

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:**           **CLWYD PENSION FUND COMMITTEE**

**DATE:**               **22nd JULY 2014**

**REPORT BY:**       **CHIEF OFFICER (PEOPLE AND RESOURCES)**

**SUBJECT:**           **DRAFT GOVERNANCE REGULATIONS**

**1.00 PURPOSE OF REPORT**

1.01 To provide Committee Members with an update on the draft LGPS Governance Regulations and initial plans for implementing the local Pension Board.

**2.00 BACKGROUND**

2.01 The Public Service Pensions Act (PSPA) provides the platform for a number of changes to public service pension schemes, including the introduction of the new benefit structure in the Local Government Pension Scheme (LGPS) from 1 April 2014. There are a number of key changes impacting on the governance of public service pension schemes, and the Secretary of State for Communities and Local Government (DCLG) has now issued a consultation on draft regulations detailing the expected changes to be made within the LGPS. A copy of the consultation is attached as Appendix A.

2.02 There are two key elements included within the draft regulations:

- the requirement for each LGPS administering authority to introduce a local Pension Board. Throughout this report, for clarity purposes, these new Pension Boards will be referred to as the "PSPA Boards".
- the introduction of a national Scheme Advisory Board.

2.03 The consultation closes on 15 August 2014. Final regulations are expected to be made in September or October 2014 with some of the provisions effective from 1 October 2014 to allow the establishment of these bodies before the deadline date of 1 April 2015.

**3.00 Local PSPA Board**

3.01 It is worth noting that the provisions included in these draft regulations are relatively light touch, providing administering authorities with a significant amount of flexibility when developing their local PSPA Board. In many places the provisions are effectively repeating the requirements of the PSPA.

3.02 The provisions relating to PSPA Boards are included on pages 17 and 18 of the attached consultation document. Some of the key elements are outlined below:

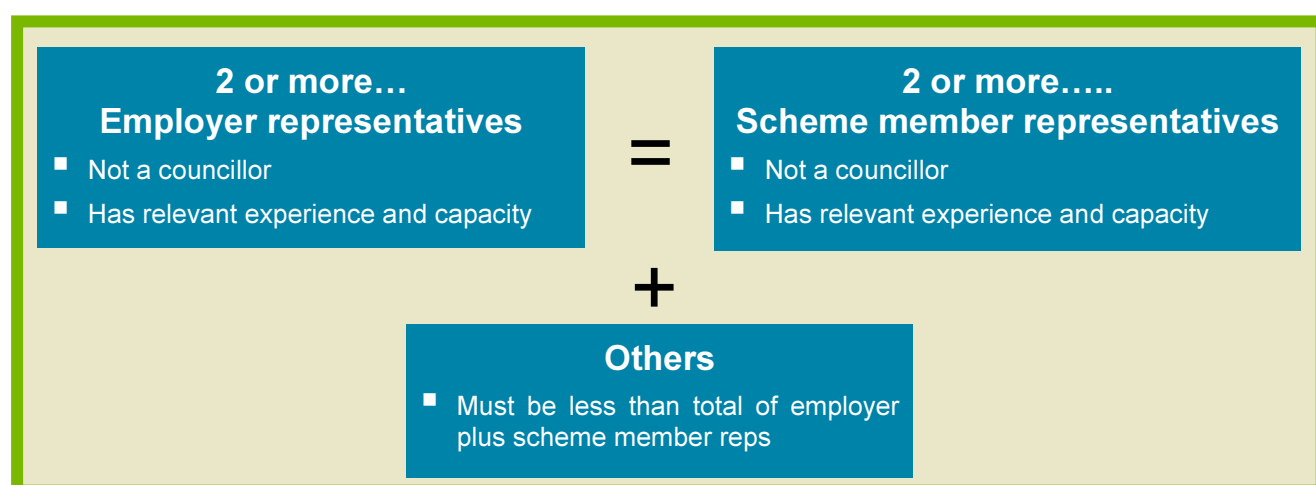
### *Establishment*

- Each administering authority is required to establish a local PSPA board no later than 1 April 2015.
- As well as assisting the administering authority with securing compliance with regulations and requirements imposed by the Pensions Regulator, the new PSPA Board will also be responsible for assisting in ensuring effective and efficient governance and administration of the Scheme.
- Where a pension committee already exists as a committee of a local authority (which is the case with most administering authorities), there is an option to create one combined pension committee and PSPA Board. However, this will be subject to the Secretary of State's approval because the practical and legal hurdles for doing so are considered extremely challenging.

### *Membership*

- As had been expected, there must be equal numbers of scheme member representatives and employer representatives.
- There must be at least two of each of these representatives (so a PSPA Board must comprise of at least four individuals)
- However, these representatives:
  - **cannot** be local authority members (i.e. councillors from the administering authority or any other local authority.)
  - must have "relevant experience and capacity", although the covering letter explains that this experience requirement is not to be confused with the PSPA requirement to have ongoing knowledge and understanding of pension matters; it will be up to each administering authority to determine what they consider to be 'relevant experience'
- Other members can be appointed to the PSPA Board in addition to the representatives but the number of these other members must be less than the total number of representatives

These points are illustrated below:



### *Conflicts of Interest*

- Each administering authority must be satisfied that appointees to a PSPA board do not have a conflict of interest (initially and on an ongoing basis).
- This is defined in the PSPA as "“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)””.

### *Establishment*

- The consultation provides two alternatives relating to how procedures are established for the PSPA Boards and are asking authorities to indicate their preferred method:
  - For local authorities, Part 6 of the Local Government Act could be made to apply to the PSPA Board as if it were a local authority committee, or
  - Each administering authority determines its own procedures.

## **Implementing the Clwyd Pension Fund PSPA Board**

- 3.03 It is expected that Flintshire County Council will be responsible for establishing the Clwyd Fund’s PSPA Board, including deciding its size, membership and role. The Pension Fund Manager will be meeting with Democratic and Legal Services officers to discuss how this should be taken forward. It is recommended that the Committee Members agree that the Pension Fund Manager works with Democratic Services officers to progress these matters subject to ongoing updates to and input from the Chairman of the Pension Fund Committee (or the Deputy Chairman in his absence).
- 3.04 An update on progress will be provided to the November Pension Fund Committee and it is envisaged that the PSPA Board will be established at a Council meeting later in 2014 or early 2015. In the meantime, Committee Members are asked to consider and provide any views on these matters.

## **4.00 Scheme Advisory Board**

- 4.01 The provisions relating to the establishment of the national Scheme Advisory Board (SAB) are also relatively light touch. These are set out in pages 19 to 20 of the draft regulations in the attached consultation. The key points are summarised below:

### *Establishment/Purpose*

- The role of the SAB will be two-fold; providing advice to the Secretary of State on desirable changes to the scheme, and providing advice to administering authorities and local PSPA Boards on the effective and efficient administration and management of the Scheme and its pension funds.
- The SAB can determine its own procedures (i.e. voting, structure, payments etc).

### *Membership*

- The membership of the Board will consist of between 2 and 12 members, appointed by the Chair, who in turn is appointed by the Secretary of State.
- Sub-Committees can also be established and individuals who are not members of the SAB can be appointed to these sub-committees.

### *Funding*

- The SAB's costs will be recharged to administering authorities by way of an annual payment which is determined by the SAB, and which we understand is likely to be calculated in proportion to the number of scheme members in each Fund.

4.02 These provisions will result in a smaller SAB than is currently the case for the existing Shadow SAB, which has 18 members (6 scheme member representatives, 6 employer representatives, an independent chairperson and 5 advisers) in addition to other observers.

## **5.00 Other Matters in Covering Letter**

5.01 The covering letter to the consultation also asks for views in relation to a number of other policy matters including:

- Whether to make **annual general meetings** and/or employer forums compulsory; these are currently best practice but some funds do not hold such events.
- Whether to extend the **Public Sector Equality Duty** to the PSPA boards and SAB.
- Whether to include a statutory responsibility on Pension Committee members to comply with the **CIPFA Knowledge and Understanding Framework** and other relevant training requirements; again, this is currently only best practice. This is to avoid the situation where the PSPA Board members have a higher knowledge and understanding requirement than the decision making committee members.

## **6.00 Response to Consultation**

6.01 Due to the timeframe for responses to the consultation, it is recommended that PFC members delegate responsibility for developing a response to the Pension Fund Manager, subject to formal approval by the Chairman of the PFC (or the Deputy Chairman in his absence).

## **7.00 RECOMMENDATIONS**

7.01 That Committee Members:

- 1) Note the contents of the report and provide any views on the matters raised.
- 2) Delegate responsibility for developing a response to the consultation to the Pension Fund Manager, subject to formal approval by the Chairman of the Pension Fund Committee (or the Deputy Chairman in his absence).
- 3) Agree that the Pension Fund Manager works with Democratic Services officers to progress the establishment of the PSPA Board, subject to ongoing updates to and input from the Chairman of the Pension Fund Committee (or the Deputy Chairman in his absence).

## **8.00 FINANCIAL IMPLICATIONS**

8.01 None directly as a result of this report albeit the creation of the local PSPA Board and the Shadow Advisory Board (SAB) will result in additional costs to the Clwyd Pension Fund.

## **9.00 ANTIPOVERTY IMPACT**

9.01 None directly as a result of this report.

## **10.00 ENVIRONMENTAL IMPACT**

10.01 None directly as a result of this report.

## **11.00 EQUALITIES IMPACT**

11.01 None directly as a result of this report.

## **12.00 PERSONNEL IMPLICATIONS**

12.01 None directly as a result of this report, albeit the creation of the local PSPA Board will result in additional work loads for the Pension Fund Manager and his staff which will be monitored.

## **13.00 CONSULTATION REQUIRED**

13.01 Ongoing internal discussions regarding the creation of the local PSPA Board will be required, and in due course employer and scheme member representatives will need to be appointed, at which point stakeholders of the Fund will be consulted with.

## **14.00 CONSULTATION UNDERTAKEN**

14.01 None directly as a result of this report.

## **15.00 APPENDICES**

### 15.01 LGPS Governance Regulations Consultation

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#### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

Background Papers: None.  
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