

## CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE

<b>Date of Meeting</b>	Thursday 29 <sup>th</sup> September 2022
<b>Report Subject</b>	Amendments to Clwyd Pension Fund Constitution
<b>Report Author</b>	Joint Report by: Head of Clwyd Pension Fund, Chief Executive and Chief Officer (Governance)

### EXECUTIVE SUMMARY

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. The Council delegates responsibility for the management of pension issues to the Clwyd Pension Fund Committee, having appropriate advice from the Pension Fund Advisory Panel. The Council has also established the Clwyd Pension Fund Board, which is a legal requirement, made up of employer and member representatives and a non-voting Independent Chair.

This paper proposes changes to the Constitution and the Pension Board’s Protocol to:

- reflect the proposal that the Head of Clwyd Pension Fund is the senior officer with responsibility for operational delivery of the Pension Fund, rather than the Chief Executive;
- ensure that the Constitution is fully reflective of the status of pension fund management as a non-executive function.

Other incidental changes are included in the Appendix.

### RECOMMENDATIONS

1	That Members recommend to Council the changes outlined in the Appendix to its Constitution and the Pension Board Protocol.
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### REPORT DETAILS

<b>1.00</b>	<b>PROPOSED AMENDMENTS TO PENSION FUND GOVERNANCE</b>
1.01	<p><i>Background</i></p> <p>The Clwyd Pension Fund is managed and administered by Flintshire County Council as the Administering Authority on a “lead authority” basis which is set out in statute. The Clwyd Pension Fund is a £2.5bn Local</p>

	Government Pension Fund which provides death and retirement benefits for local government employees in North East Wales and other qualifying contributors from approximately 50 contributing employers in relation to approximately 50,000 active members, retired members, dependants and deferred members.
1.02	In terms of governance, the management of the Local Government Pension Scheme (LGPS) matters are a Council rather than executive function. They are therefore are not within the remit of Cabinet, but this is not currently made clear within the Council's Constitution.
1.03	The Council's Constitution sets out arrangements for the ongoing management of the Fund and delegates responsibility for the management of pension issues to the Clwyd Pension Fund Committee. The Committee comprises elected members from Flintshire County Council, Wrexham County Borough Council and Denbighshire County Council, a representative from the other employers participating in the Fund and a scheme member representative.
1.04	The Council's Constitution also confirms the establishment of a Pension Fund Advisory Panel consisting of officers and advisers to the Clwyd Pension Fund. This body provides advice and proposes recommendations to the Clwyd Pension Fund Committee. It also carries out such matters as delegated to it from time to time by the Clwyd Pension Fund Committee.
1.05	The Council has also established the Clwyd Pension Fund Board, made up of employer and member representatives and a non-voting Independent Chair. The Board is an independent body created under the Public Sector Pensions Act 2013 (and therefore not a local authority committee). The Board's statutory function is to assist in ensuring compliance with regulations and associated guidance, and to assist in ensuring the effective and efficient governance and administration of the Fund. The role and terms of reference for the Board are set out in the Pension Board Protocol.
1.06	The previous Chief Executive, Mr Colin Everett, had a number of delegated responsibilities in relation to the Clwyd Pension Fund including establishing and chairing the Clwyd Pension Fund Advisory Panel. The change in Chief Executive is a timely opportunity to consider whether any changes are required in relation to the responsibilities relating to the Pension Fund.
1.07	<i>Proposed Changes</i>  Proposed changes to the Constitution and Pension Board Protocol are outlined in the Appendix to this report. The key changes relate to two specific areas as explained in the following paragraphs. There are some further incidental changes.
1.08	Recommendations from a national good governance review carried out by the LGPS Scheme Advisory Board include that:

	<i>“Each administering authority must have a single named officer who is responsible for the delivery of all LGPS related activity for that fund. (“the LGPS senior officer”).”</i>
1.09	The Fund’s Independent Governance Adviser advised that whilst the Good Governance recommendations are not yet confirmed in legislation, it would be best practice to identify a senior officer whose principal (or sole) focus is the pension fund, thus ensuring that person has the capacity to devote sufficient time to the role. This senior officer could then carry out the role recommended by the LGPS Scheme Advisory Board, which would include the pension fund administering authority responsibilities currently delegated to the Chief Executive. It was suggested that this should fall within the remit of the existing role of Head of Clwyd Pension Fund and this recommendation was endorsed by the previous Chief Executive and the Clwyd Pension Fund Advisory Panel. The recommended changes in the attached replace all Pension Fund administering authority responsibilities that currently fall to the Chief Executive with the Head of Clwyd Pension Fund. Furthermore, they include the addition of the Corporate Manager – Human Resources and Organisational Development as a new member of the Advisory Panel to replace the Chief Executive.
1.10	It has also been identified that further changes should be made to clarify the fact that Local Government Pension Scheme functions are a non-executive function. This means that: <ol style="list-style-type: none"> <li>1. the role of the Cabinet Member for Finance, Social Value &amp; Procurement should have Clwyd Pension Fund removed from his responsibilities; and</li> <li>2. the remit of the Cabinet Member for Governance and Corporate Services including Health and Safety and Human Resources should include responsibilities to reflect the Council’s role as an employer within the Clwyd Pension Fund; and</li> <li>3. the inclusion of the Clwyd Pension Fund Committee within the remit of the Corporate Resources element of the Overview and Scrutiny Committee should refer specifically to the Council’s role as an employer in the Clwyd Pension Fund.</li> </ol>
1.11	The associated changes to the Constitution and Pension Board Protocol have been discussed and accepted in principle by the Chief Executive and the Clwyd Pension Fund Advisory Panel.
1.12	The Clwyd Pension Fund Committee, using delegated responsibilities, has also agreed to recommend the changes to the Constitution and Pension Board Protocol as outlined in the attached. The Pension Board considered and agreed for recommendation, the principles of the changes to its Protocol.
<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	There are no immediate resource implications expected as a result of these recommendations.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	The former and existing Chief Executives of Flintshire County Council, and the Clwyd Pension Fund Advisory Panel were involved in the development of these proposals. The principles of the proposed changes to the Pension Board Protocol were discussed and agreed for recommendation to Council by the Pension Board.
<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	Agreement to these changes will ensure that the Clwyd Pension Fund continues to be managed in line with national expectations. This includes ensuring appropriate ring-fencing of the decision making relating to the Fund which is a key element of risk management and supports the Administering Authority's fiduciary responsibility to scheme members and employers.
<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 – Draft Constitution changes
<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	None.  <b>Contact Officer:</b> Gareth Owens, Chief Officer (Governance) <b>Telephone:</b> 01352 702344 <b>E-mail:</b> gareth.legal@flintshire.gov.uk
<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	None