



Committee report

Committee	EXTRAORDINARY MEETING OF THE PENSION FUND COMMITTEE
Date	6 OCTOBER 2017
Title	LOCAL PENSION BOARD TERMS OF REFERENCE
Report of	TECHNICAL FINANCE MANAGER

EXECUTIVE SUMMARY

1. This report seeks to amend the current terms of reference for the Local Pension Board for the Local Government Pension Scheme (LGPS) following a review by the fund's governance advisers, Hymans Robertson LLP, commissioned following discussions with Local Pension Board members.
2. The committee is asked to review and agree the proposed changes to the local board's terms of reference; to delegate to the chairman of the committee to discuss the terms of reference with the chairman of the Local Pension Board following its meeting on 17 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) is the administering authority for the Isle of Wight Council Pension Fund (the pension fund), part of the Local Government Pension Scheme. The council has delegated its duties as scheme manager for the pension fund to the Isle of Wight Pension Fund Committee (the committee) under section 101 of the Local Government Act 1972.
4. Following the enactment of the Public Service Pensions Act 2013 (PSPA), the council established the Local Pension Board (the board) in January 2015.
5. Local pension boards were introduced to provide assistance to administering authorities in securing effective and efficient governance and administration of the pension fund, and ensuring compliance with LGPS regulations and other requirements of the Pensions Regulator.
6. The terms of reference for the board approved by the council at that time were based on a template provided nationally by Hymans Robertson LLP, 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).

7. The existing terms of reference for the Local Pension Board are published as article 11 of the council's constitution.
8. At board meetings in December 2016 and July 2017, members presented alternative terms of reference for the board, adapted from a template provided by the National Scheme Advisory Board in January 2015, at the request of a number of scheme managers and the unions, which was significantly more detailed than the terms of reference adopted by the council.
9. The Section 151 Officer authorised an independent review of the council's terms of reference, in conjunction with the proposals by the board, to ensure that any new terms of reference were fit for purpose and compliant with regulations and current best practice. Hymans Robertson LLP (Hymans), the fund's governance advisers, were commissioned to carry out this work at a cost of £750.

HYMANS ROBERTSON REVIEW

10. The terms of reference sent to Hymans were those published in the council's constitution, amended in discussion with board members as follows:
 - (a) To allow provision for the membership of the board to be increased from the current four members (minimum allowed by the PSPA) to a maximum of eight, retaining the equal number of scheme member and employer representatives.
 - (b) To allow provision for the alternative appointment of scheme member representatives should Unison fail to make such appointments.
 - (c) To increase the term of office for all board members to four years (from two) to match the council's election cycle.
 - (d) To increase the minimum number of meets of the board to two (from one) while noting that in practice the board is likely to meet four times a year in line with pension fund committee meetings.
11. Hymans proposed a number of other substantive amendments as follows:
 - (a) Amending the terms regarding conflicts of interest and how these are handled by the pension board, to move to a position whereby any conflicts that are identified are effectively managed so as not to prevent the pension board from undertaking its duties.
 - (b) Amending the knowledge and skills working to reflect the role of the scheme manager in ensuring the pension board members have the required knowledge to undertake their roles.
 - (c) Adding some further reporting requirements for the pension board's training and attendance and also an annual report, which could easily be included within the pension fund annual report.
 - (d) Amending the reporting requirements for breaches of the law to make it clear any breaches identified by the pension board must be recorded

and reported in accordance with the council's (currently draft) *Reporting breaches of the law to the Pensions Regulator policy*.

- (e) Adding a definition of the "qualification for membership" of the pension board.
- 12. Hymans stated that with the above amendments, the council's terms of reference for the pension board would be fit for purpose, and would meet the requirements of the PSPA, the LGPS regulations and the Pensions Regulator's code of practice no. 14 *Governance and administration of public service pension schemes* (the code of practice).
- 13. Hymans stated that the template terms of reference proposed by the board members define a far more extensive remit for the board than that set out in the council's terms of reference. They expressed concern if terms of reference were to be set with such a prescriptive remit, it might suggest that the board has greater autonomy than the Public Service Pensions Act 2013 or the Local Government Pension Scheme Regulations intended to set out.

STRATEGIC CONTEXT

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

CONSULTATION

- 16. Members of the pension board discussed the need to change the board's terms of reference at meetings in December 2016 and July 2017.
- 17. A copy of this report and the revised terms of reference as proposed by officers will be sent to board members prior to the committee meeting.
- 18. The pension board will be meeting on 17 October 2017 to consider the proposed terms of reference presented today, and the main points of the committee's discussions.
- 19. It is recommended that the chairman of the committee be authorised to meet with the chairman of the pension board following the pension board meeting, to consider any further amendment to the terms of reference which the pension board may consider necessary.

FINANCIAL / BUDGET IMPLICATIONS

- 20. The amendment of the pension board's terms of reference will have no financial or budget implications.
- 21. Costs incurred in respect of the independent review of the terms of reference, and any future costs of advisers to the board and training delivery will be charged directly to the pension fund, and will have no impact on the council's budget.

LEGAL IMPLICATIONS

22. 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.
23. 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.
24. The 2015 pension regulations state that an administering authority may determine the procedures applicable to a local pension board.
25. 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

26. 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.
27. The amendment of the Local Pension Board terms of reference is not considered to impact any of the protected characteristics.

RISK MANAGEMENT

28. It is the responsibility of the Isle of Wight Council, as administering authority, to ensure that the Isle of Wight Pension Fund is properly managed, 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.
29. Should the council, as administering authority, fail to ensure appropriate standards of governance and administration of the pension fund, 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.
30. 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.

31. The revised terms of reference for the board, in conjunction with the revised terms of reference for the committee, will also enable a more comprehensive work programme for the board and the committee to be developed, covering all aspects of management, administration and governance of the fund. It will also facilitate the development of a training programme for the committee and pension boards, to ensure appropriate levels of knowledge and skills are achieved and maintained.

RECOMMENDATION

32. That the committee considers the revised terms of reference and recommend any additional items to be included.
33. That the committee authorises the chairman to meet with the chairman of the Local Pension Board following the board's meeting on 17 October 2017, to consider any further changes to the terms of reference which the board may propose.
34. 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.
35. 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

36. [Appendix 1](#) – revised draft terms of reference for the Local Pension Board.

BACKGROUND PAPERS

37. Establishment of a pension board – [Full Council 21 January 2015, paper D](#).
38. Current Local Pension Board terms of reference (article 11 council [constitution](#)).
39. Scheme Advisory Board template terms of reference for a local pension board <http://www.lgpsboard.org/index.php/board-publications/board-guidance>

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