

Wiltshire Council

Wiltshire Pension Fund Committee

25 July 2013

Local Government Pension Scheme Reforms Update

Purpose of the Report

1. This report updates Members on the latest developments relating to the proposed reforms to the Local Government Pension Scheme (LGPS) and outlines the current consultations that are taking place.

Background

2. On 4 June 2013 this meeting was provided with an update on the developments with regards to the LGPS 2014 reforms. This paper outlines the activity since the last meeting.
3. It was also agreed at the June meeting to nominate either the Chair or Vice-Chair as potential members of the national shadow Scheme Advisory Board (SAB) and the relevant officers for the practitioners' sub-committee roles.

Considerations for the Committee

Shadow Advisory Board appointments

4. The Public Service Pensions Act 2013 introduces a requirement for public service pension schemes to have a Scheme Advisory Board from 2015 (in preparation they are currently creating a Shadow SAB). For the Local Government Pension Scheme (LGPS) this will operate at the national (England and Wales) level and would be in addition to the local scheme boards that as discussed at the last meeting will need to be set up after April 2014.
5. The Scheme Advisory Board's core role will be a responsibility for providing advice to the Secretary of State (upon request), the Pensions Regulator and to local pension boards and scheme managers to improve the effective administration, governance, performance and cost management of the LGPS. Under the Act, the statutory LGPS Scheme Advisory Board will have no statutory powers of its own but rather would seek to work with existing regulatory and advisory bodies to achieve its objectives.
6. Following the last meeting, the Wiltshire Pension Fund nominated the following to the shadow Scheme Advisory Board and its sub-committees:
 - Councillor Tony Deane - shadow Scheme Advisory Board
 - David Anthony, Head of Pensions – Governance & Standards Sub-Committee
 - Catherine Dix, Fund Investment and Accounting Manager – Cost Management & Contributions Sub-Committee

- Tim O'Connor, Technical & Compliance Manager – Value for Money & Collaborations Sub-Committee
7. Following the selection process, David Anthony was appointed to the Governance & Standards Sub-Committee while Catherine Dix and Tim O'Connor were appointed as substitutes to their respective sub-committees. This is excellent news as the Wiltshire Pension Fund will now be represented at a national level in shaping the future developments of the LGPS.

DCLG: LGPS 2014 Consultation

8. On the 20 June 2013, the Department for Communities & Local Government (DCLG) issued its third consultation on the LGPS 2014 draft regulations. This now provides greater detail in terms of how the new scheme will look and operate.
9. This is a very detailed and technical 103 page document. Therefore this has not been included within these papers. Those wishing to view it can locate it at the following website:

<https://www.gov.uk/government/consultations/local-government-pension-scheme-2014>

10. The consultation seeks specific comments on 8 regulations changes. Again these are technical in nature but have been included in Appendix A along with the proposed response from the Wiltshire Pension Fund.
11. The consultation period is 6 weeks, meaning comments need to be submitted by 2 August 2013.
12. There are other related proposals which are being addressed separately from this consultation. This includes a discussion paper on Scheme governance (see paragraphs below), Councillors' pensions, Fair Deal, Cost Control and Transitional Regulations. All of these have been, or will be consulted on separately. The Committee will be updated on these whenever relevant new information becomes available.

DCLG: Discussion Paper – New Governance Arrangements LGPS 2014

13. On the 20 June 2013, the Department for Communities & Local Government (DCLG) also issued a discussion paper which poses a number of questions on the new governance arrangements required for the LGPS 2014 scheme.

14. This 15 page document can be found on at the following website address:

<https://www.gov.uk/government/consultations/local-government-pension-scheme-england-and-wales-new-governance-arrangements>

15. The areas being addressed within the discussion paper are areas as follows:

- Timing of the implementation of Scheme Advisory and Local Pension Boards
- The role of the “Scheme Manager” (i.e. the local administering authority)
- Implementation of “Local Pension Boards” (i.e. the new local scrutiny board)
- Implementation of the “Scheme Advisory Board” (i.e. the national board)

16. The consultation seeks views on a list of 26 questions that have been listed in Appendix B along with the proposed responses from Wiltshire Pension Fund. Responses to this discussion paper are required by 30 August 2013.

Call for evidence on the future structure of the Local Government Pension Scheme

17. The DCLG and the Local Government Association (LGA) issued a joint call for evidence on 21 June 2013 relating to the potential for increased cooperation between LGPS funds (see Appendix C).

18. This follows on from the Local Government Minister’s statement at the National Association of Pension Fund’s local authority conference on 22 May 2013, and aims to look at the following high level and secondary objectives for structural reform :

High level objectives

1. Dealing with deficits
2. Improving investment returns

Secondary objectives

1. To reduce investment fees
2. To improve the flexibility of investment strategies
3. To provide for greater investment in infrastructure
4. To improve the cost effectiveness of administration
5. To provide access to higher quality staffing resources
6. To provide more in-house investment resource

19. Within any response they wish to receive evidence to support the answers to the following questions:

Question 1 – *How can the Local Government Pension Scheme best achieve a high level of accountability to local taxpayers and other interested parties – including through the availability of transparent and comparable data on costs and income - while adapting to become more efficient and to promote stronger investment performance.*

Question 2 – *Are the high level objectives listed above those we should be focussing on and why? If not, what objectives should be the focus of reform and why? How should success against these objectives be measured?*

Question 3 – *What options for reform would best meet the high level objectives and why?*

Question 4 – *To what extent would the options you have proposed under question 3 meet any or all of the secondary objectives? Are there any other secondary objectives that should be included and why?*

Question 5 – *What data is required in order to better assess the current position of the Local Government Pension Scheme, the individual Scheme fund authorities and the options proposed under this call for evidence? How could such data be best produced, collated and analysed?*

20. As previously outlined, the Wiltshire Pension Fund is part of the South West group of funds that have been working collaboratively for a number of years, for example the setting up of frameworks. This work continues and will form the basis of any response.
21. The closing date for submissions is 27 September 2013 and the formal response from the Wiltshire Pension Fund will be discussed at the 19 September 2013 meeting.

Councillors Access to Pensions Consultation Update

22. The DCLG have stated that they have had over 700 responses to this consultation – one of the highest, proving this was clearly a very popular consultation. DCLG intend to advise Ministers within the next few weeks, but the chances are that there may be no change to access, but the likelihood is that councillors will have to pay banded contributions similar to those that apply for the rest of the LGPS, with effect from April 2014.

Risks Assessment

23. The reforms being discussed will potentially impact on risk *PEN008: Failure to comply with LGPS & other regulations* and *PEN018 Failure to implement the LGPS 2014 Reforms* and these risks are both highlighted on the Risk Register elsewhere on this agenda. By being involved in the national shadow board and sub-committees and by responding to these consultation and discussion papers the Fund is attempting to influence and mitigate these risks as far as possible.

Safeguarding Considerations/ Public Health Implications/ Equalities Impact

24. There are no known implications at this time.

Financial Implications

25. There will be financial implications from the setting up of local pension boards (this will not be known until the outcome of the consultation) and funding the national Scheme Advisory Board should they implement a mandatory charge of approximately £3k to £5k per fund.

Reason for Proposals

26. The Fund should be proactive in shaping the future of the scheme and therefore should contribute to the consultations issued.

Proposals

27. Members are recommended to:

- a) note the appointments to the shadow national Scheme Advisory Board and sub committees; and
- b) agree the proposed response to the DCLG LGPS 2014 Consultation paper as per Appendix A; and
- c) agree to proposed response to the DCLG: Discussion Paper – New Governance Arrangements LGPS 2014 as per Appendix B; and
- d) note a proposed response to the ‘call for evidence’ will be presented to September 2013 Committee meeting.

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Unpublished documents relied upon in the production of this report: None

Appendix A - Local Government Pension Scheme 2014 Consultation -List of Chapter 2 questions

Appendix B - Discussion Paper – LGPS New Governance Arrangements

Appendix C – DCLG Call for Evidence

APPENDIX A

Local Government Pension Scheme 2014 Consultation

List of Chapter 2 questions

Regulation 16 – Additional Pension Contributions

Q1. Is the Department right in saying that the take up of additional survivor benefits is extremely low?

At the Wiltshire Pension Fund we are not aware of any individual who has taken up this option.

Regulation 39 – Calculation of ill-health Pension Amounts

Q2. Should there be enhancement in this way given that there would be no equivalent protection for a member who remained in part time work rather than taking ill-health retirement?

(This regulation refers to the ‘**Calculation of ill-health pension amounts**’ in particular the protection of pay for part time employees)

Yes, it is wholly appropriate that a member receives an enhancement to reflect the shortfall in their retirement provision when they have to retire early because of ill health, as this is out of their control.

If anything, further consideration should be given to members who remain in part time work to reflect that situation.

The question seems to suggest that the member has a choice in going on ill health retirement or continuing in part-time employment?

Regulation 51 – Guaranteed Minimum Pension (GMP)

Q3. Comments are requested as to whether this Regulation should be retained or if it would be sufficient to rely on the overriding legislation.

It would be good for administrators to have some clear, consistent and fair regulations referring to GMPs and we would suggest that these regulations, if they do not suit, are removed as they do not meet this criteria and the LGPS relies (with a cross reference in the regulations) going forward on over-riding legislation.

Regulation 54 – Admission Agreements Funds

Q4. Is there a need to provide for separate admission agreement funds to be established in the new Scheme?

(This regulation refers to - Admission agreement funds and the discretion for the establishment of a separate fund for admission bodies)

We have not seen any reason why one should be needed. However, other funds may make use of this facility.

Regulation 69 - Payment by Scheme employers to administering authorities

Q5. Is the list of statement items shown at Regulation 69(3) complete? If not, could you please describe what needs to be included.

(3) Every payment under paragraph (1)(a) must be accompanied by a statement showing—

- (a) the name, pay and band (as set out in column 1 of the table in regulation 9(2) (contributions)) of each of the Scheme employer's employees who is an active member;*
- (b) which employees are paying contributions under regulation 10 (temporary reduction in contributions);*
- (c) which employees are paying contributions under regulation 16 (additional pension contributions); and*
- (d) the amounts which represent deductions in each of the pay bands from each of the employees and the periods covered by the deductions, distinguishing amounts representing deductions for any voluntary contributions.*

This statement could include “*and any other information that the administering authority may require*”.

Regulation 70 - Additional costs arising from Scheme employer's level of performance

Q6. Should we include provision for interest to be paid on the late payment by scheme employers? If so, what period would constitute “late”?

Yes, 1 month from the date of first request. However with interest only chargeable at 1% above the base rate a preference would be the ability to change the higher of investment return or base rate + 1% to discourage employers from trying to utilise the Fund to manage their cashflow.

Regulation 88 - Pension increase under the Pensions Schemes Act 1993

Q7. Should the new regulations set out what fund should pay in the case where an administering authority has more than one fund?

See our response to Q4.

Regulation 91 - Forfeiture of pension rights after conviction for employment-related offences

Q8. Do you think the current forfeiture provisions which have been carried forward into these draft regulations work well, or would you prefer it all to

be dealt with by the courts with the removal of the role of the Secretary of State?

They are very few examples nationally, so it is difficult to comment on. Forfeiture could be dealt with by the courts with the removal of having to apply to the Secretary of State to issue a forfeiture certificate and removes any uncertainty or an extra level of administration for the Pension Fund and provides clear lines of procedure in such cases. However, concerns would be raised over the additional cost of this for the Fund.

APPENDIX B

Discussion Paper – LGPS New Governance Arrangements

List of questions

Timing

Q1. What period, after new governance regulations are on the statute book, should be given for scheme managers/administering authorities to set up and implement local pension boards?

The setting up of new boards requires a significant change to the constitution of the Council and also requires the need to consider who can be co-opted and / or appointed to these boards following an appropriate selection process. The specific skills set required may limit the pool of potential candidates. Effectively there are only 2 regular meetings of the Wiltshire Pension Fund committee prior to April 2014, and only 7 prior to April 2015.

With the main focus for Fund's being the implementation of the new 2014 scheme, any implementation of local pension boards prior to April 2015 will be extremely challenging. With the recent 'call for evidence' on the future structure of LGPS funds it would appear more sensible to understand the outcome of this, scheduled for summer 2014 before commencing changes to the current governance arrangements allowing a period of at least 12 months from next summer for administering authorities to be fully compliant with the governance regulations.

Q2. How long after new governance regulations are on the statute book should the national scheme advisory board become operational?

The national scheme advisory board could become operational much sooner if the shadow board and sub committees currently being formulated was to be adopted as the national scheme advisory board.

“Responsible authority” & “Scheme manager”

Q3. Please give details of any such “connected” scheme that you are aware of.

Not aware of any “connected” scheme

Q4. Are there any schemes connected to the main Local Government Pension Scheme, other than an injury or compensation scheme, that the new Scheme regulations will need to refer to in setting out the responsibilities of scheme managers?

Not aware of any “connected” scheme .

“Pension Boards”

Q5. What “other matters”, if any, should we include in Scheme regulations to add to the role of local pension boards?

The role of the local Board is to act as a scrutiny function and not as a decision maker. It should therefore perhaps be left to each local board to decide how it fulfils that role within the parameters of the regulations and which matters it wishes to consider. There is no doubt however that the local Board should ensure that all the policies/statements etc required of an administering authority are in place and being referred to in the decision making.

Q6. Should Scheme regulations make it clear that nobody with a conflict of interest, as defined, may be appointed to or sit on a pension board?

This may act as a barrier and may be better mandated with the requirement for a conflict of interest policy to be published that sets out how any conflict will be managed.

Q7. Should Scheme regulations prescribe the type of information that may be “reasonably required”?

See response to Q6

Q8. Although not required by the Act, should Scheme regulations prescribe a minimum number of employer and employee representatives?

No because this will depend on local circumstances. .

Q9. Should the new Scheme regulations require local pension boards to be a body separate from the statutory committee or for it to be combined as a single body?

There remains a concern that the purpose of these local pension boards provides another level of governance which isn't strictly required should the Local Authority have robust governance arrangements in place. If good governance arrangements are in place then is there a need for a separate local pension board? It is agreed that it's difficult for a committee to scrutinise itself which is why an independent view is required and this could be achieved through the use of professional advisers. Therefore, in this circumstance the statutory committee and the local pension board could be the same body. This solution in itself though raises other constitutional issues from the conflict of the different applications of the differing pieces of legislation that apply.

Good governance however is about accountability and understanding and managing risk which is better suited by the separation of the two bodies.

The need to have representatives from employers and employees does prevent a Fund using its Audit committee for this purpose.

An alternative to consider is whether a local pension board can be set up to serve a number of different funds, for example for the South West. The compliance issues

should be the same across all funds and providing a larger pool of knowledge and allowing greater potential for independent challenge would appear a benefit. This would also be aligned to the collaboration agenda that the Government are currently promoting.

Q10. Apart from what is required under the Act, what other elements of local pension boards should be set out in the new Scheme regulations?

The less prescriptive the better as funds will need to adapt to their own particular local circumstances depending on membership size . Allow funds to develop their approaches to implementation and then refer to “best practice” examples on which bodies such as CIPFA can issue guidance on.

Q11. Apart from what is required under the Act, what other elements of local pension boards should be left to local determination?

See response to Q10 above.

Q12. Should the new Scheme regulations prevent any incumbent scheme member representative being moved from a statutory committee to the local pension board (if the committee and the board are not one and the same body)?

No as this may fit local circumstances.

Q13. Should the new Scheme regulations include a requirement for each local pension board to publish an annual statement of its work and for this to be sent to the relevant scheme manager, all scheme employers, the scheme advisory board and Pensions Regulator?

For transparency purposes a statement of the local pension board’s work should be available to all stakeholders and published.

Q14. Apart from the training and qualification criteria that may be covered by the Pensions Regulator in a code of practice, are there any specific issues that we should aim to cover in the new Scheme regulations as well?

There should be a statutory requirement for Funds to adhere to the code of practice and for compliance to be recorded.

“Scheme Advisory Board”

Q15. Should Scheme regulations simply replicate the wording of the Act? If not, what specific areas of work should the new Scheme regulations prescribe?

Yes at this stage replicate the wording of the Act – regulatory provisions may restrict the involvement of the board. If it proves necessary to regulate then issue amendment regulations.

Q16. Should Scheme regulations include a general provision enabling the scheme advisory board to advise the Secretary of State on the desirability of changes to the Scheme as and when deemed necessary?

Yes – this would be more open and allow the Scheme advisory board to take initiative in proposing or advising on change that was not political.

Q17. Are there any specific areas of advice that Scheme regulations should prohibit the scheme advisory board from giving?

No. As long as membership of the board is appointed on a fair and transparent basis and so represents the relevant stakeholders. And see answer to Q16

Q18. What options (if any other, please describe) would be your preference for establishing membership of the scheme advisory board?

The carrying forward of the membership of the shadow board would appear to be the natural step at this stage with a review process being adopted.

The Scheme regulations prescribing the sectors from which members of the board are drawn could be restrictive unless the board had the authority to make appropriate appointments as it saw fit in seeking specialist advice or guidance.

Q19. Should Scheme regulations require the Secretary of State to approve any recommendation made for the position of Chair?

A majority from the Scheme board ought to suffice as members would be closer to the issues.

Q20. Should Scheme regulations prescribe tenure of office? If so, what should the maximum period of office be and should this also apply to the Chair of the board?

There should be fixed terms (potentially 4 years) of office after which, a member must stand for re-election and this should apply to all members of the board.

Q21. Should Scheme regulations make provision for board members, including the Chair, to be removed in prescribed circumstances, for example, for failing to attend a minimum number of meetings per annum? If so, who should be responsible for removing members and in what circumstances (other than where a conflict of interest has arisen) should removal be sought?

Yes, if members are failing to fulfil their duties they should be removed. Motions should be put forward by members of the board and a vote taken. Provision for such a circumstance should be required by regulation but the detail and process should be determined by the board within its constitutional rules.

Q22. Should Scheme regulations prescribe a minimum number of meetings in each year? If so, how many?

Yes to ensure the effectiveness of this board. A minimum of two should be prescribed per annum.

Q23. Should Scheme regulations prescribe the number of attendees for the board to be quorate? If so, how many or what percentage of the board's membership should be required to be in attendance?

Yes, at least 1/3rd of the board should be in attendance to be quorate.

Q24. Rather than make specific provision in Scheme regulations, should the matters discussed at Q19 to Q23 be left as matters for the scheme advisory board itself to consider and determine?

The regulations should provide the broad outline as required by the Act with additional provision around tenure, otherwise all other areas could be matters for the board as long as a fair and transparent approach has been taken.

Q25. Should the scheme advisory board be funded by a voluntary subscription or mandatory levy on all Scheme pension fund authorities?

A mandatory approach should be taken to ensure a consistent and fair basis is applied per Fund.

Q26. What would be your preferred manner of legal constitution of the scheme advisory board and how should Scheme regulations deal with the issue of personal liability protection for board members?

No view