

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CLWYD PENSION FUND COMMITTEE**
DATE: **24th MARCH 2015**
REPORT BY: **CHIEF OFFICER (PEOPLE AND RESOURCES)**
SUBJECT: **GOVERNANCE UPDATE**

1.00 PURPOSE OF REPORT

1.01 To provide Committee Members with an update on governance related issues.

2.00 BACKGROUND

2.01 A governance update is on each quarterly Committee agenda and includes a number of governance items for information or discussion. The items for this quarter are:

- Progress with the implementation of the Fund's Local Pension Board for note
- Potential separation of scheme manager function from lead authority
- National LGPS performance measurement and benchmarking assessment (Key Performance Indicators)
- The Pension Regulator's Code of Practice and draft policy on enforcement.
- The Fund's Annual Meeting (AJCM) feedback for note
- Service Plan 2014/15 update and changes for approval (Appendix 1)
- Training policy implementation for note (Appendices 2 and 3)
- Welsh Government Cost of Administration Submission

3.00 CONSIDERATIONS

Local Pension Boards

3.01 The report establishing the Local Pension Board for the Clwyd Pension Fund, pursuant to a recommendation from the Constitution Committee, and to comply with recent legislation was approved by Flintshire County Council on Tuesday, 3rd March 2015. This establishes the local Pension Board in time to meet the 1st April 2015 deadline. The final report presented to Flintshire County Council can be found on Flintshire County Council's website at: <http://cyfarfodyddpwyllgor.siryfflint.gov.uk/documents/s28735/CPF%20Governance.pdf?LLL=undefined>

3.02 A plan for implementation has now commenced which includes the appointment process and training to enable the first meeting to take place before 1st August 2015 as required by legislation.

- 3.03 The background to the establishment of the Pension Board has previously been shared with the Committee and follows a requirement of the Public Service Pensions Act (PSPA) 2013 which has been incorporated into the Local Government Pension Scheme (LGPS) regulations. The final LGPS regulations, when published, did have some changes to the draft regulations.
- 3.04 The principal changes introduced in the final legislation and how these have been implemented by Flintshire County Council are summarised below:
- Flintshire County Council is the scheme manager of the Clwyd Pension Fund as defined under Section 4 of the Public Services Pensions Act 2013.
 - The Clwyd Pension Board operates independently of the Clwyd Pension Fund Committee.
 - As a minimum, and in accordance with the LGPS Regulations, all scheme member and employer representatives must have the capacity to represent their scheme members and employers as appropriate, and no officer or elected member of Flintshire County Council who is responsible for the discharge of any function of the Administering Authority under the LGPS Regulations may be a member of the Clwyd Pension Board.
 - There will be two Scheme Member Representatives and two Employer Representatives on the new Pension Board. In addition there will be a (non-voting) Independent Member (with Alternate) who will chair the Pension Board.
 - All employers will be invited to nominate individuals for the Employer Representative positions and the Chief Officer (People and Resources) will determine who to appoint based on a person specification.
 - One Scheme Member Representative will be nominated by the trade unions and the other must be an active, deferred or pensioner member of the Clwyd Pension Fund and will be selected by the Chief Officer (People and Resources) following procedures determined by him/her in the spirit of any national guidance or Code of Practice in relation to appointments to the Pension Board.
 - The Independent Member's and Alternate's term of office will be determined by the Chief Officer (People and Resources) subject to a maximum of five years.
 - The Chair of the Pension Board will be the Independent Member (or Alternate) and is likely to be the current Independent Adviser to the Fund, subject to a motion to confirm this being agreed by the majority of the employer and scheme member representatives of the Board.
 - The Board must provide minutes of each meeting to the following Pension Fund Committee meetings and may make reports and recommendations to the Pension Fund Committee insofar as they relate to the role of the Pension Board. Any such reports or recommendations must be provided 10 working days in advance of the next Pension Fund Committee to the Chief Officer (People and Resources). In addition, an annual report of the Pension Board (as prepared by the Chair of the Pension Board), must be provided to the Chief Officer (People and Resources), the Monitoring Officer, the Pension Fund Committee, and the Audit Committee and be published in the Fund's Annual Report and Accounts.

- Where the Board considers that a matter brought to the attention of the Pension Fund Committee has not been acted upon or resolved to their satisfaction, the Pension Board will provide a report to the Monitoring Officer.

Separation of scheme manager function from lead authority

- 3.05 The Shadow Scheme Advisory Board (SSAB) has commissioned its Governance and Standards Sub-Committee, in its work-plan for 2014/15 to consider the level of separation between the scheme manager (i.e. management of the Fund) function from that of the lead authority (i.e. the other Council responsibilities), the desirability of increasing the separation, and to make recommendations to the SSAB on ways in which greater separation could be achieved.
- 3.06 To undertake this project the Sub-Committee set up a working group consisting of representatives from Norfolk Pension Fund, Essex Pension Fund, CIPFA, LGA and UNISON.
- 3.07 Five potential options for reform were initially identified:
- Stronger role for Section 151 Officer
 - Distinct entity within host authority
 - Joint Committee
 - Dedicated Authority
 - Dedicated Public Body (not local authority)
- 3.08 Each of the above five options are to be considered against a set of 10 criteria:
- Stronger ring-fencing of fund
 - Minimising conflict of interest
 - Dedicated resources
 - Legislative ease (in respect of implementation)
 - Implementation costs
 - Ongoing costs
 - Political accountability
 - Unqualified compliance with IORP
 - Dedicated budget
 - Financial transparency
- 3.09 The latest position has been taken from the Actions and Agreements paper, published on the SSAB website, for the 16th February 2015 meeting of the Governance and Standards Sub-Committee. This confirmed that the work is ongoing but that the five original options (3.07 above) were to be narrowed down to three:
- Stronger role for Section 151 Officer and distinct entity within host authority.
 - Joint committee with reference to how this would need to be developed in order to give sufficient separation so that this would effectively be a dedicated authority.
 - Dedicated Public Body (not local authority).

3.10 It is expected that further scoping work would be required but that there would be feedback to the SSAB at its 12th May meeting.

National LGPS performance measurement and benchmarking assessment (Key Performance Indicators)

3.11 The Shadow Scheme Advisory Board (SSAB) have been presented with work undertaken by the Annual Report Working Group on proposals for the introduction of performance measurement and benchmarking. The SSAB considers that this would enable it to progress in its proactive role of encouraging best practice and raising standards within the LGPS.

3.12 These proposals for measuring, benchmarking and assessing the relative health of individual LGPS pension funds has taken place over a period of around 9 months. The working group has identified five key general themes:

- Fund governance, management, administration, accountability and transparency.
- Funding level, contributions, deficit reduction, and ability to meet pension liabilities.
- Asset management, stewardship, and investment returns.
- Pension benefits, member service, and communications.
- Independent external review and assurance.

3.13 It was considered that maintaining and improving the overall performance of the LGPS was best done by focusing on a small number of key primary metrics (4-5) to identify and determine under performing funds. Additionally, a further 18-20 secondary metrics that would be used to characterise high performing funds that could then be applied to the under-performing funds to see where problems lie and improvements could be made. A league table or similar would not be developed. These are detailed below:

Performance Theme	KPI Number and Name
Fund governance, management, administration, accountability and transparency.	1) Risk Management (covering all pension fund activities)
	a) Pension Committee and Pensions Board members' competence.
	b) Administering authority staff leadership, experience, and training.
	c) Statutory governance standards and principles (as per DCLG guidance and TPR codes).
	d) Quality and accessibility of information and statutory statements/ strategies/ policies (governance, FSS, SIP, comms, admin authority and employer discretions policies).
Funding level, contributions, deficit reduction, and ability to meet pension liabilities.	2) Funding level and contributions

	3) Deficit recovery
Asset management, stewardship, and investment returns.	4) Required investment returns
	e) Compliance with LGPS Myners principles and signatory to UK Stewardship Code and UNPRI.
	f) Historic investment returns (Last 3, 5, 10 years) and total investment costs compared to other LGPS funds.
	g) Annual report(s) and audited financial statements.
Pension benefits, member service, and communications.	h) Scheme membership data.
	i) Pension queries, pension payments, and Annual Benefit Statements.
	j) Cost efficient administration and overall VFM fund management.
	k) Handling of formal complaints and IDRs.
Independent external review and assurance.	l) Fraud prevention.
	m) Internal and external audit.
	n) Quality assurance.

- 3.14 The key purpose of the four primary KPIs (1 to 4 above) is to help the SSAB identify individual funds that trigger the four ‘alarm bell warning’ indicators. Such funds might then be subject to further investigation and scrutiny by the SSAB using the other 14 secondary ‘health’ indicators (a to n above) within the same or relevant performance assessment themes as required.
- 3.15 There would potentially be other uses for these KPIs such as developing scatter-grams to identify problem outlier funds; to generate balanced score-cards to undertake an assessment of a fund’s performance against the level for high-performing funds; and, to be used by Local Pension Boards to assess the performance of their own funds.
- 3.16 Following such a review process it may be appropriate for the ‘problem’ funds to be supported with technical advice and help; and, or if needed, be placed under ‘special measures’ and subject to formal intervention and remedial actions by, for example, the Advisory Board, The Pensions Regulator, or DCLG.

The Pension Regulator’s Code of Practice

- 3.17 The Pensions Regulator (TPR) finalised its 14th Code of Practice in January following a consultation with interested parties on the original draft, and the Regulator’s new powers under the Public Services Pensions Act 2013 (the 2013 Act). The new Code of Practice for Public Service Pension Schemes will come into force in April 2015.

- 3.18 Though following the code itself is not a regulatory requirement, should TPR identify a situation where the legal requirements are being breached, TPR will use the code as a core reference document when deciding appropriate action.
- 3.19 The matters covered by the Code 14 are:
- knowledge and understanding for members of pension boards
 - conflicts of interest
 - publication of information about pension boards, governance and administration
 - internal controls
 - record-keeping
 - late payment of employer and employee contributions
 - information about member benefits and disclosure of information to members
 - internal dispute resolution, and
 - reporting breaches of the law.
- 3.20 A separate training session will be arranged for Pension Fund Committee members of the requirements of the Code and the 2015/6 business plan includes an item of work for checking compliance of Clwyd Pension Fund against the Code to determine any areas of potential improvement that can be made.

TPR Compliance and Enforcement Policy

- 3.21 TPR issued a consultation on their draft compliance and enforcement policy for public service pension schemes on the 5th February with a closing date of the 5th March. This consultation presents their proposed approach to compliance and enforcement in relation to public service pension schemes, which includes the local government pension funds and their participating employers. The draft public service compliance and enforcement policy sits under their organisation-wide approach to regulating work-based pensions and their specific public service regulatory strategy. The public service strategy sets out their objectives in regulating public service schemes, the compliance and enforcement policy sets out more detail on how they intend to achieve this and what those who they are regulating can expect from them.
- 3.22 In broad terms it sets out:
- How they identify and assess risk in public service schemes and how this forms the basis for their operational activity.
 - Their approach to monitoring public service schemes through reactive and proactive sources.
 - How a public service scheme may be investigated by a case team, and
 - The enforcement options available to them and educative interventions that may be used.
- 3.23 The expectation stated by TPR is that they will focus most of their activities on educating and enabling schemes and their employers to improve standards of governance and administration – particularly in the early stages of the new regulatory regime as schemes and their employers reform and adapt to meet the new legal requirements. The focus will be on:

- Promoting the public service code of practice and educational tools for public service schemes.
- Surveying schemes to understand the extent to which they are meeting the standards and practices.
- Engaging with schemes and their employers to understand how they are addressing poor standards and non-compliance through the development and implementation of improvement plans, focusing on key risk areas.
- Undertaking thematic reviews, focusing on key risk areas, to gather information in relation to a particular issue or set of issues and report back to our regulated community about best practice and risks.

3.24 As far as enforcement is concerned TPR may become aware of breaches of the law, or significant risks of breaches and a failure to address them, by any of the means through which they gather information, as well as enquiries or reports which they receive. Actual or potential breaches may be identified via scheme engagements, thematic reviews or reports. Where an actual or potential breach is identified, TPR will assess the risk and decide how to proceed. There is an expectation that scheme managers, pension boards and employers will:

- Identify and understand the root causes of an issue which is resulting in poor standards of governance and administration and non-compliance with legal requirements
- Develop an improvement plan which will address the root causes of that issue within a reasonable time period, and
- Demonstrate implementation of their plan.
- Where scheme managers, pension boards or employers fail to address poor standards and non-compliance with the law, we will consider escalating our activities, undertaking further investigations and taking regulatory action, including enforcement action where there has been a breach of pension's legislation. Enforcement options range from statutory compliance notices and monetary penalties to criminal prosecution.

3.25 Further information can be found on The Pensions Regulator website.

Fund Annual Meeting (AJCM) feedback

3.26 The Clwyd Pension Fund Annual Joint Consultative Meeting was held on the 6th November 2014. Nine employers were represented, which included the 3 main employers, by 21 attendees and 4 feedback forms were returned. Attendees were asked to score 2 questions from 1 (poor) to 5 (excellent). The scorings for both questions were:

- How useful was the meeting? 1 x 3; 1 x 4 and 2 x 5
- How useful was the presentation pack? 2 x 3 and 2 x 5

3.27 3 of the 4 attendees indicated that they would attend next year with the fourth attendee declining to comment. When asked about the benefit to them of attending 2 attendees provided feedback and indicated that updates on the 'performance, activity of the CPF' and 'face to face update on changes and latest position' they found to be most beneficial.

- 3.28 Albeit the quantity of feedback was low, the general perception was that the event was a success and a useful method of communicating and engaging with our employers. It is therefore proposed that we repeat the event again in 2015.

Training Policy Implementation

- 3.29 Appendix 2 shows training and various external events attended by Committee Members and Senior Officers, along with forthcoming events.
- 3.30 Training modules designed around the full CIPFA Knowledge and Skills Framework have been held. Some Committee Members have outstanding modules to complete (Appendix 3) and officers will be in touch with those concerned to arrange suitable dates. It is proposed that these are picked up as part of the Pension Board training in the summer of 2015. A separate report on the 2015/16 Training Plan is included on the Pension Fund Committee agenda.
- 3.31 It is also useful for Committee Members and senior officers to attend various external events and conferences to supplement their knowledge regarding the latest thinking on pension related matters. The Fund's Training Policy requires all Committee Members to attend at least one 'general awareness' event annually. Suitable events are identified in Appendix 2 and officers will be in touch regarding potential attendees.

Service Plan Update – Quarter 4

- 3.32 Appendix 1 provides a dashboard of progress against the internal and external governance section of the Service Plan. The majority of items are as originally planned but the following changes have been made:
- The review of the funding strategy has been moved to Q1 2015/16 as it is dependent on a major revision to the SIP which commenced during Q4 but will not be completed until Q1 2015/16. In addition the communication strategy is moved to 2015/16.
 - Appointment of Local Pension Board members has been moved into Q1 2015/16. Consequently, training of the Board members has also been moved into 2015/16.
 - The assessment of the impact of the Pension Regulators Public Sector Code of Practice on current arrangements will continue into Q3 2015/16 due to the delay in it being issued and other workload priorities.

Welsh Government Cost of Administration Submission

- 3.33 The Minister for Public Services has commissioned an independent review of administrative costs across all Local Authorities in Wales, KPMG have been appointed to undertake the work. A project Board headed by the Chief Executive has been established. As an Authority we were required to complete a submission which detailed costs and performance across all sectors including Pensions Administration. All Pension Fund Finance and Investment costs were to be included in Treasury. The relevant data for the Clwyd Pension Fund was provided by the required date of March 6th 2015.

4.00 RECOMMENDATIONS

4.01 That Committee Members:

- 1) Approve the changes to the Service Plan 2014/15
- 2) Note the other items in the Report.

5.00 FINANCIAL IMPLICATIONS

5.01 None directly as a result of this report.

6.00 ANTIPOVERTY IMPACT

6.01 None directly as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None directly as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None directly as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None directly as a result of this report

10.00 CONSULTATION REQUIRED

10.01 None directly as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 None directly as a result of this report.

12.00 APPENDICES

12.01 2014/15 Service Plan Update

12.02 Conference, Training Events and Meetings 2014/15

12.03 Attendance at Training Sessions

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: Clwyd Pension Fund Local Pension Board Protocol
22nd July 2014 Pension Fund Committee – Clwyd
Pension Fund Service Plan 2014/15

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