

SURREY COUNTY COUNCIL

SURREY PENSION FUND BOARD

DATE: 19 SEPTEMBER 2014

LEAD OFFICER: SHEILA LITTLE, DIRECTOR OF FINANCE

SUBJECT: LOCAL GOVERNMENT PENSION SCHEME: DRAFT GOVERNANCE REGULATIONS



SUMMARY OF ISSUE:

The report explains the planned changes to the governance of the Local Government Pension Scheme (LGPS) as a result of the Public Service Pensions Act 2013 and draft Regulations recently issued. A key requirement is for a proposed new local Pension Scrutiny Board to monitor compliance with rules and standards.

RECOMMENDATIONS:

It is recommended that the Pension Fund Board:

- 1 Note the report.
- 2 Note the response to the consultation from the Surrey Pension Fund.

REASON FOR RECOMMENDATIONS:

The Pension Fund Board must be aware of all governance Regulations for the administration of the Pension Fund.

DETAILS:

Background

- 1 The changes introduced by the Public Service Pensions Act 2013 Act are aimed at achieving a more coherent and consistent system to provide assurance that benefits are paid, contributions are received and the Code of Practice is followed in accordance within the law and subject to good practice. The new arrangements are due to be in place by 1 April 2015 and draft Regulations have been published.
- 2 The recently published draft Regulations are shown as Annex 1.

Distinct Roles set out by the Act

- 3 The Act sets out four distinct roles to be performed for each of the public service pension schemes.

- 4 Under the Act, the Responsible Authority is the person who makes Regulations for the scheme. In the case of the LGPS, this is the Secretary of State for Communities and Local Government. Although not mentioned in the Act, the Secretary of State will continue to be responsible for policy. Clause 3(5) of the Act provides that the consent of HM Treasury is required before any regulations can be made.
- 5 The **Scheme Manager** is 'the person responsible for managing or administering' the scheme and any other statutory scheme connected with it. For the LGPS, the Scheme Manager is the administering authority as currently defined by LGPS regulations, i.e., Surrey County Council for the Surrey Pension Fund. The Surrey Pension Fund Board has delegated authority to take decisions pertaining to the running of the pension fund.
- 6 The **Pension Board** (overseeing/scrutiny Board) is a new creation and will have responsibility for assisting the Scheme Manager in securing compliance with scheme Regulations, other legislation covering governance and administration, and the requirements of the Pensions Regulator. Such boards will operate at the Fund level for the LGPS.
- 7 The **National Scheme Advisory Board** has responsibility for providing advice to the Responsible Authority and the Pension Boards. The remit and membership of this Board will be set out in Regulations, which have yet to be published. In order to assist that process a shadow board has been set up in order to put this structure to the test before setting it out in regulation.
- 8 The role of the **Pensions Regulator** was established by the Pensions Act 2004 to regulate work based pensions. Its primary statutory objectives are to protect member benefits, to promote and to improve understanding of the administration of work based pension schemes and to maximise employer compliance with employer duties and employment safeguards. The Pensions Regulator will now play a key role within the LGPS, linking the Scheme Advisory Board and Local Boards to the Secretary of State. They will have Regulatory oversight, must produce a code of practice and report on any breaches.

Scrutiny Board

- 9 One of the provisions of the Public Service Pensions Act 2013 will be the requirement to establish the new Pension Board to provide for oversight and scrutiny of the Fund.
- 10 The new Pension Board has responsibility for assisting the scheme manager in relation to the following matters:
 - (a) securing compliance with the scheme Regulations and other legislation relating to the governance and administration of the scheme;
 - (b) securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator;
 - (c) such other matters as the scheme Regulations may specify, i.e. statutory guidance, risk register, KPIs, etc.

- 11 Therefore, it is understood that the new Board, required to be in place for each Fund, will undertake a broad monitoring and scrutiny function for the Pension Fund, and support the County Council as the Administering Authority in the tasks set out above. It will not take on the functions currently delegated to the existing Pension Fund Board, but the County Council will need to consider what the governance relationship should be between the new Board and the existing Pension Fund Board, and whether the role, terms of reference or membership of the existing Pension Fund Board should be changed. The current understanding of officers is that no change to the existing terms of reference for the Pension Fund Board will be required. The new Board's terms of reference will reflect the overseeing and scrutiny role proposed by the draft Regulations.
- 12 Each Administering Authority, i.e., the County Council, has to establish their new Board by 1 April 2015. Its expenses will form part of the administration costs of the Fund.
- 13 The new Board will be responsible for assisting the Administering Authority with securing compliance with the Regulations, any other legislation relating to the governance and administration of the scheme, and requirements imposed by the Pension Regulator.
- 14 The new Board could be merged with the existing Pension Fund Board, but this would need specific agreement by the Secretary of State. In practice, the Secretary of State will need to be satisfied that there is no conflict of interest with such an arrangement. Officers regard this option as unworkable.
- 15 Under the draft Regulations, the new Board could either be established as if under Section 101 of the 1972 Local Government Act, or the Administering Authority could establish its own procedures which apply, e.g., on voting, paying expenses, etc. The first option is as if it the Panel was a statutory committee, governed by legislation, while the second option is more flexible for local choice. The outcome of the consultation process will assist the Government in making a choice of these two options, i.e., Section 101 Committee or flexible option.
- 16 The new Board must include an equal number of employer and fund member representatives, which should be no less than four (two from the employers and two from the employees). Administering Authorities should establish how the Board members are appointed, but these representatives should not be local councillors. Local councillors could be permitted as additional new Board representatives, but should not exceed the number of employer and employee representatives. Representatives must have relevant experience and capacity to represent their stakeholders and should have no conflict of interest.

Consultation

- 17 The Regulations are still in draft form and comments were sent in by officers by the deadline of 14 August 2014, shown as Annex 2. Any changes to the current council committee arrangements will need to be achieved by means of an amendment to the Council's Constitution and approved by full Council before 1 April 2015.

Next Steps

- 18 A report recommending the new constitutional arrangements which need to be in place by 1 April 2015 will be taken to full Council. This will include proposals on membership of the Scrutiny Board, Terms of Reference, delegations, frequency of meetings and decision-making powers. The Pension Fund Board will be kept apprised of progress.
- 19 Guidance from the Pensions Regulator and LGA is currently being drafted. It is important that this guidance is forthcoming as the Draft Regulations on Scheme Governance only provide a very high level analysis of respective roles with little detail.

CONSULTATION:

- 20 The Chairman of the Pension Fund Board has been consulted on the report.

RISK MANAGEMENT AND IMPLICATIONS:

- 21 Risk related issues are contained within the report, most notably the very short timescale before required implementation, no published guidance and no final Regulations yet published.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 22 Financial and value for money implications will be discussed in future reports once a clear guidance has been published.

DIRECTOR OF FINANCE COMMENTARY

- 23 The Director of Finance will ensure that all material, financial and business issues and possibility of risks will be considered when a report is presented to full Council.

LEGAL IMPLICATIONS – MONITORING OFFICER

- 24 Legal implications or legislative requirements associated with this initiative will be addressed in the full Council report.

EQUALITIES AND DIVERSITY

- 25 Equalities and diversity implications associated with this initiative will be addressed in future reports.

OTHER IMPLICATIONS

- 26 There are no potential implications for council priorities and policy areas.

WHAT HAPPENS NEXT

- 27 The following next steps are planned:
 - A report recommending the formation of a new Board to go to full Council

Contact Officer:

Phil Triggs, Strategic Finance Manager (Pension Fund and Treasury)

Consulted:

Pension Fund Board Chairman

Annexes:

Annex 1: Draft LGPS Governance Regulations

Annex 2: Response to consultation process by the Surrey Pension Fund

Sources/background papers:

None

This page is intentionally left blank