



## REPORT TO COUNCIL

### FORMATION OF A NEW SURREY PENSION FUND BOARD

#### **KEY ISSUE/DECISION:**

The recently published draft Pension Fund Bill has set out new requirements for each administering authority of the Local Government Pension Scheme (LGPS) to maintain a Pension Fund Board, putting on a statutory footing what previously has been subject to a generally accepted good practice basis. This report makes the case for Surrey County Council to create such a Pension Fund Board and sets out 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. One of his recommendations:

*“Every public service pension scheme (and individual LGPS Fund) should have a properly constituted, trained and competent Pension Board, with member nominees, responsible for meeting good standards of governance including effective and efficient administration.”*

- 1.2 The Public Service Pensions Bill was introduced in the House of Commons on 13 September 2012 and is due for Royal Assent in March 2013. It sets out governance requirements for the new Local Government Pension Scheme (LGPS) to be introduced with effect from 1 April 2014. Draft LGPS regulations on the new governance requirements are due in early 2013 and the intention is for the County Council to implement new governance changes in order to comply with the pending legislation. The Bill sets out:

*“Scheme regulations...must provide for the establishment of a Board with responsibility for assisting the scheme manager (the County Council) in relation to the following matters. Those matters are:*

- 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.*”

- 1.3 Current arrangements extend to the running of the Surrey Pension Fund Investment Advisory Group (IAG), which will not satisfy the requirements of the new legislation as it currently has no responsibility for the governance and administration of the scheme. Standard practice amongst the LGPS administering authorities in the UK is for a Pension Fund Board with decision making powers and internal democratic support.
- 1.4 A report, commissioned by the IAG in February 2012, and produced by the Fund’s actuary (Hymans Robertson) on 27 April 2012 recommended the formation of a Surrey Pension Fund Board in line with pending statutory requirements and current best practice. The Hymans report was subsequently approved by the IAG and the Audit and Governance Committee.
- 1.5 This report relates only to the Local Government Pension Scheme (LGPS) and not the separate 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 approximately £2.3bn. This compares with SCC’s balance sheet gross asset base of £1.6bn and its annual revenue budget of £1.6bn. At 31 March 2012, the Fund had a total membership of 75,367 members and over 100 external scheme employers participating in the fund.
- 2.2 The Surrey Pension Fund is one of 99 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 2009;
  - The Local Government Pension Scheme (Transitional Provisions) Regulations 2008.
- 2.3 Currently, matters of responsibility pertaining to the Pension Fund are shared amongst three existing council entities: the Investment Advisory Group (IAG), the Audit and Governance Committee (A&G) and the People, Performance and Development Committee (PPDC).
- 2.4 The use of three separate entities acting independently does not optimise operational efficiency and could potentially increase the risks faced by the Fund due to lack of cohesion in objectives and responsibilities. Moreover, A&G and PPDC are focused on Surrey County Council issues and this increases the potential for conflicts of interest, given that pension fund issues should be decided in their own right.

- 2.5 The IAG currently has no committee status within the democratic framework of the Council. Recommendations made by the IAG are referred to the Audit and Governance Committee for endorsement and information. Actions recommended by the IAG are implemented by the Chief Finance Officer based on delegated authority to that post as pension fund administrator.
- 2.6 In order to comply with statutory practice, the Surrey Pension Fund requires an authoritative decision-making platform on which to resolve and implement decisions on:
- asset liability management;
  - investment best practice;
  - clear pathway to full funding status.

### **3. Anticipated Changes Required by Statutory Regulations**

- 3.1 Summarised below is a summary of what can be expected in the new regulations based on details set out in the draft Public Service Pensions Bill:
- Local management of the LGPS will continue, with responsibility being allocated to a “Scheme Manager” (which will be the Administering Authority). Taken together with the Local Government Act 1972, the Bill, if enacted, will formally enable the Scheme Manager (Administering Authority) to delegate responsibilities to a Committee, in which case the Committee would then become the Pensions Board. The Committee will then have the dual role of responsibility for administering the scheme, and responsibility for ensuring good governance and compliance with requirements imposed by 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 Pension Board is to support the scheme manager. It will be for the scheme regulations and the scheme manager to determine precisely how the Pension Board fulfils its responsibilities.
  - A requirement for the appointment of Pensions Boards. The Pension Board will, in particular, be charged with helping the scheme manager to ensure that the scheme is operated to an appropriate standard.
  - A requirement for Boards’ members 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. The degree of knowledge and understanding required is that appropriate for the purposes of enabling the individual properly to exercise the functions of a member of the pension board.
  - A requirement that the scheme manager needs to be satisfied that a person to be appointed as a member of the 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).

#### **4. Proposed Changes to Committee Structure**

4.1 It is recommended that a single Committee with decision making powers has ultimate responsibility for the Pension Fund with no responsibility for other SCC matters or SCC pension “employer” matters. Membership of the committee should comply with best practice requirements for stakeholder membership, i.e., representation from:

- members of the Fund (trade union representative);
- members from SCC;
- districts and boroughs;
- other employers in the Fund;

with voting rights providing a clear decision making pathway on all pension decisions.

4.2 It is recommended that the Committee be named the Surrey Pension Fund Board which will provide distinction from the other council committees. The Surrey Pension Fund Board will be seen to be taking decisions separately from other functions of the Council, which will assist in managing any potential conflicts of interest between the Pension Fund and SCC.

4.3 The remit of the Surrey Pension Fund Board should be all encompassing, i.e., responsibility for all Fund matters including governance, investments, funding, accounting, communications and administration. The recommended terms of reference for the Surrey Pension Fund Board are set out in Appendix A.

4.4 As part of this proposed governance structure, it will be necessary to amend the terms and reference of the Audit and Governance Committee. These are set out in Appendix B. No change is required to the People, Performance and Development Committee’s existing terms of reference and these are set out for information in Appendix B.

4.5 It will be necessary to amend the Council’s constitution in relation to specific delegations to the Chief Finance Officer, Strategic Finance Manager (Pension Fund and Treasury) and the Pensions Manager, as set out in Appendix C.

4.6 It is recommended that the proposed changes have effect from 21 May 2013, allowing a lead up time to the statutory requirement which should be in place with effect from 1 April 2014.

4.7 It is recommended that the IAG be disbanded with effect from the date that the new Pension Fund Board comes into existence.

#### **5. Governance**

5.1 It is recommended that a council officer takes responsibility for all pension fund governance matters. Strategic leadership and responsibility for governance matters should be formalised within the duties and responsibilities of the Strategic Finance Manager (Pension Fund and Treasury).

5.2 Such responsibilities will include:

- ensuring the Surrey Pension Fund Board governance structure is appropriate and evolves if required;
- having a clear idea of and being responsible for the items of business that are taken to the Surrey Pension Fund Board;
- management of the Surrey Pension Fund Board business;
- ensuring those on the Board have the appropriate knowledge and skills;
- ensuring the effectiveness of the Board is measured and improvements made where necessary;
- ensuring Board members are properly and effectively trained;
- ensuring risk assessments are undertaken on a regular basis.

## **6. Financial and value for money implications**

6.1 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.

## **7. Equalities implications**

7.1 The creation of a new committee will not require an equality analysis, as the initiative is not a major policy, project or function being created or changed.

## **8. Risk management implications**

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

## **9. Consultation**

9.1 The Cabinet Member for Change and Efficiency has been consulted on the proposed change and has offered full support for the proposals.

## **10. Section 151 Officer Commentary**

10.1 The Section 151 Officer (Chief Finance Officer) 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 management of the pension fund in a good position to meet future regulations and ensure robust governance.

**RECOMMENDATIONS:**

1. The Surrey Pension Fund Board is established as a Committee of the County Council in accordance with section 101 of the Local Government Act 1972 with all matters delegated to it as set out in Appendix A as its terms of reference with effect from 21 May 2013.
2. The Surrey Pension Fund Board shall also carry out any functions of a Scheme Pension Board that are required by legislation.
3. The changes to the Audit and Governance Committee's terms of reference as set out in Appendix B be approved and included within the Council's Constitution.
4. The changes to the Chief Finance Officer's, Strategic Finance Manager's (Pension Fund and Treasury) and Pensions Manager's delegated powers as set out in Appendix C be approved and included within the Council's Constitution.
5. The Surrey Pension Fund Board receive committee support from the Council's democratic services team.
6. The Investment Advisory Group be disbanded with effect from 21 May 2013.
7. Any consequential amendments are made to the Council's Constitution as required.

**REASONS FOR RECOMMENDATIONS:**

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

**WHAT HAPPENS NEXT:**

1. Implementation of the recommendation with a deadline of 21 May 2013 for the new framework to be in place and the newly formed Surrey Pension Fund Board's first meeting on 31 May 2013.

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**Sources/background papers:**

Consultant's report (Hymans Robertson)

**Surrey Pension Fund Board**

**Membership:**

**Six Members of the County Council;**

**One representative (trade union) from employee members of the Fund (no SCC members of staff entitled to membership due to restrictions in section 104, Local Government Act 1972);**

**Two representatives from Districts and Boroughs of the Fund;**

**One representative from all other employers in the Fund.**

**Terms of Reference**

- a) To undertake statutory functions on behalf of the Local Government Pension Scheme and ensure compliance with legislation and best practice.
- b) To determine policy for the investment, funding and administration of the pension fund.
- c) To consider issues arising and make decisions to secure efficient and effective performance and service delivery.
- d) To appoint and monitor all relevant external service providers:
  - fund managers;
  - custodian;
  - corporate advisors;
  - independent advisors;
  - actuaries;
  - governance advisors;
  - all other professional services associated with the pension fund.
- e) To monitor performance across all aspects of the service.
- f) To ensure that arrangements are in place for consultation with stakeholders as necessary
- g) To consider and approve the annual statement of pension fund accounts.
- h) To consider and approve the Surrey Pension Fund actuarial valuation and employer contributions.

**Relevant Extracts from Scheme of Delegation**

**Audit and Governance Committee**

***Existing*      Accounts**

(c) To undertake statutory functions as required on behalf of the local government and fire fighters' pension schemes.

(d) To consider and approve the Surrey Pension Fund reports on actuarial valuations and employer contributions.

***Proposed*      Accounts**

(c) To undertake statutory functions as required on behalf of the fire fighters' pension schemes.

(d) (delete)

**People, Performance and Development Committee**

***Existing***      (f) To determine any requests for early retirement under the Fire Fighters' Pension Scheme.

***Proposed***      No change.



Relevant Extracts from Scheme of Delegation

Existing

F10	Head of Finance/ Pension Fund and Treasury Manager	Borrowing, lending and investment of County Council Pension Fund moneys, in line with strategies agreed by the County Council or in consultation with the Pension Fund Advisors Group.
H4	Pensions Manager	To exercise discretion in relation to the Local Government Pension Scheme where no policy on the matter has been agreed by the Council and included in the Discretionary Pension and Compensation Policy Statement published by the Council, subject to any limitations imposed and confirmed in writing from time to time by the Head of Finance. (Delegated authority excludes decisions conferring 'admitted body' status.
H5	Head of Finance	To determine decisions conferring 'admitted body' status to the Pension Fund where such requests are submitted by external bodies.

Proposed

F10	Chief Finance Officer/ Strategic Finance Manager (Pension Fund and Treasury)	Borrowing, lending and investment of County Council Pension Fund moneys, in line with strategies agreed by the Pension Fund Board. Delegated authority to the Chief Finance Officer to take any urgent action as required between Board meetings but such action only to be taken in consultation with and by agreement with the Chairman and/or Vice Chairman of the Pension Fund Board and any relevant Consultant and/or Independent Advisor.
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H4	Pensions Manager	To exercise discretion (excluding decisions on admitted body status) in relation to the Local Government Pension Scheme where no policy on the matter has been agreed by the Council and included in the Discretionary Pension Policy Statement published by the Council, subject to any limitations imposed and confirmed in writing from time to time by the Chief Finance Officer.
H5	Chief Finance Officer	To determine decisions conferring 'admitted body' status to the Pension Fund where such requests are submitted by external bodies.