



REPORT TO COUNCIL

FORMATION OF A NEW SURREY LOCAL PENSION BOARD

KEY ISSUE/DECISION:

Under the provisions of section 5 of the Public Service Pensions Act 2013 (“the 2013 Act”) and regulation 106 of the Local Government Pension Scheme (LGPS) Regulations 2013 (as amended) (“the Regulations”) each LGPS Administering Authority must establish a new Local Pension Board for the purposes of assisting the Administering Authority in all aspects of the LGPS. The Local Pension Board will be constituted separately to the existing Surrey Pension Fund Board which has delegated authority to carry out pension functions for the Council as the Administering Authority. Local Pension Boards must be established no later than 1 April 2015. This report sets out the requirement for Surrey County Council to create such a Local Pension Board and the administrative issues that need to be considered.

BACKGROUND:

1. Introduction

- 1.1 On 10 March 2011, Lord Hutton published his final report of the Independent Public Service Pensions Commission, making 27 recommendations for the reform of public service pension schemes, including:
 - a properly constituted, trained and competent local 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 pension schemes.
- 1.2 The Public Service Pensions Bill 2013 was introduced in the House of Commons on 13 September 2012 and received Royal Assent on 25 April 2013. The Public Service Pensions Act 2013 set out governance requirements for the new career average Local Government Pension Scheme (LGPS) which was introduced with effect from 1 April 2014.
- 1.3 Section 17 and Schedule 4 of the Act extended the regulatory powers of the Pensions Regulator (“the Regulator”) to cover some aspects of public service pension schemes, including the LGPS.

- 1.4 The LGPS (Amendment) (Governance) Regulations 2015 were laid before Parliament on 28 January 2015.

Regulation 106 of the Regulations states that the Local Pension Board has responsibility:

for assisting the administering authority [in our case the County Council]

(a) to secure compliance with:

(i) the scheme regulations;

(ii) any other legislation relating to the governance and administration of the Scheme and any connected scheme;

(iii) any requirements imposed by the Pensions Regulator in relation to the scheme;

(b) to ensure the effective and efficient governance and administration of the Scheme.

In addition the Local Board has power to do anything that is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

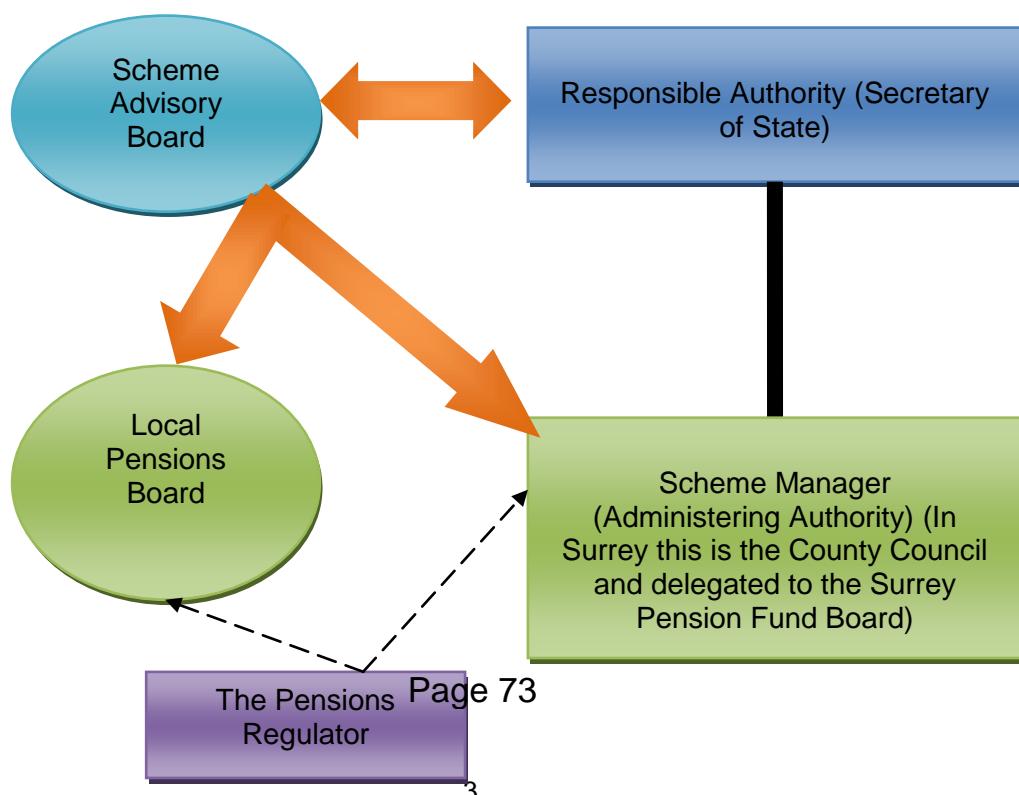
- 1.5 At its meeting on 19 March 2013, the full Council approved the formation of the Surrey Pension Fund Board in line with statutory requirements at the time and current best practice. This Board has delegated authority on behalf of the Council as Administering Authority to undertake the statutory functions required to run the Scheme.
- 1.6 The new Local Pension Board is constituted separately from the Surrey Pension Fund Board and will be an additional body set up to assist the Surrey Pension Fund Board in the exercise of its functions.
- 1.7 Existing arrangements pertaining to the management of the Surrey Pension Fund will not be affected, given the existing Surrey Pension Fund Board's responsibility for the governance and administration of the scheme. This will remain standard practice amongst the LGPS administering authorities in the UK. The new Local Pension Board will have no decision making powers, only the power to assist the Scheme Manager in an advisory capacity. Guidance has also been produced by the LGPS Shadow Scheme Advisory Board ("the Guidance") which the Administering Authority needs to take account of in establishing the Local Pension Board.
- 1.8 At the time the Surrey Pension Fund Board was established, the Council agreed that it would also carry out any functions of a Local Board in accordance with the legislation. There is provision within the Regulations for both functions to be exercised by the same body, i.e., the Surrey Pension Fund Board, albeit only with approval by the Secretary of State. However, for the purposes of independence, it is recommended that the scrutiny function be undertaken by a separate body as set out in this report.
- 1.9 This report relates to the creation of a separate Local Pension Board for the LGPS scheme. A separate report will recommend the formation of an additional Local Pension Board for the fire fighters' pension scheme.

2. Current Situation

- 2.1 The Surrey County Council (SCC) Pension Fund, part of the Local Government Pension Scheme (LGPS), represents a significant financial consideration with assets of over £3.0bn. At 31 March 2014, the Fund had a total membership of 84,767 members and over 140 external scheme employers participating in the fund.
- 2.2 The Surrey Pension Fund is one of 89 regional LGPS funds in England and Wales. These LGPS funds are legislated through the Superannuation Act 1972 and the following main statutory instruments:
- The Local Government Pension Scheme (Administration) Regulations 2008;
 - The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007;
 - The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2013;
 - The Local Government Pension Scheme (Transitional Provisions) Regulations 2008.
 - The Local Government Pension Scheme Regulations 2013
 - The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- 2.3 Each Administering Authority is responsible for managing, investing and administering its own LGPS fund. Local management of the LGPS will continue, with responsibility (in the 2013 Act) being allocated to a “Scheme Manager” (which will be the Administering Authority).

3. New Governance Structure

- 3.1 From 1 April 2015, the new governance structure of the LGPS can be summarised as follows:



The Responsible Authority

- 3.2 In accordance with section 2 of the 2013 Act, each LGPS pension scheme established under section 1 of the 2013 Act must have a ‘responsible authority’ which is the person who may make regulations for that scheme. In the case of the LGPS, the Responsible Authority is the Secretary of State.

Administering Authority/Scheme Manager

- 3.3 Section 4 of the 2013 Act requires that, in the case of a LGPS pension scheme established under section 1 of that Act, Regulations must provide for a ‘Scheme Manager’. The Scheme Manager is the person who is responsible for managing or administering the scheme. The Regulations specify that the ‘Scheme Manager’ responsible for the local administration of pensions and other benefits payable under the LGPS shall be each Administering Authority. In the case of the Surrey Fund, this is the Surrey County Council, which has in turn delegated these functions to the Surrey Pension Fund Board and to Council officers.
- 3.4 In the case of the LGPS, each Fund therefore has a Scheme Manager which is the Administering Authority. This contrasts with other public service pension schemes administered on a national basis, such as the Teachers’ Pension Scheme, where there is a single Scheme Manager for the whole scheme. The Administering Authority is responsible for maintaining and investing its own Fund for the LGPS. This means the Administering Authority is responsible for making all decisions relating to the operation of the Fund. The creation of a new Local Pension Board does not change the core role of the Administering Authority, or the way in which it delegates its pension functions.

Scheme Advisory Board

- 3.5 The Scheme Advisory Board for the LGPS is a national body established by the 2013 Act and is responsible for providing advice to the Secretary of State on the desirability of making changes to the LGPS; and to the Administering Authorities and Local Pension Boards in relation to the effective and efficient administration and management of the LGPS in its entirety and the individual Funds. The responsible authority must have regard to such advice.

Local Pension Board

- 3.6 Section 5 of the 2013 Act requires that, in the case of a pension scheme established under section 1 of that Act, regulations must provide for the establishment of a board with responsibility for assisting the Scheme Manager(s) in relation to specified matters. In turn, this has resulted in the requirement for the creation of Local Pension Boards for each Fund in the LGPS under the Regulations.
- 3.7 Regulation 106(1) of the Regulations specifies that each Administering Authority shall establish its own Local Pension Board with responsibility for assisting the Administering Authority to secure compliance with the Regulations, other legislation relating to the LGPS, and the requirements imposed by the Pensions Regulator in relation to the LGPS. It will also ensure the effective and efficient governance and administration of the LGPS.

- 3.8 The Local Pension Board will have the role of ensuring good governance and compliance with requirements imposed by legislation and the Pensions Regulator. In all cases, the Scheme Manager will retain ultimate responsibility for the administration and governance of the scheme. The role of the Local Pension Board is to support the Scheme Manager.
- 3.9 Local Pension Board members will be required to have proper knowledge and understanding of the Scheme. This would broadly cover the rules of the scheme, policy documentation, the law relating to pensions, and such other matters as may be prescribed. It is proposed that, for Surrey, the training requirements of both the Surrey Pension Fund Board and the Local Pension Board be combined.
- 3.10 The Scheme Manager needs to be satisfied that a person to be appointed as a member of the Local Pension Board does not have a conflict of interest. “Conflict of interest”, in relation to a person, means 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).

The Pensions Regulator

- 3.11 The 2013 Act introduces a framework for the Pensions Regulator’s regulatory oversight of aspects of governance and administration of all public service pension schemes (including the LGPS) with effect from 1 April 2015. The role of the Local Pension Board will see a direct communication link between that new body and the Pensions Regulator.
- 3.12 The 2013 Act provides the Regulator with a range of enforcement powers. However, these powers of the Regulator are not extended to cover the funding and investment of Funds.
- 3.13 The Regulator has issued a Code of Practice which covers:
 - i) knowledge and understanding requirements for local board members;
 - ii) conflicts of interest and representation;
 - iii) reporting breaches of law;
 - iv) publishing information about schemes;
 - v) internal controls;
 - vi) scheme record keeping;
 - vii) maintaining contributions;
 - viii) providing information to members;
 - ix) internal dispute resolution.

4. Constitution and Membership of a Local Pension Board

Constitution

- 4.1 Local Pension Boards must be established no later than 1 April 2015. Established in this context means that the Administering Authority must have approved the establishment of the Local Pension Board, its composition and also the terms of reference, in accordance with its constitution.

- 4.2 The Guidance indicates that 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 will be operational within a reasonably practicable period after 1 April 2015 (being no longer than four months). The recommended terms of reference for the Local Pension Board are set out in Annex 1.
- 4.3 The responsibility for establishing a Local Pension Board rests with the Administering Authority of each Fund. This is something the Administering Authority must do: it is not optional. The Administering Authority is given power under regulation 106(6) of the Regulations to determine the procedures applicable to its Local Pension Board, including the establishment of sub committees and the payment of expenses.
- 4.4 When exercising power (as provided for in the 2013 Act), the Administering Authority must do so in accordance with usual local government principles, acting reasonably and within the powers set out in the Regulations. However, the Board is not established as a committee of the Council under section 101 of the Local Government Act 1972 and the provisions of that Act do not relate to the Board as they do to other Council Committees. Regulation 106(9) of the Regulations specifies that the expenses of a Local Pension Board shall be regarded as part of the costs of administration of the Fund.

Membership

- 4.5 A Local Pension Board must include an equal number of employer and employee representatives with a minimum requirement of no fewer than four in total. The Regulations do not preclude that other individuals may also be appointed to the Board as long as the employee/employer balance is maintained. No officer or councillor of an Administering Authority who is responsible for the discharge of any function under the Regulations (apart from any function relating to Local Pension Boards or the Scheme Advisory Board) may be a member of the Local Pension Board of that authority.
- 4.6 Where an elected member of the Administering Authority is appointed as a member of the Local Pension Board this can only be as an employer or member representative under the provisions of regulation 107(3)(b). Regulation 106(7) provides that voting rights only apply to members of the Local Pension Board who are either an employer or member representative. Other members of the Local Pension Board are not afforded voting rights.

Capacity of Representative Members

- 4.7 Regulation 107 also requires that the Administering Authority must ensure that any person it wishes to appoint as an employer or member representative has the capacity to represent the employers or members (as appropriate) of the Fund. An individual's ability to properly represent the interests of employers or members (as appropriate) and channel information back to those persons effectively should also be a key factor in selecting members of the Local Pension Board.

Appointment of Members, Chairman and Vice Chairman of the Local Pension Fund Board

- 4.8 It is recommended that the Local Pension Fund Board, totalling ten members consist of:
- Four employee representatives
 - Four employer representatives
 - Two other members
- 4.9 It is recommended that the Local Pension Board be constituted as follows:
- Employer representatives
 - 1 x Surrey County Councillor
 - 3 x other employer representatives to come from nominations from other employers in the fund (e.g. District, Borough and Parish Councils, Academies, Police and other scheduled or admitted body employers in the Surrey Pension Fund).
 - Member representatives
 - 1 x Surrey County Councillor
 - 1 x GMB nominated representative
 - 1 x Unison nominated representative
 - 1 x other member representative
 - Other members
 - 2 x members from an external source (to be recommended by the appointment panel).
- 4.10 It is recommended that officers run the appointment process with open and transparent communication to all employer organisations and all employees. It is recommended that an appointment panel, consisting of officers and members, be appointed to oversee this process
- 4.11 The appointment of the members of the Local Pension Board shall be made by the People, Performance and Development Committee following recommendations from an appointment panel.
- 4.12 The appointment panel shall be made up of the following:
- the Chairman of the Pension Fund Board
 - the Director of Finance (or her nominee)
 - the Strategic Finance Manager (Pension Fund and Treasury)
 - the Director of Legal and Democratic Services (or her nominee)
- 4.13 As part of the appointment process, the Administering Authority will obtain confirmation from the appointee that they understand the requirements of the role and should:
- i) disclose all potential conflicts of interest;
 - ii) commit to attend the Local Pension Board meetings;
 - iii) commit to undertake and attend the necessary knowledge and understanding training;
 - iv) undertake to abide by the Local Pension Board's terms of reference;
 - v) abide by the Local Pension Board's Code of Conduct

5. Knowledge and Understanding Requirements for Local Pension Board Members

- 5.1 Members of the Local Pension Board should have a level of knowledge and understanding in accordance with the Pensions Act 2004.
- 5.2 Once established, the Local Pension Board should establish and maintain a policy and framework to address the ongoing knowledge and understanding of Local Pension Board members in accordance with the Surrey Local Pension Board Attendance and Knowledge and Understanding Policy.
- 5.3 Knowledge and understanding requirements apply to Local Pension Board members individually and not as a collective group.

6. Resourcing of Local Pension Boards

- 6.1 Regulation 106(9) of the Regulations specifies that the expenses of a Local Pension Board shall be regarded as part of the costs of administration of the fund.
- 6.2 The Local Pension Board shall be financially accountable to the Pension Fund. All resourcing decisions shall be delegated to the Director of Finance.

7. Officer Responsibility

- 7.1 It is recommended that a specific council officer takes responsibility for all Local Pension Board matters and agenda items. Responsibility for the Local Pension Board agenda should be formalised within the duties and responsibilities of the Strategic Finance Manager (Pension Fund and Treasury).
- 7.2 Such responsibilities will include:
 - ensuring that the process for the appointment and termination of members of the Local Pension Board;
 - ensuring that the Local Pension Board consider the appropriateness of the strategies approved by the Surrey Pension Fund Board and have the capacity to evolve if required;
 - having a clear idea of and being responsible for the items of business that are taken to the Local Pension Board;
 - management of the Local Pension Fund Board business;
 - ensuring those on the Local Pension Board have the appropriate knowledge and skills;
 - ensuring the effectiveness of the Surrey Pension Fund Board is measured, and recommendations for improvements by the Local Pension Board are communicated properly where necessary;
 - ensuring Local Pension Board members are properly and effectively trained;
 - ensuring risk assessments are undertaken and considered by the Local Pension Board on a regular basis;

- ensuring that a budget is allocated and managed for the Local Pension Board.

8. Financial and value for money implications

- 8.1 Consideration should be given to the cost of the provision of democratic support. It is envisaged that this provision will be contained within existing resources and therefore will not be an additional cost to the Council. Any other additional expenses will be borne by the Pension Fund.

9. Equalities implications

- 9.1 The establishment of this Board is a statutory requirement. There are no specific equality implications arising from its appointment.

10. Risk management implications

- 10.1 There are no risk related issues contained within the report's proposals.

11. Consultation

- 11.1 The Cabinet Member for Business Services has been consulted on the proposed change and has offered full support for the proposals.

12. Section 151 Officer Commentary

- 12.1 The Section 151 Officer (Director of Finance) is satisfied that all material, financial and business issues and possibility of risks have been considered and addressed and that the paper's recommendations will place the scrutiny function pertaining to the pension fund in a good position to meet future regulations and ensure robust governance.

RECOMMENDATIONS:

1. The Local Pension Board is established in accordance with the Public Services Pensions Act 2013 and the Local Government Pension Scheme Regulations 2013 (as amended) with the Terms of Reference set out in Annex 1 with effect from 1 April 2015.
2. Authority is delegated to an appointment panel of officers and members as set out in the report to oversee the Local Pension Board recruitment process and for the People, Performance and Development Committee to appoint members of the Local Pension Board following recommendations from the appointment panel.
3. The Terms of Reference (Annex 1) are approved for adoption by the Local Pension Board.
4. Authority is delegated to the Director of Finance in consultation with the Chairman of the Pension Board to create such policies and documents to assist the Local Pension Board.
5. The Local Pension Board will receive committee support from the Council's Democratic Services team. Page 79

6. Any consequential amendments are made to the Council's Constitution as required.

REASONS FOR RECOMMENDATIONS:

1. To comply with legislation.
2. To conform with best local authority pensions practice.

WHAT HAPPENS NEXT:

Implementation of the recommendation with a new Local Pension Board in place and the Board's first meeting on a date in 2015 still to be decided.

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Sources/background papers:

None