

WILTSHIRE COUNCIL

WILTSHIRE PENSION FUND COMMITTEE
17 July 2014

LOCAL GOVERNMENT PENSION SCHEME (LGPS): DRAFT REGULATIONS ON SCHEME GOVERNANCE CONSULTATION

Purpose of the Report

1. This report introduces the latest consultation issued on 23 June 2014 from the Department of Communities and Local Government (DCLG). A verbal update will be provided by the Head of Pensions at this meeting to enable a formal response from the Wiltshire Pension Fund to be considered.

Background

2. As part of Lord Hutton's report published in March 2011, he highlighted a change was needed to "make public service pension schemes simpler and more transparent" and the Government carried this forward into the Public Service Pensions Act 2013. This act requires DCLG to make regulations to establish a national Scheme Advisory Board and enabling each LGPS administering authority to establish local pension boards.
3. An informal discussion paper was issued last year by DCLG which this Fund responded to and the outcome from this and the Shadow Scheme Advisory Board has been taken into account in the preparation of the draft Regulations.
4. A key aim of the reform process is to raise the standard of management and administration of public service pension schemes and to achieve more effective representation of employer and employee interests in that process.

Considerations for the Committee

5. This latest Government consultation is attached in the Appendix. The closing date for comments is 15 August 2014.

What's in the draft Regulations?

6. The consultation effectively outlines the new regulations that will require Wiltshire Council to set up a local pension board to "assist" them in ensuring compliance with the Scheme Regulations, all other legislation and the requirements imposed by the Pensions Regulator to ensure the effective and efficient governance and administration of the Scheme.
7. The intention is for this board to sit alongside this Committee to scrutinise the decision making process and ensure the Fund has complied with its legislative requirements. It's currently not intended to be a decision making body.
8. Of initial note is the brevity of these regulations which suggests a certain amount of local flexibility will be accommodated in how boards are set up and operated. However, DCLG will be issuing application guidance to provide greater detail and outline best practice which is due out later in the year.

9. The membership of these boards must include an equal number of employer and employee representatives, which must not be less than 4 in total. Also, a Member of a local authority cannot be appointed as either an employer or employee representative. Additional members can be added to this board, for example three other people could be appointed if only 4 employer and employee representatives were appointed but these must not form the majority.
10. It appears the terms of the appointment, governance and frequency of the meetings are all up to local discretion as long as the authority is satisfied all Members of the board have the relevant experience and capacity to undertake the role.
11. The expense of the local pension boards are to be treated as part of the costs of administration of the Fund.
12. The remaining regulations mainly deal with the setting up of the national Scheme Advisory Boards. The main item to note is the proposal by each Fund to contribute to the annual costs of these boards through an annual charge.

Areas for consultation

13. The first question is to whether a single, dual function body could carry out both the functions of the section 101 (main) committee and those of the local pension board. Should the Regulations allow a provision for this? This is difficult as in practice it combines two separate legal codes under the Local Government Act 1972 and the Pension Service Pensions Act 2013. The Regulations allow fund's to apply to the Secretary of State to combine these bodies but a very high bar would need to be achieved.
14. The second question is whether the local pension boards should be established using the provisions used for the main committee or should a wider discretion be allowed to allow more flexibility and bespoke to local needs?
15. The third question regards funding the Scheme Advisory Board and asks if any additional provisions are required in the Regulations to ensure value for money is achieved for the work this body will undertake?
16. The fourth question outlines that the spirit of the Regulations is not for local pension boards to be shared between Funds unless the management and administration was undertaken by a joint committee. Comments are invited as to whether the Regulations need to provide for shared local pension boards.
17. The fifth question discusses the use of AGMs and employer forums and whether the Regulations should require administering authorities to facilitate these on an annual basis?
18. The sixth question asks whether the Equality Duty on all public bodies should be extended to the Scheme Advisory Board and local pension boards?
19. The final questions seeks comments on the disparity between the local pension boards requirement for its members to have knowledge and capacity to undertake that role which isn't required for the main committee (although the Fund does comply with the CIPFA Knowledge & Skills Framework). Should both bodies be required to hold attain similar levels of knowledge and understanding?

Overview

20. The request in our response to the informal discussion paper last year to keep the Regulations brief and allow maximum flexibility for local circumstances appears to be listened to.
21. However, with this consultation open now, the earliest the Regulations can be laid is the autumn. At the same time the additional application guidance will not be issued until the end of the year making it extremely tight for administering authorities to implement these local pension boards by 1 April 2015. Consequently, officers will now be looking to set up a working group to deal with the implementation of these pending Regulations.

Risks Assessment

22. There is are no direct increased risks from the consultation being issued, but there remains a risk of the administering authority not being compliant with legislation on 1 April 2015 if the local pension board is not in operation. This risk will be mitigated as far as possible through the setting up or a working group.

Environmental Impact of the Proposal

23. There is no known environmental impact of this proposal.

Safeguarding Considerations/Public Health Implications/Equalities Impact

24. There are no known implications at this time.

Financial Implications

25. The financial implications are considered as part of this paper.

Reason for Proposals

26. The Fund should respond to this consultation to be proactive in shaping the future of the scheme and officers now need to consider the issues for implementation.

Proposals

27. Members are recommended to:
- a) delegate the approval of the formal response from the Wiltshire Pension Fund to the consultation to the Chairman and Vice Chairman taking into considerations the points raised at this meeting; and
 - b) note that officers will consider the issues for implementation of a local pension board and update this Committee in September.

MICHAEL HUDSON
Treasurer to the Pension Fund

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Unpublished documents relied upon in the production of this report: