

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

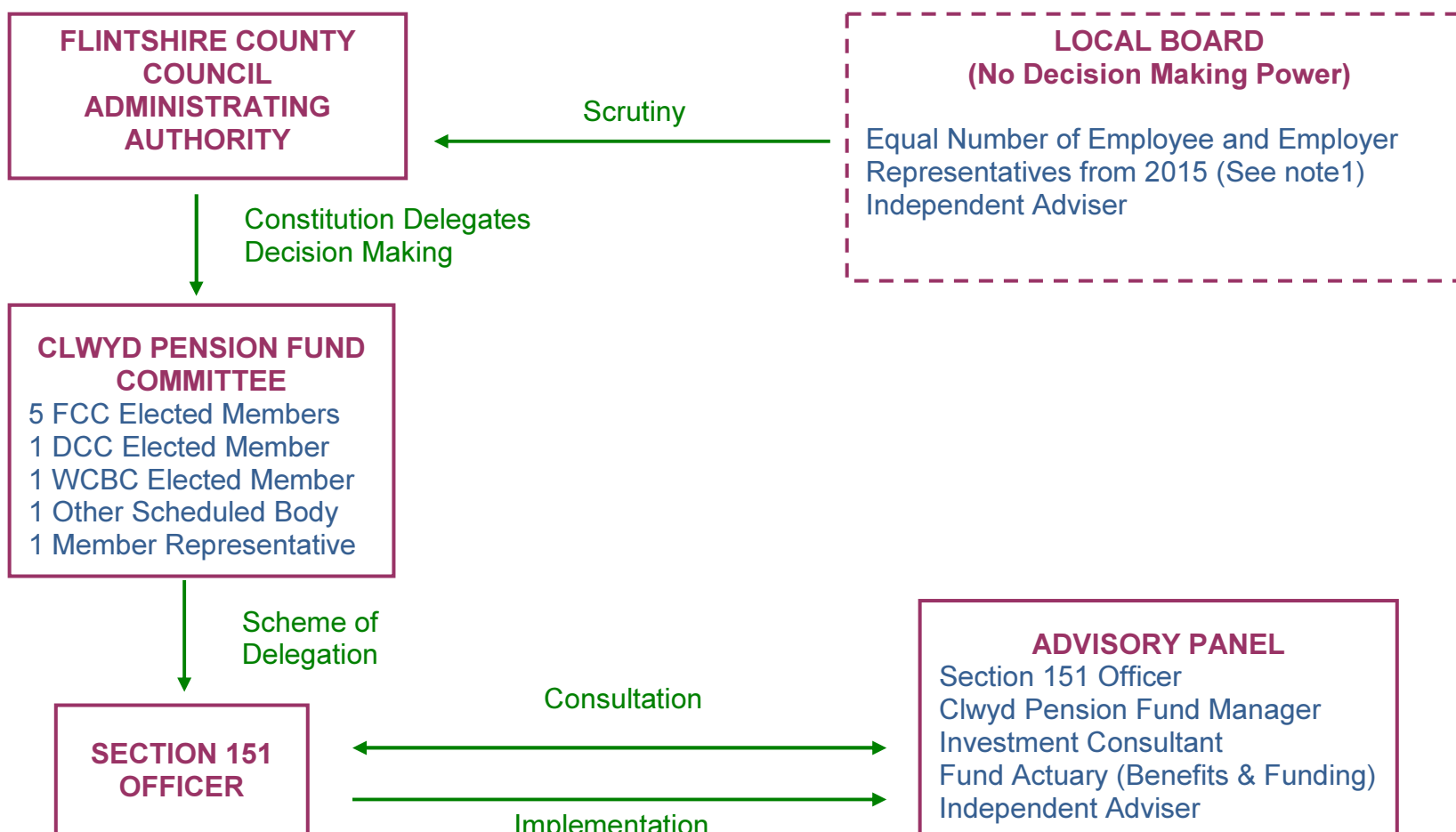
- 12.01 Appendix 1 - Clwyd Pension Fund Proposed Governance Structure
Appendix 2 - Recommended changes to the Constitution relating to the Clwyd Pension Fund

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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**CLWYD PENSION FUND
PROPOSED GOVERNANCE STRUCTURE**



Note:

1. The Public Services Pensions Act requires a new body, a Local Board, to 'scrutinise' the administering authority. Not expected to be implemented until 2015.

**Recommended changes to the Constitution
relating to the Clwyd Pension Fund**

**1) Addition to PART 2 – ARTICLES OF THE
CONSTITUTION**

The following article shall be added:

Article XX – The Pension Fund Committee

1.1 Pension Fund Committee

The Council will establish a Pension Fund Committee.

1.2 Composition

(a) **Membership.** The Pension Fund Committee will be composed of 9 members. Its membership will include:

- i) 5 Councillors of Flintshire County Council, determined by the Council.

Four co-opted members comprising:-

- ii) 1 Councillor of Wrexham County Borough Council, determined by that Council.
- iii) 1 Councillor of Denbighshire County Council, determined by that Council.
- iv) 1 Representative of the other Scheme Employers (not admission bodies) in the Clwyd Pension Fund as defined by Schedule 2 of the Local Government Pension Scheme 2013, as amended from time to time, appointed in accordance with procedures agreed by the Head of Finance in consultation with the members of the Pension Fund Advisory Panel*.
- v) 1 Representative of the scheme members of the Clwyd Pension Fund, appointed in accordance with procedures agreed by the Head of Finance in consultation with the members of the Pension Fund Advisory Panel.

*The Pension Fund Advisory Panel is a group of officers and advisers to the Clwyd Pension Fund, currently consisting of:

- The Head of Finance of Flintshire County Council
- The Clwyd Pension Fund Manager
- Investment Consultant
- Fund Actuary
- Independent Adviser

(b) **Term of office.**

- i) The representative members (for other scheme employers and scheme members) are appointed for a period of no more than six years and may be reappointed for further terms.
- ii) Councillors of Flintshire County Council will be appointed annually and may be reappointed for further terms.
- ii) Councillors of other local authorities who are members of the Pension Fund Committee will have a term of office to the next ordinary local government election following their appointment. They may be reappointed for further terms.

(c) **Quorum.** A meeting of the Pension Fund Committee shall only be quorate when:

- i) At least five members are present, and
- ii) At least three of the members present are councillors of Flintshire County Council

(d) **Voting.** The Councillors from Wrexham County Borough Council and Denbighshire County Council and the representative members will be entitled to vote at meetings as well as Councillors of Flintshire County Council;

(f) **Chairing the Committee.**

- i) Only Councillors of Flintshire County Council may be the Chair and Vice-Chair.
- ii) The Chair and Vice- Chair will be elected annually by members of Flintshire County Council.

(h) The Council Procedure Rules should apply to this Committee in the same way as they apply to other Committees unless different provision is made in this article.

- (i) Location. The Pension Fund Committee may occasionally meet outside of the Flintshire County Council area.

1.3 Role and Function

The Pension Fund Committee's principal aim is to carry out the functions of Flintshire County Council as the Scheme Manager and Administering Authority for the Clwyd Pension Fund in accordance with Local Government Pension Scheme legislation.

The Pension Fund Committee will have the following specific roles and functions, taking account of advice from the Head of Finance and the Fund's professional advisers:

- a) Ensuring the Clwyd Pension Fund is managed and pension payments are made in compliance with the extant Local Government Pension Scheme Regulations, Her Majesty's Revenue & Customs requirements for UK registered pension schemes and all other relevant statutory provisions.
- b) Ensuring robust risk management arrangements are in place.
- c) Ensuring the Council operates with due regard and in the spirit of all relevant statutory and non statutory best practice guidance in relation to its management of the Clwyd Pension Fund.
- d) Determining the Pension Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the overall management of the Fund, including in relation to the following areas:
 - i) Governance – approving the Fund's Governance Policy and Compliance Statement for the Fund within the framework as determined by Flintshire County Council and making recommendations to Flintshire County Council about any changes to that framework.
 - ii) Funding Strategy – approving the Fund's Funding Strategy Statement including ongoing monitoring and management of the liabilities, ensuring appropriate funding plans are in place for all employers in the Fund, overseeing the triennial valuation and interim valuations, and working with the actuary in determining the appropriate level of employer contributions for each employer.
 - iii) Investment strategy - approving the Fund's investment strategy, Statement of Investment Principles and Myners Compliance Statement including setting investment targets and ensuring these are aligned with the Fund's specific liability profile and risk appetite.

- iv) Administration Strategy – approving the Fund's Administration Strategy determining how the Council will the administer the Fund including collecting payments due, calculating and paying benefits, gathering information from and providing information to scheme members and employers.
 - v) Communications Strategy – approving the Fund's Communication Strategy, determining the methods of communications with the various stakeholders including scheme members and employers.
 - vi) Discretions – determining how the various administering authority discretions are operated for the Fund.
- e) Monitoring the implementation of these policies and strategies on an ongoing basis.
 - f) Considering the Fund's financial statements prior to approval by the Council and agreeing the Fund's annual report.
 - g) Selection, appointment and dismissal of the Fund's advisers, including actuary, benefits consultants, investment consultants, global custodian, fund managers, lawyers, pension funds administrator, and independent professional advisers.
 - h) Making decisions relating to employers joining and leaving the Fund. This includes which employers are entitled to join the Fund, any requirements relating to their entry, ongoing monitoring and the basis for leaving the Fund.
 - i) Agreeing the terms and payment of bulk transfers into and out of the Fund.
 - j) Agreeing Pension Fund business plans and monitoring progress against them.
 - k) Agreeing the Fund's Knowledge and Skills Policy for all Pension Fund Committee members and for all officers of the Fund, including determining the Fund's knowledge and skills framework, identifying training requirements, developing training plans and monitoring compliance with the policy.
 - l) Agreeing the Administering Authority responses to consultations on LGPS matters and other matters where they may impact on the Fund or its stakeholders.
 - m) Receiving ongoing reports from the Head of Finance and Pensions Advisory Panel in relation to delegated functions.

No matters relating to Flintshire County Council's responsibilities as an employer participating within the Clwyd Pension Fund are delegated to the Pension Fund Committee.

1.4 Sub-Committees, Task and Finish Groups and Officers

The Committee may delegate a limited range of its functions to one or more officers of the Authority. The Pension Fund Committee will be responsible for outlining expectations in relation to reporting progress of delegated functions back to the Pension Fund Committee.

2) Change to PART 2 – ARTICLES OF THE CONSTITUTION

The following provision shall be deleted:

Committee (Membership)		Non-Executive Functions	Provision of Act or Statutory Instrument	Delegation of functions
H. Functions relating to pensions etc	1	Functions relating to local government pensions, etc	Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972 (c11) [44]	Head of Finance
	3	Functions under existing pension schemes as respects persons employed by the fire and rescue authorities pursuant to Section 1 of the Fire and Rescue Services Act 2004	Sections 34 and 36 of the Fire and Rescue Services Act 2004	Head of Finance

The following provision shall be added:

Committee (Membership)		Non-Executive Functions	Provision of Act or Statutory Instrument	Delegation of functions
Pension Fund Committee 5 Councillors of Flintshire County Council, 1 Councillor of Wrexham County Borough Council, 1		In accordance with Article X , to carry out the functions of Flintshire County Council as the Scheme Manager and Administering Authority for the Clwyd Pension Fund.	Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972 (c11) [44] and the Public Service Pensions Act 2013.	Head of Finance

Councillor of Denbighshire County Council, 1 Representative of the other Scheme Employers (not admission bodies) in the Clwyd Pension Fund and 1 Representative of the scheme members of the Clwyd Pension Fund.			
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3) Change to PART 3 – RESPONSIBILITY FOR FUNCTIONS

The following provisions shall be deleted:

Head of Finance & Section 151 Officer	
FS9	To accept nominations of admitted bodies to participate in the Superannuation Fund.
FS14	In accordance with any policy or strategy decided by the Authority to approve decisions relating to the management of the Pension Fund and the administration of pension benefits.
FS15	To carry out functions relating to local government pensions etc pursuant to Regulations under Section 7, 12 or 24 of the Superannuation Act 1972; and functions relating to pensions, allowances and gratuities pursuant to Regulations under Section 18(3A) of the Local Government and Housing Act 1989.
FS16	To determine matters involving the exercise of a discretion under provisions relating to or arising from the Local Government Pension Scheme following consultation with the Discretions Panel consisting of the Head of Pensions/Funds, the Pensions Manager and Principal Solicitor (Litigation).

The following provisions shall be added:

Head of Finance & Section 151 Officer	
FSn	The day to day management of Clwyd Pension Fund matters including ensuring arrangements for investments of assets and administration of contributions and benefits, excluding matters delegated to the Pensions Fund Committee.
FSn	Establish and chair a Clwyd Pension Fund Advisory Panel consisting of officers of the Council and adviser to the Clwyd Pension Fund to provide advice and propose recommendations to the Pension Fund Committee, and carry out such matters as delegated to it from time to time by the Pension Fund Committee.

3) Change to PART 4 – RULES OF PROCEDURE Financial Procedure Rules

The following provisions shall be amended:

In:

- Clause 18.5 (b) relating to Chief Finance Officer or Head of Human Resources and Organisational Development, and
- Clause 18.5 (d) relating to Directors and Heads of Service the words "superannuation" shall be replaced by "pension".