisting the Scheme Manager in relation to compliance with scheme regulations and the requirements of the Pensions Regulator.

The consultation process indicated a difference between the employer and trade union views on having pension boards in addition to the current structure or merging them into one board. A hybrid solution has therefore been agreed that would retain the pension committee of the administering authority with membership appointed under current arrangements and responsibility for fund management.

While the roles and function of pension committees and pensions boards will be set out in the regulations, the normal practice would be that both bodies would meet at the same time to consider the same agenda, with the Chair of the pension committee chairing the concurrent meeting. This innovation will result in a positive and proactive partnership culture where in practice the two bodies act as one.

New pension boards would also be established as follows:

- Membership would consist of equal numbers of trade union representatives and employers drawn from other councils and scheduled or admitted bodies in membership of that fund.
- As a minimum there will be 4 trade union and 4 employer representatives with the expectation that larger funds will require greater numbers. Numbers from organisations on either side will broadly reflect respective membership in the scheme.
- The Chair will be rotated on an annual basis.
- The secretariat will be provided jointly from the pension fund and the local trade union representatives.
- Advisors and observers will also attend the Board but will not have membership status

There will be a model constitution setting out the administrative arrangements for pension boards. Representatives of employers and trade unions will define the local parameters in addition to the model constitution. If there is difficulty in agreeing those local parameters, the Scheme Advisory Board can act as a point of resolution.

The pension board will determine the areas they wish to consider including, amongst others:

- Reports produced for the pensions committee
- Requisition reports from the scheme managers on any aspect of the fund
- Monitor investments and the investment principles/strategy/guidance
- The fund annual report
- External voting and engagement provisions
- Fund administrative performance
- Actuarial reports and valuations
- Funding policy

- Any other matters that the pensions board deem appropriate

If the pension committee and pension board cannot reach joint agreement on any matter the process for resolving any differences between the two bodies will be as follows. Whilst this process is undertaken the decision of the pension committee is still competent.

In the first instance, if at least half of the members agree, then the pension board can refer back a decision of the pensions committee for further consideration if any of the following grounds are met:

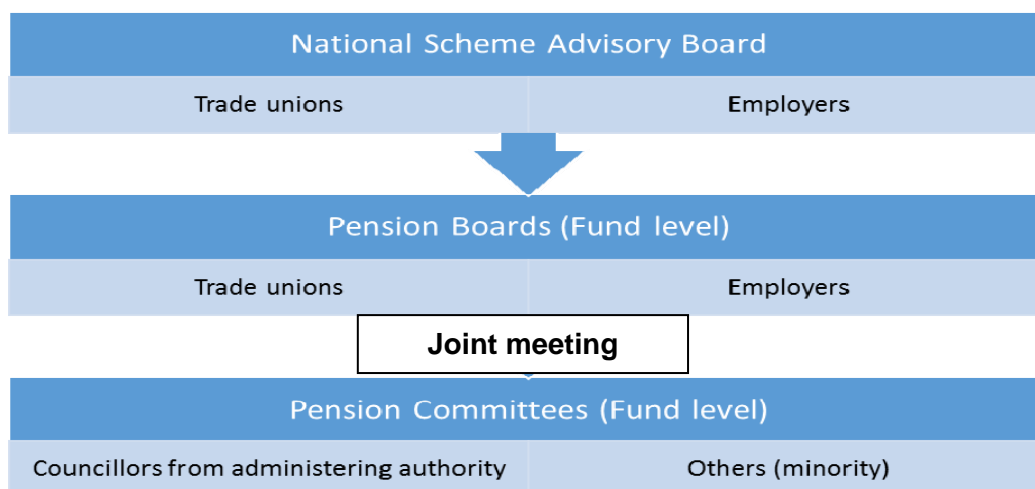
- That there is evidence or information which it is considered needs re-evaluating or new evidence or data which the pensions Committee did not access or was not aware of at the point of decision making and which is considered material to the decision taken;
- That the decision of the pensions Committee could be considered illegal or contrary to regulations;
- That the decision of the pensions Committee is contrary to a relevant Code of Practice published by the Pensions Regulator; or
- That the decision is not in the interest of the continued financial viability of the Scheme or is against the principles of proper and responsible administration of the Scheme

If there is no agreement after the matter has been referred back to the pensions Committee, then the difference in view between the Pension Board and the Pension Committee should be published in the form of a joint secretarial report on the fund website and included in the fund annual report.

It may then be appropriate for the Scheme Advisory Board to consider and take a view on the matter and, if considered appropriate, to provide advice to the Scheme Manager or the pension board in relation to the matter.

There will be an agreed training programme for all members of pension committees and pension boards. All administration costs will be met by the relevant fund.

The structure is shown diagrammatically below.



PENSION BOARD MODEL CONSTITUTION

1. Introduction

1.1 Each Local Government Pension Scheme Manager in Scotland is required to establish a Pensions Board separate from the Pensions Committee that acts as the Scheme Manager.

1.2 The (*name of fund*) Pension Board is established under the provisions of the Regulations 2015.

2. Objectives

2.1 The Pension Board is the body responsible for assisting the Scheme Manager in relation to compliance with scheme regulations and the requirements of the Pensions Regulator.

2.2 The Pension Board will determine the areas they wish to consider including, amongst others:

- Reports produced for the pensions committee
- Seek reports from the scheme managers on any aspect of the fund
- Monitor investments and the investment principles/strategy/guidance
- The fund annual report
- External voting and engagement provisions
- Fund administrative performance
- Actuarial reports and valuations
- Funding policy
- Any other matters that the pensions board deem appropriate

3. Membership

3.1 Membership of the Pension Board will consist of equal numbers of trade union representatives and employer representatives, drawn from councils and scheduled or admitted bodies in membership of the fund. Pension Board representatives must not also participate in or act as members of the pensions committee. Local Authority employer representatives will normally be Elected Members serving as part of the Council.

(As a minimum there will be 4 trade union and 4 employer representatives with the expectation that larger funds will require greater numbers. Numbers from organisations on either side will broadly reflect respective membership in the scheme.)

3.2 There will be (*number*) trade union representatives appointed by the trade unions as follows:

GMB
UCATT
UNISON
Unite

3.3 There will be (*number*) employer representatives appointed by the respective employer organisations as follows:

Councils
Scheduled bodies
Admitted bodies

(In smaller funds it may be possible to name the councils and other bodies. In larger funds describe the way representatives of these groups are appointed e.g. at the pension fund annual meeting)

3.4 Pension Board representatives will serve for a period of four years and may be reappointed to serve further terms. Timescales for organisations to notify the Pension Board of their representatives shall be locally determined. Employer bodies and organisations retain the right to withdraw representatives and identify replacements on occasion.

3.5 Appointing bodies can appoint a named substitute for their representative. Such substitutes must undertake the same training as set out in (6) below.

3.6 Advisors may attend meetings of the Pension Board in a non-voting capacity.

3.7 No person may be appointed to the Pension Board that has a significant conflict of interest. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Pension Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme for which the board is established. The Pension Board will adopt policies and protocols for handling any conflicts that were unanticipated and might arise during membership.

4. Meetings

4.1 The Chair of the Pension Board will be rotated on an annual basis between the trade union and employer sides of the Pension Board.

4.2 Pensions Board meetings will be administered by (*pension fund or administering authority depending on local practice*) as agreed with Joint Secretaries appointed by the trade union and employers sides of the Pension Board. All reasonable administration costs shall be met by the fund.

4.3 The Pensions Board should meet at least quarterly. A majority of either side may requisition a special meeting of the Pension Board in exceptional circumstances.

4.4 The Pensions Board may establish sub-committees.

4.5 While the statutory roles and function of the pension committee and pensions board are separate, the normal practice will be that both bodies will meet at the same time to consider the same agenda, with the Chair of the pension committee chairing the concurrent meeting. The

aim is to engender a positive and proactive partnership culture where in practice the two bodies act as one.

5. Dispute resolution

5.1 If the Pension Committee and Pension Board cannot reach joint agreement on any matter the process for resolving any differences between the two bodies will be as follows. Whilst this process is undertaken the decision of the Pension Committee is still competent.

5.2 In the first instance, if at least half of the members agree, then the pension board can refer back a decision of the pensions committee for further consideration if any of the following grounds are met:

- That there is evidence or information which it is considered needs re-evaluating or new evidence or data which the Pensions Committee did not access or was not aware of at the point of decision making and which is considered material to the decision taken;
- That the decision of the Pensions Committee could be considered illegal or contrary to regulations;
- That the decision of the Pensions Committee is contrary to a relevant Code of Practice published by the Pensions Regulator; or
- That the decision is not in the interest of the continued financial viability of the Scheme or is against the principles of proper and responsible administration of the Scheme

5.3 If there is no agreement after the matter has been referred back to the pensions Committee, then the difference in view between the Pension Board and the Pension Committee will be published in the form of a joint secretarial report on the fund website and included in the fund annual report.

5.4 The Scottish LGPS Scheme Advisory Board may also consider and take a view on the matter and, if considered appropriate, provide advice to the Scheme Manager or the pension board in relation to the matter.

6. Training

6.1 All members (and named substitutes) of the Pensions Board must undertake a training programme in accordance with any guidance issued by the pensions regulator and complying with best practice training requirements of the Pensions Committee.

6.2 The Pensions Board shall agree policies and arrangements for the acquisition and retention of knowledge and understanding for pension board members

6.3 The Scheme Manager will keep an updated list of the documents with which they consider pension board members need to be conversant to effectively carry out their role and make sure that both the list and the documents are accessible.

7. Access to Information

7.1 The Scheme Manager and Pensions Board will together ensure that information is published about the activities of the board including:

- the full terms of reference for the pension board, including details of how they will operate

- the pension board appointment process
- who each individual pension board member represents and
- any specific roles and responsibilities of individual pension board members.

7.2 The minutes of the Pension Board will be published on the fund website. The Pensions Board may undertake such communications and stakeholder engagement as it deems appropriate to perform its functions.

SUGGESTED TIMETABLE FOR PENSION BOARD ESTABLISHMENT
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The time periods within this document are suggestions only and indicative of existing mechanisms. Local decision making remains key to the success of the establishment of Pension Boards for the LGPS and Pension Fund Managers should exercise discretion in confirming their own timetable whilst maintaining a constructive dialogue with employer and employee representatives.

<i>Activity</i>	<i>Responsibility</i>	<i>Timescale</i>	<i>Dependencies</i>
Communication to Pension Fund Managers and Scottish Council	COSLA	30/09/2014	
Trade Union Side have Pensions Champions meeting on 30/09/14.	Trade Unions	30/09/2014	
Draft Pension Board appointments process	Administering Authority	31/10/2014	Letter of Comfort from Cab Secretary.
Begin discussions on local negotiations using Model Constitution document (see appendix)	To Be Determined by Administering Authority and Trade Union Representatives	30/11/2014	Trade Union Regional organisers to have consulted with branches re views of employee side.
Agree Local Negotiation Outputs through Committee	Administering Authority	31/12/2014	Committee cycle.
Identification of Employee Side nominees	Trade Union Regional organisers	31/01/2015	Via the process agreed for each Trade Union.
Identification of Employer Side nominees	Scottish Councils and Other Employers	28/02/2015	Pension Fund managers to liaise with each employer.
Training of Employee Side nominees	Trade Union Regional organisers	28/02/2015	Training delivered by each Trade Union to their reps.
Agree Pension Board membership from Employers through Committee	Administering Authority	31/03/2015	Committee cycle.