

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CONSTITUTION COMMITTEE**

DATE: **WEDNESDAY, 26 MARCH 2014**

REPORT BY: **HEAD OF FINANCE (TREASURER AND
ADMINISTRATOR TO THE FUND)**

SUBJECT: **CLWYD PENSION FUND GOVERNANCE**

1.00 **PURPOSE OF REPORT**

- 1.01 To provide Members with a proposal to change the governance arrangements for the Clwyd Pension Fund, and hence, the Council's Constitution.
- 2.02 To seek agreement for a recommendation to Council for the creation of a newly constituted Clwyd Pension Fund Committee.

2.00 **BACKGROUND**

- 2.01 The Clwyd Pension Fund is administered by Flintshire County Council as the Administering Authority on a "lead authority" basis which is set out in statute following LGR in 1996. The Clwyd Pension Fund is a £1bn Local Government Pension Fund which provides death and retirement benefits for local government employees in North East Wales and other qualifying contributors from 30 contributing employers and 15,000 retired members, widows and deferred members.
- 2.02 In terms of governance, Local Government Pension Scheme matters are a Council rather than Executive function.
- 2.03 Local Government Pension Scheme Regulations (LGPS) state that an administering authority must prepare a written statement setting out whether the authority delegates its functions to a Committee, a sub-committee or an officer of the authority. However, these Regulations then go on to refer to guidance given by the Secretary of State and a requirement to explain where the delegation does not comply with this guidance.

- 2.04 The Council's Constitution delegates responsibility for the management of pension issues to the Head of Finance under Part 3 Responsibility for Council Functions. There is a Clwyd Pension Fund Panel, made up of elected Members from Flintshire, Wrexham and Denbighshire, which is an advisory body on pension fund issues. The Panel also has a Staff/Union Observer nominated by Trade Unions and is advised by an Independent Adviser/Consultant.
- 2.05 This governance structure is not compliant with guidance given by the Secretary of State relating to best practice as explained below.
- 2.06 A Governance Health Check of the Clwyd Pension Fund was carried out by a senior advisor from the Chartered Institute of Public Finance and Accountancy (CIPFA) Pensions Network in 2010. Although, the report concluded that the governance of the Fund was 'very good', a weakness in relation to the governance structure was identified and the following two key recommendations were made to comply:
1. Responsibility for the management of the Clwyd Pension Fund should be transferred from the Head of Finance to a newly constituted Pension Fund Committee which should meet quarterly in Mold.

The Department for Communities & Local Government (DCLG) guidance states *'the management of the administration of benefits and the strategic management of fund assets should clearly rest with a committee established by the appointing Council'*. It is not considered to be best practice or appropriate to delegate management of a pension fund, with all its associated complexities and responsibilities to an officer. The view of the Chartered Institute of Public Finance and Accountancy (CIPFA) is that it is unfair to place the burden on the shoulders of a single officer.
 2. There should be wider representation of stakeholders on the newly constituted committee to include a representative from a scheme employer, other than from the unitary authorities, and a member representative with voting rights.

The DCLG guidance states *'representatives of participating LGPS employers, admitted bodies and scheme members (including pensioner and deferred members) should be members of the committee'*.
- 2.07 Although these findings were accepted in principle by the Head of Finance and the Clwyd Pension Fund Panel, it was considered then that the time was not right to make these changes as the work on the potential for merger and collaboration across the eight Funds in Wales was about to commence.

2.08 However, the time has now come to consider implementing these changes for the following prime reasons:

- To comply with statutory guidance now the outcome of the work of the eight Funds in Wales has recommended collaboration between Funds and not merger.
- The Public Service Pensions Act 2013 requires an administering authority to establish a new and separate 'Local' Pension Board whose role will include securing compliance with legislation relating to governance and administration. Although, it will not be in place until 2015, the current structural flaw in the Clwyd Fund's governance structure may lead to criticism from this new Board in the future.
- In addition, a new National Scheme Advisory Board is required under the Act which will also be 'advising' administering authorities on compliance, although the terms of reference are not fully known at this time.

2.09 Based on the above, the Head of Finance received agreement from the Clwyd Pension Fund Panel on 25th February 2014 to recommend a new Clwyd Pension Fund Committee to the Constitution Committee for consideration, and then the Council.

2.10 As required under the LGPS 2013 Regulations (Para 55 (3)), when revising governance arrangements, the administering authority must consult with 'such persons as it considers appropriate'. The Head of Finance has consulted with employers in the Fund and the joint trade unions. The consultation closed on the 10th March 2014 and no response was received which was against this change. A positive response was received from the joint trade unions.

3.00 CONSIDERATIONS

3.01 The proposed new structure which is in line with CIPFA recommendations is shown in diagram form in Appendix 1 and demonstrates that under these arrangements:

- The County Council would delegate, in its constitution, all decisions relating to its statutory duty to administer the Clwyd Pension Fund to the Clwyd Pension Fund Committee, instead of the Head of Finance.
- The Clwyd Pension Fund Committee would be representative of its stakeholders with representation as follows:
 - five from Flintshire County Council as the administering authority

- one from each of the two unitary authorities (Wrexham County Borough Council and Denbighshire County Council)
- one from another scheme employer who are required to participate in the Fund (these are mainly Town Councils or educational establishments), and
- a scheme member representative (i.e. representing all the active, deferred, pensioner and dependant members who participate or receive benefits from the Clwyd Pension Fund).

All representatives would have voting rights. The only direct stakeholders of the Fund not having representation on the Committee are admission bodies which make up a very small proportion of the liabilities of the Clwyd Pension Fund and have joined voluntarily, so it is not considered appropriate at this time. Alternative arrangements are in place to engage with admission bodies.

- The recommended role and function of the Committee is as set out in Appendix 2.
- To enable a flexible and efficient decision making process the Pension Fund Committee will be able to delegate specific responsibilities including to the Head of Finance.
- Further, the Council will delegate specific responsibilities to the Head of Finance including the day to day management of the Fund and establishing and chairing a Pension Fund Advisory Panel to provide advice and propose recommendations to the Pension Fund Committee. The Pension Fund Advisory Panel would include Council Officer(s) and Fund advisors (including the Investment Consultant, Fund Actuary and Independent Adviser), as appropriate.

3.02 Legal and Democratic Services have provided advice and support and will continue to assist with documenting Terms of Reference and Scheme of Delegation based on 3.01 above, along with other administrative matters.

3.03 Subject to the approval of this Committee the new governance structure and representation can then be recommended for approval to the Council with the new structure becoming effective at the Council's Annual Meeting in May.

4.00 RECOMMENDATIONS

- 4.01 That Members recommend to Council a change to its Constitution as outlined in Appendix 2 so that the Council, as administering authority for the Clwyd Pension Fund, delegates its functions, under the Local Government Scheme Regulations 2013, to a newly constituted Clwyd Pension Fund Committee.

5.00 FINANCIAL IMPLICATIONS

- 5.01 The four co-opted members on the committee will be entitled to an allowance of £99 per half day meeting. These costs will be met from the Clwyd Pension Fund.

6.00 ANTI POVERTY 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 As outlined paragraph 2.10 of this Report.

11.00 CONSULTATION UNDERTAKEN

- 11.01 As outlined paragraph 2.10 of this Report.

12.00 APPENDICES

- 12.01 Appendix 1 - Clwyd Pension Fund Proposed Governance Structure
Appendix 2 - Recommended changes to the Constitution relating to the Clwyd Pension Fund

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS

CIPFA Health Check for Clwyd Pension Fund
Clwyd Pension Fund Panel Report 25th February 2014
Local Government Pension Scheme Regulations 2013

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