



## Committee report

Committee	<b>EXTRAORDINARY MEETING OF THE PENSION FUND COMMITTEE</b>
Date	<b>6 OCTOBER 2017</b>
Title	<b>'FIREFIGHTERS' PENSION BOARD TERMS OF REFERENCE</b>
Report of	<b>TECHNICAL FINANCE MANAGER</b>

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### EXECUTIVE SUMMARY

1. This report seeks to amend the current terms of reference for the Firefighters' Pension Board following a review after one year of operation of the board.
2. The committee is asked to review and agree the proposed changes to the fire board's terms of reference; to delegate to the chairman of the committee to discuss the terms of reference with the chairman of the Firefighters' Pension Board following its meeting on 12 October 2017, and to agree any final amendments with the Section 151 Officer and Monitoring Officer, before making a recommendation for the adoption of these terms of reference to full council at its November 2017 meeting.

### BACKGROUND

3. The Isle of Wight Council (the council), as fire authority, is scheme manager for the Firefighters' Pension Schemes (FPS). Following the enactment of the Public Service Pensions Act 2013, the council established the Firefighters' Pension Board (the fire board) in February 2015.
4. The fire board was established to assist the council, as the scheme manager for the FPS, to ensure compliance with the FPS regulations and review the decisions made by the council, in its role as the fire authority, impacting on the FPS.
5. The terms of reference for the fire board approved by the council at that time were based on a template provided by the Firefighters' National Scheme Advisory Board, which was issued while the guidance on the creation and operation of the board was still to be finalised by the Department for Communities and Local Government (DCLG).

6. The existing terms of reference for the Firefighters' Pension Board are published as article 12 of the council's constitution.
7. The fire board had its first meeting in September 2016, and has undertaken a review of its terms of reference, having been operational for a year.
8. The principal changes to the terms of reference, attached as appendix 1 to this report, are summarised below:
  - (a) To amend the process by which employer representatives are selected, specifying that:
    - (i) only elected members of the council may represent the employer on the board (not officers);
    - (ii) one of the elected members will be the Cabinet member with responsibility for public protection;
    - (iii) the other elected member will be nominated by Full Council.
  - (b) To amend the process by which scheme member representatives are selected:
    - (i) expanding the selection criteria to include active, deferred and retired firefighters, in accordance with the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015;
    - (ii) removing the requirement for nomination by the Fire Brigade Union;
    - (iii) seeking expressions of interest from eligible firefighters, and holding a ballot.
  - (c) To make explicit that the chairman of the board shall be selected from within the fire board, rather than allowing an independent chairman to be appointed.
  - (d) To expand the role of the chairman.
  - (e) To increase the term of office for all fire board members to four years (from two) to match the council's election cycle.
  - (f) To expand the section on conflicts of interest, to cover only those conflicts of interest that may be considered prejudicial to the exercise of the functions of the fire board.
  - (g) To explicitly refer to The Pensions Regulator's code of practice 14, and any other codes of practice which may apply to public sector schemes.
  - (h) To include the provision for an annual report to be prepared by the fire board and published on the council's website.
  - (i) To include a definition of "qualification for membership".

9. Other minor amendments to refer to the council (as fire authority) as scheme manager have been made throughout the document.

### STRATEGIC CONTEXT

10. Good governance arrangements are essential to the delivery of the council's services and the decision making processes that support this.
11. Ensuring that all the resources available to the Island are used in the most effective way in achieving the Island's priorities.

### CONSULTATION

12. The chairman of the fire board has reviewed the proposed terms of reference, and is content that they reflect the board's requirements.
13. The fire board will be meeting on 12 October 2017 to consider the proposed terms of reference presented today, and the main points of the committee's discussions.
14. It is recommended that the chairman of the committee be authorised to meet with the chairman of the fire board following the fire board meeting, to consider any further amendment to the terms of reference which the fire board may consider necessary.

### FINANCIAL / BUDGET IMPLICATIONS

15. The amendment of the committee's terms of reference will have no financial or budget implications.
16. The firefighters' pension scheme is a national scheme, and the fund itself is managed by the DCLG. There are local discretions which can be exercised, making it a locally administered scheme.
17. As at 31 March 2017, there were 137 firefighters actively contributing to the schemes, 66 deferred members (former employees who have not yet reached retirement age) and 120 pensioners.
18. The council's financial responsibility for the firefighters' pension schemes is to collect contributions from both scheme members and the employer, and to pay out pension benefits to retired members. At the end of each year, the difference between the amounts collected and paid out is either recovered from, or paid over, to central government.

### LEGAL IMPLICATIONS

19. The Public Service Pension Act 2013 required the council to establish a pension board. The board's role is to assist the scheme manager in securing the effective and efficient administration of the pension scheme and any statutory scheme connected with it.

20. The pension board will, in particular, be charged with helping the scheme manager to ensure that the scheme is operated to an appropriate standard. It will be responsible for the matters including securing that schemes are administered in accordance with all relevant legislation concerning the governance and administration of public schemes and any requirements imposed on the scheme by the Pensions Regulator.
21. The 2015 pension regulations state that an administering authority may determine the procedures applicable to a local pension board.
22. The regulations also provide that a local pension board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

### EQUALITY AND DIVERSITY

23. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
24. The amendment of the Firefighters' Pension Board terms of reference is not considered to impact any of the protected characteristics.

### RISK MANAGEMENT

25. It is the responsibility of the Isle of Wight Council, as fire authority, to ensure that the Isle of Wight Firefighters' Pension Schemes are properly governed and administered in compliance with relevant regulations and other requirements. The council has delegated this function to the pension fund committee, under section 101 of the Local Government Act 1972.
26. Should the council, as scheme manager, fail to ensure appropriate standards of governance and administration of the pension schemes, the Pensions Regulator has the powers to issue an improvement notice under s13 of the Pensions Act 2004. This would have reputational issues for the council.
27. All the recommendations are to ensure that the council meets its corporate governance requirements and responds to changing requirements and demands. These should lessen the risks arising from any challenge to the decision making process by way of judicial review or other such legal action.

## RECOMMENDATION

28. That the committee considers the revised terms of reference and recommend any additional items to be included.
29. That the committee authorises the chairman to meet with the chairman of the Firefighters' Pension Board following the fire board's meeting on 12 October 2017, to consider any further changes to the terms of reference which the fire board may propose.
30. That the committee authorises the chairman of the committee, in discussion with the section 151 officer and the monitoring officer, to make any final amendment to the terms of reference, if necessary.
31. That the committee recommends the final version of the terms of reference to Full Council on 15 November 2017 for adoption and inclusion in the council's constitution.

## APPENDICES ATTACHED

32. [Appendix 1](#) – revised draft terms of reference for the firefighters' pension board

## BACKGROUND PAPERS

33. [Establishment of a local firefighters' pension board – Full Council 25 February 2015, paper C.](#)
34. Current Firefighters' Pension Board terms of reference (article 12 council [constitution](#)).
35. The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 <http://www.legislation.gov.uk/ukxi/2015/465/regulation/4/made>

Contact Point: Jo Thistlewood, Technical Finance Manager, ☎ 821000  
e-mail [jo.thistlewood@iow.gov.uk](mailto:jo.thistlewood@iow.gov.uk)

CHRIS WARD  
*Director of Finance and Section  
151 Officer*

CLLR ADRIAN AXFORD  
*Chairman of Pension Fund Committee*