

Open Report on behalf of Pete Moore, Executive Director of Finance and Public Protection

Report to:	County Council
Date:	20 February 2015
Subject:	Local Pension Board for Lincolnshire Pension Fund

Summary:

The Public Sector Pensions Act 2013 introduced a requirement for all public sector pension schemes to put in place a Local Pension Board for the 1st April 2015, to be fully operational within 4 months thereafter. This will require the creation of a Local Pension Board for the Lincolnshire Pension Fund, which is part of the Local Government Pension Scheme. This paper details the requirements of the Act and seeks decisions to enable the establishment of the Board within the statutory timeframe.

Recommendation(s):

That the Council:

- 1) Notes the legal requirement for consultation in accordance with the Regulations on the Pension Committee's Governance Compliance Statement and delegates the scope and process of this to the Executive Director of Finance and Public Protection, as the delegated officer.
- 2) Delegate the decision to approve the establishment, composition and terms of reference for the Local Pension Board, having first had regard to the outcome of the consultation, to the Executive Director of Finance and Public Protection, as the delegated officer.
- 3) Approve a change to the constitution to provide for the Pension Committee to have regard to the advice of the Local Pension Board once established.

1. Background

- 1.1 The Public Service Pensions Act (PSPA) 2013 introduces a number of changes to public service pension schemes, including a number of key changes impacting on the governance of public service pension schemes. One of the key changes is the requirement for each Administering Authority in the Local Government Pension Scheme (LGPS) to create a local Pension Board. The Secretary of State for Communities and Local Government

(DCLG) has considering how these changes are to be incorporated into the LGPS and the final Regulations were laid on 28th January 2015 and are attached at appendix A for information.

- 1.2 The Lincolnshire Pension Fund is administered by Lincolnshire County Council as the administering authority which is, under the PSPA 2013, the "Scheme Manager". The County Council have previously delegated responsibility for the management of pension issues to the Pensions Committee, with day-to-day operational matters delegated to the Executive Director of Finance and Public Protection. It is the Scheme Manager's responsibility to establish the Local Pension Board.
- 1.3 In very simple terms, the Pension Board can be seen as performing an advisory function in terms of certain decisions taken by the Pensions Committee (as opposed to the employer), in meeting the requirements of the regulations and acting in the best interests of its scheme members.
- 1.4 The key elements of the regulations and draft guidance relating to local Pension Boards are outlined below and were taken to the Value For Money Scrutiny Committee on 25th November 2014:

Establishment

- Each LGPS Administering Authority is required to establish a Local Pension Board no later than 1 April 2015.
- 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. Accordingly, it is expected most local authority Administering Authorities will create a separate Pension Board (i.e. in addition to any existing Pension Committee).
- The role of the Pension Board is to assist the Administering Authority with:
 - securing compliance with regulations and requirements imposed by the Pensions Regulator; and
 - ensuring effective and efficient governance and administration of the Scheme, including funding and investments.
- The Pension Board will have an oversight role, but not a decision-making role.
- Each Administering Authority will be required to determine its own procedures relating to the establishment and operation of the Pension Board.

- Expenses of the Board are to be regarded as costs of administration of the Fund, and are therefore paid by the Pension Fund.

Membership and Appointment

- The Administering Authority shall determine the membership of the Board, including the manner in which members may be appointed and removed.
- 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).
- These representatives must have "capacity to represent" their respective stakeholders as well as meeting an ongoing legal requirement in relation to knowledge of pension matters.
- The Administering Authority should provide high quality pre-appointment training to proposed members.
- Board members cannot be elected members on a Pension Committee, or officers involved with the management of the Pension Fund, for that authority.
- Other elected members can be appointed to the Pension Board, but this must be as either an employer representative or a scheme member representative.
- Methodology for appointment must ensure that representative Board members are truly representative.
- All employers and members within a Fund must have equal opportunity to be nominated through an open and transparent process.

Conflicts of Interest

- Each Administering Authority must be satisfied that appointees to a 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)".

Guidance

- An Administering Authority must have regard to guidance issued by the Secretary of State (draft attached at Appendix B).

1.5 Within existing Regulations it is a requirement of the Administering Authority that they publish a Governance Compliance Statement, which details how it delegates its functions, and it is required to consult on any material changes to this statement. The creation of the Local Pension Board is considered a material change so the existing Governance Compliance Statement will have to be revised to take account of the Local Pension Board which triggers an obligation to consult with such persons as it thinks necessary, as per the statutory guidance. The guidance specifically refers to this consultation duty. In this instance, 'such persons as it thinks necessary' are the scheme members and the scheme employers.

1.6 Therefore the Council, acting in its capacity as the Administering Authority, is asked to:

Note the legal requirement for consultation in accordance with the Regulations about the revised governance compliance statement which includes 'details of the terms, structure and operational procedures relating to the Local Pension Board', prior to the establishment of the Local Pension Board on 1st April 2015. In addition, that it delegate the scope and process of this to the Executive Director for Finance and Public Protection, as the delegated officer.

1.7 The guidance makes it clear that the establishment of the Board, its composition and terms of reference, must have been approved in accordance with the Administering Authority's own Constitution by 1st April 2015 (it must be fully operational by four months thereafter). This may be done by the Administering Authority (Full Council) or delegated to the Pensions Committee or an officer. However, the establishment of the Board cannot happen until after the consultation, which itself cannot happen until final regulations are laid.

1.8 Therefore this paper seeks a **recommendation** to the Council that:

Full Council delegates the decision to approve the establishment, composition (including appointments) and terms of reference for the Local Pensions Board, having first had regard to the outcome of the consultation process, to the Executive Director for Finance and Public Protection, as the delegated Officer.

1.9 The creation of a Local Pensions Board has an impact of the Council's Constitution in relation to the existing Pension Committee function. This change in the law will require the Pension Committee to have regard to the advice of the Local Pension Board in fulfilling their functions. That will mean that the Constitution will also need to be amended to reflect this change.

1.10 Therefore this paper seeks a **recommendation** to the Council that:

Full Council approve a change to the constitution to provide for the Pension Committee to have regard to the advice of the Local Pension Board in exercising its functions.

1.11 Legal and Democratic Services have provided advice and support and will continue to assist with the establishment of the Local Pension Board in line with the Regulations and Guidance.

2. Equality & Diversity Considerations

2.1 Consideration has been given to the Council's duties under the Equality Act 2010 and these will be taken into account by the Executive Director of Finance and Public Protection in the exercise of his delegated functions.

2. Conclusion

2.1 The Public Service Pensions Act (PSPA) 2013 requires that all Public Sector Pension Schemes create Local Pension Boards. For Lincolnshire County Council this means the establishment of a Local Pension Board for the Lincolnshire Pension Fund, as part of the Local Government Pension Scheme. This paper brings three recommendations to the Council to ensure that the Pensions Board is established, following consultation, by the statutory deadline of 1st April 2015, and amends the constitution to provide for the Pension Committee to have regard to the advice of the Local Pension Board, once established.

3. Legal Comments:

The legal basis on which the Recommendations are put forward are accurately set out, including the duty to consult at paragraph 1.5 of this report.

The decisions are within the remit of Full Council, which is taking such decisions acting in its role as Administering Authority on behalf of the Lincolnshire Pension Fund.

4. Resource Comments:

There will be modest additional costs presently estimated to be up to £10k pa in operating the Pensions Board. These costs will fall to the pension fund and not the County Council.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

n/a

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015
Appendix B	Local Government Pension Scheme Guidance on the creation and operation of Local Pension Boards in England and Wales (NOTE: due to the size of this document, it has only been circulated electronically. Paper copies are available on request)

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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