

CLWYD PENSION FUND COMMITTEE

Date of Meeting	Wednesday, 15 th June 2022
Report Subject	Governance Update
Report Author	Head of Clwyd Pension Fund

EXECUTIVE SUMMARY

On each Committee agenda LGPS governance matters and the impact on the Clwyd Pension Fund (CPF) are provided for discussion along with updates on the Clwyd Pension Fund's governance strategy and policies for information. The last update report was provided at the March 2022 Committee meeting and therefore this update report includes developments since that report.

This update includes matters that are mainly for noting, albeit comments are clearly welcome.

The report includes updates on:

- The membership of the Pension Board
- The application for professional status as required by MiFID II
- The March LGPS Scheme Advisory Board meeting
- Monitoring of the Pension Fund's objectives as set out in the governance related policies
- Changes to the governance risks on the Fund's risk register since the last meeting
- The latest changes to our breaches of the law register
- Forthcoming training and events, some of which is essential for Members.

RECOMMENDATIONS

1	That the Committee consider the update and provide any comments.
2	That the Committee agree that completion and submission of any future applications to opt up to professional client status in respect of MIFID II is delegated to the Head of Clwyd Pension Fund.

REPORT DETAILS

1.00	GOVERNANCE RELATED MATTERS
1.01	<p data-bbox="320 271 660 309">Business Plan Update</p> <p data-bbox="320 344 1385 524">Appendix 1 provides the Governance appendix from the Fund’s business plan for 2022/23 to 2024/25 setting out the key priorities for the Fund from a Governance perspective. This is provided in full for the benefit of the new members of the Committee as it is a key document driving the work of the Fund and the Committee.</p> <p data-bbox="320 562 1369 781">Usually, the three main update reports at each Committee include the latest progress against the business plan within a summary dashboard with commentary in the update report. Given we are only 2 months into 2022/23, full updates are not being included for this meeting. Instead any key points are being highlighted in the reports and full updates will be provided at the next meeting.</p> <p data-bbox="320 819 1362 891">In relation to the priorities in the governance section of the business plan, the key points to note are as follows:</p> <ul data-bbox="368 929 1369 1413" style="list-style-type: none"><li data-bbox="368 929 1369 1039">• <i>G1 – Induction Training</i> Induction training is being planned for and discussed with the new members of the Committee.<li data-bbox="368 1077 1369 1413">• <i>G2 – Develop business continuity arrangements including managing cyber risk</i> At the March 2021 meeting, the Committee approved and adopted a Fund specific Business Continuity Policy. The next key step is to develop and document a Fund specific business continuity plan. The Deputy Head of Clwyd Pension Fund and Pensions Administration Officer have documented the current practices and requirements which will form the basis of the business continuity plan. This work is ongoing. <p data-bbox="416 1451 1369 1671">In addition, within the cyber security workstream, the Fund continues to engage with FCC as host authority and the next steps are to develop a Fund specific Cyber Incident Response plan and Fund specific Cyber Hygiene Guidelines. Initial work on both these documents has begun but progress is dependent on engagement from FCC.</p> <p data-bbox="416 1709 1251 1744">Further information will be provided at the next Committee.</p> <ul data-bbox="368 1783 1369 2002" style="list-style-type: none"><li data-bbox="368 1783 1369 2002">• <i>G3 – Review against TPR new Single Code</i> It is possible that The Pension Regulator’s new Single Code may not be laid before Parliament prior to Summer recess, as originally planned. If that is the case, the timing relating to this area on the business plan will need to be moved. This will be confirmed at the next Committee.

1.02	<p>Current Developments and News</p> <p><i>Pension Board update</i></p> <p><u>Pension Board membership</u> Mr Phil Pumford is the existing scheme member representative appointed by the joint trade unions. His term of appointment was due to come to an end in October of this year. The joint trade unions have proposed that Phil continues in this role and it is very pleasing to report that Phil has agreed to his reappointment. This has now been formally agreed by the Chief Executive in accordance with the Pension Board Protocol. The new appointment is for a period of three years, albeit it can be extended up to five years.</p>
1.03	<p><u>Pension Board meetings</u></p> <p>The Clwyd Pension Board provides assistance to the Committee and officers of the Clwyd Pension Fund. Its role is to assist Flintshire County Council as the administering authority of the Clwyd Pension Fund:</p> <ul style="list-style-type: none"> • to secure compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the Scheme, and requirements imposed in relation to the LGPS by The Pensions Regulator • to ensure the effective and efficient governance and administration of the LGPS by the Clwyd Pension Fund. <p>An update was provided at the last Committee meeting of the matters discussed at the Clwyd Pension Board on 17 February. The minutes are now included in Appendix 2.</p> <p>The Board also met on 8 June, and a verbal update on any key matters will be provided at the Committee meeting. The minutes from the June Board meeting will be provided at the August Committee meeting. The next Pension Board meeting is on 30 September 2022.</p>
1.04	<p><u>Pension Board Effectiveness Survey</u></p> <p>It is good practice to regularly consider how effective governance arrangements are, and this is also an expectation within CIPFA's Principles for Investment Decision Making and Disclosure in the LGPS (based on the "Myners principles") where it states that "Administering Authorities should also periodically make a formal assessment of their own effectiveness as a decision-making body".</p> <p>Committee Members were recently asked to complete a survey to establish the Members' views on the effectiveness of the Fund's governance including the Committee arrangements, and the results were reported to the Committee in March.</p> <p>Subsequently, members of the Pension Board have been asked to complete a similar survey in respect of the Fund's governance relating to the Board's arrangements. The survey is still open for responses at the point of drafting this report but a verbal update on the key findings will be provided at the Committee if they are available.</p>

1.05

Professional client opt up under MiFID II

The Markets in Financial Instruments Directive (MiFID II) regime (first implemented in 2007 and then revised in 2014) uses client 'categories' to recognise that investors have different levels of experience, knowledge and expertise. It provides different levels of regulatory protections to ensure that these different investors are appropriately protected.

Under MiFID II, investors will be retail clients, professional clients or eligible counterparties (ECPs). Investors are given a categorisation depending on set criteria but may ask to be treated as a more sophisticated client (resulting in less regulatory protection but potentially enabling access to a wider range of more complex, risky investments) provided they meet the appropriate criteria as set out in regulation. This is known as elective categorisation (or "opting up").

As standard, MiFID II categorises local authorities as retail clients, with the ability to opt-up to professional client status. MiFID II sets out the rules which allow clients to opt up to professional client status. It is up to the investment firm/manager (i.e. the organisation to which the LGPS administering authority wishes to move assets) to evaluate on certain quantitative and also qualitative grounds whether to agree to treat the LGPS administering authority as professional client status.

MiFID II defines the requirements for investment firms to carry out the qualitative test based on experience, knowledge and expertise. The Financial Conduct Authority requires that local authorities must meet the following quantitative tests in order to opt up:

- the size of the authority's financial instrument portfolio defined as including cash deposits and financial instruments, exceeds £10,000,000; AND, [...]:
- Is an 'administering authority' of the Local Government Pension Scheme.

Investment firms are required to review opt-ups. This is usually done on an annual basis and it should also be done where there are key changes to officers and committee members. Accordingly, given the recent changes to the Committee membership, the Committee must confirm to their investment firms/managers that they still wish to opt up to professional investor status.

Previously the applications to opt up were submitted by Colin Everett as Chief Executive of Flintshire County Council in his role as administrator to the Fund. That role no longer exists and it is therefore, recommended that the completion and submission of the application to opt up to professional client status in respect of MIFID II is delegated to the Head of Clwyd Pension Fund and that this is set out within the Officer Delegations Schedule (which is included in Appendix 7).

1.06

LGPS Scheme Advisory Board (SAB) meetings

As set out the last governance update, the LGPS SAB met on 7 March. A Summary of this meeting is attached as Appendix 4.

	<p>One of the matters that was discussed at the meeting was that there is currently only one option for pension provision for local authorities' employees eligible to be in the LGPS, which is the LGPS.</p> <p>Some local authorities reported to the Scheme Advisory Board that occasionally employees opt out of the LGPS on the basis of their religious beliefs. Typically this relates to people of the Muslim faith who are worried that LGPS funds or investments were not Sharia-compliant.</p> <p>The Scheme Advisory Board commissioned legal advice to assess the risk of a successful claim for discrimination or human rights challenge from an employee complaining of a failure, by any employer who is only offering pension provision by LGPS membership, to provide a Sharia-compliant scheme. Advice was not sought on whether the LGPS is Sharia-compliant.</p> <p>The full report and legal opinion are attached in Appendix 3 but as a summary the report for the Board explained: "At a high level, [Counsel's] advice is that at present it is arguable whether employers have the legal power to offer an alternative to the LGPS. If that were to be clarified as permissible, offering alternative pension provision could most likely not be limited just to Muslim employees who opt out of the LGPS by reason of their religious beliefs."</p> <p>Counsel also advised that any alternative provision would need to be offered to all employees. This alternative provision would probably be a defined contribution scheme offering inferior benefits to those offered by the LGPS.</p> <p>SAB noted that there would be implications for administering authorities if employers were required to offer multiple schemes, as well as the possibility of employees choosing a cheaper scheme which provides lesser benefits without fully understanding the benefits of the LGPS.</p>
1.07	<p>The next SAB meeting was due to be held on 6 June 2022. Whilst there was no agenda or meeting papers available for this meeting at the time of writing, it was expected that the Board will be asked to consider a proposal to review its operation and set up a new steering committee as well as to consider and approve the Board workplan.</p> <p>There are no matters to highlight to the Committee that aren't covered in other Committee update reports.</p>
1.08	<p><i>PLSA Report: Local Government Pension Scheme - Today's Challenges, Tomorrow's Opportunities</i></p> <p>The Pensions and Lifetime Savings Association (PLSA) conference is on 13th to 15th June and is being attended by the Deputy Head of Pension Fund. There will be a report launched at the event about the challenges and opportunities in the LGPS which makes many recommendations on the governance and management of the LGPS. The Head of Clwyd Pension Fund was involved in the development of this report.</p>

It is also worth noting that the Deputy Head of Clwyd Pension Fund will be participating at the PLSA conference on a panel discussing local investing.

Policy and Strategy Implementation and Monitoring

1.09

Knowledge and Skills Policy and Training Plan

Policy requirements

The Clwyd Pension Fund Knowledge and Skills Policy requires all Pension Fund Committee, Pension Board members and Senior Officers to:

- attend training on the key elements identified in the CIPFA Knowledge and Skills Framework as part of their induction and on an ongoing refresher basis
- attend training sessions on "hot topic" areas, such as a high risk area or an area of change for the Fund and
- attend at least one day each year of general awareness training or events.

Training undertaken - Appendix 5 sets out the Training Plan for the Fund.

Recent events include:

- 22 March 2022 - WPP Good Governance / Cost Transparency
- 24 to 25 March 2022 - LGC Investment Summit (Carden Park).
- 8 June 2022 - Communications strategy
- 13 to 15 June 2022 - PLSA Local Authority Conference.

A summary of attendance at the Fund's hot topic training sessions over 2021/22 is included below:

	Date	Number of Committee attending (Proportion of total)	Number of Board attending (Proportion of total)
Hot Topic Sessions – Target attendance is 75%			
Funding / Flightpath 1	Apr-21	7 (78%)	1 (25%)
Fossil Fuel and Divestment	May-21	8 (89%)	3 (75%)
RI Roadmap	May-21	8 (89%)	2 (50%)
Funding / Flightpath 2	Jul-21	3 (33%)	2 (50%)
Conflicts of Interest	Nov-21	7 (78%)	4 (100%)
Cyber	Dec-21	8 (89%)	4 (100%)
Tax / Annual Allowance	Jan-22	7 (78%)	4 (100%)
Total		48 (76%)	20 (71%)

The first hot topic session of the 2022/23 scheme year was on Communications Strategy, scheduled for 8 June at 10am. As this session

had not been run at the time of writing a verbal update on attendance will be provided at the meeting.

As can be seen, attendance at hot topic sessions over the year has been good. Over the year as a whole, the Fund has met the target attendance levels for Committee members although Board member attendance fell just short of the target. Reassuringly, the 75% attendance target has been met since the new training policy came into effect in September 2021.

Future training and events

Officers will continue to be in touch with information as further training sessions and events become available. In particular induction training is being arranged for the new committee members. In the meantime, if any Committee or Board members wish to attend any of the following optional events, please contact the Deputy Head of Clwyd Pension Fund:

- 22 June 2022 at 9:30 - CIPFA Pension Board Event (virtual)
- 8 to 9 September 2022 - LGC Investment Seminar (in person, and four places have been provisionally booked at a discount)

Committee members should however note the following training sessions which are classed as essential for all Committee and Board members and senior officers:

- 24 August 2022 at 2.30pm - Funding strategy (in person, if permitted)
- 5 October 2022 at 10.00 am – Investment strategy and asset classes (in person, if permitted).

1.10

Recording and Reporting Breaches Procedure

The Fund's procedure requires that the Head of Clwyd Pension Fund maintains a record of all breaches of the law identified in relation to the management of the Fund. Appendix 6 details the current breaches that have been identified.

The new breaches that have been added since the last Committee are as follows:

- A23 – this relates to an employer who failed to provide information to individuals in 2008 explaining the option to join the LGPS. The employer is currently determining how to resolve this issue.
- F62 onwards – these all relate to late pension contributions or remittance advices. There is an unusually high number of new breaches this quarter and therefore officers will be issuing an email to all employers reminding them of the legal deadlines. At recent committees it was noted that there were ongoing issues with late contributions and remittances from Hafan Deg. It is pleasing to note that this now appears to have been resolved with the no new breaches being reported this quarter.

1.11	<p>Delegated Responsibilities</p> <p>The Pension Fund Committee has delegated a number of responsibilities to officers or individuals. There have been no uses of delegated powers for governance matters since the last update report.</p> <p>As noted in item 1.05 it is recommended that the application to opt up to professional client status in respect of MIFID II is delegated to the Head of Clwyd Pension Fund and that this is set out within the Officer Delegations Schedule.</p> <p>Appendix 7 shows the updated Committee Delegations of Functions to Officers Schedule showing this change.</p>
1.12	<p>Calendar of Future Events</p> <p>Appendix 8 includes a summary of all future events for Committee and Pension Board members, including Pension Fund Committee meetings, Pension Board meetings, Training and Conference dates. Key dates to note are:</p> <ul style="list-style-type: none"> • The next Committee meeting is on 31 August 2022. • The Fund’s Annual Joint Consultative Meeting will take place on 13 December 2022 – all Committee and Board members are invited to attend this event.

2.00	RESOURCE IMPLICATIONS
2.01	None directly as a result of this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	None.

4.00	RISK MANAGEMENT
4.01	<p>Appendix 9 provides the dashboard showing current risks relating to the Fund as a whole, as well as the extract of governance risks. The risk register has been updated since it was last presented to the Committee in March.</p> <p>The main changes this month relate to:</p> <ul style="list-style-type: none"> • Governance Risk 2 - Governance is poor including due to short appointments or poor knowledge at PFC, resulting in inappropriate or no decisions being made <p>and</p>

	<ul style="list-style-type: none"> • Governance Risk 3 - Decisions, particularly at PFC level, are influenced by conflicts of interest and therefore may not be in the best interest of fund members and employers <p>For both of these, the impact has been changed from Negligible to Marginal and the likelihood of this has been changed from Low to Significant. The changes recognise there has been a number of new members appointed to the Committee as a result of the Welsh local authority elections. New actions to mitigate these risks have been added and it is hoped that new members can, in a timely manner:</p> <ul style="list-style-type: none"> • complete the induction training and • ensure that all actual or potential conflicts of interest are registered and managed appropriate <p>to allow the impact and likelihood to fall back to target.</p> <p>The description of risk number 5 (the impact of externally led influence and change on the fund achieving its objectives/legal responsibilities) has been updated to incorporate potential changes relating to the Government's levelling up agenda and new powers it has to make directions in relation to boycotts, sanctions and divestment.</p> <p>Finally, risk number 6 (insufficient staff numbers meaning services are not being delivered to meet legal and policy objectives) has been updated to remove an action to identify how the Finance Team can be supported due to the resignation of the Fund Accountant. Mercer have now been temporarily allocated a number of Finance Team responsibilities over the spring to autumn of 2022 which will better manage the situation particularly whilst the Fund's Annual Report and Accounts are being prepared. However it is worth noting that the Finance Team still have three vacant posts which are all unlikely to be filled in the short term.</p>
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5.00	APPENDICES
5.01	Appendix 1 – Business Plan - 2022-23 to 2024-25 - Governance Appendix Appendix 2 – Pension Board Minutes Appendix 3 – SAB Sharia report and legal opinion Appendix 4 – SAB March meeting summary Appendix 5 – Training plan Appendix 6 – Breaches log Appendix 7 – Delegations of Functions to Officers Schedule Appendix 8 - Calendar of future events Appendix 9 - Risk Register
6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None in this report

Contact Officer:	Philip Latham, Head of Clwyd Pension Fund
Telephone:	01352 702264
E-mail:	philip.latham@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	<p>(a) CPF – Clwyd Pension Fund – The Pension Fund managed by Flintshire County Council for local authority employees in the region and employees of other employers with links to local government in the region.</p> <p>(b) Administering authority or scheme manager – Flintshire County Council is the administering authority and scheme manager for the Clwyd Pension Fund, which means it is responsible for the management and stewardship of the Fund.</p> <p>(c) Committee or PFC – Clwyd Pension Fund Committee - the Flintshire County Council committee responsible for the majority of decisions relating to the management of the Clwyd Pension Fund.</p> <p>(d) Board, LPB or PB – Local Pension Board or Pension Board – each LGPS Fund has an LPB. Their purpose is to assist the administering authority in ensuring compliance with the scheme regulations, TPR requirements and efficient and effective governance and administration of the Fund.</p> <p>(e) LGPS – Local Government Pension Scheme – the national scheme, which Clwyd Pension Fund is part of.</p> <p>(f) SAB – The national Scheme Advisory Board – the national body responsible for providing direction and advice to LGPS administering authorities and to DLUHC.</p> <p>(g) DLUHC – Department of Levelling Up, Housing and Communities – the government department responsible for the LGPS legislation.</p> <p>(h) JGC – Joint Governance Committee – the joint committee established for the Wales Pension Partnership asset pooling arrangement.</p> <p>(i) CIPFA – Chartered Institute of Public Finance and Accountancy - a UK-based international accountancy membership and standard-setting body. They set the local government accounting standard and also provide a range of technical guidance and support, as well as advisory and consultancy services. They also provide education and learning in accountancy and financial management.</p> <p>(j) TPR – The Pensions Regulator – TPR has responsibilities to protect UK's workplace pensions and make sure employers, scheme managers and pension specialists can fulfil their duties to scheme members. This includes oversight of public service pension schemes, including the LGPS. Specific areas of oversight are set out in legislation and also expanded on within TPR's Guidance and Codes of Practice.</p>

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| | <p>(k) PLSA - Pensions and Lifetime Savings Association – PLSA aims to bring together the industry and other parties to raise standards, share best practice and support its members. It works collaboratively with members, government, parliament, regulators and other stakeholders to help build sustainable policies and regulation which deliver a better income in retirement.</p> <p>(l) HMT – Her Majesty's Treasury – HMT has a responsibility to approve all LGPS legislation before it is made.</p> |
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