

<b>MEETING</b>	<b>AUDIT COMMITTEE</b>
<b>DATE</b>	<b>19 FEBRUARY 2015</b>
<b>TITLE</b>	<b>PROPOSED CHANGES TO THE CONSTITUTION ARISING FROM THE PUBLIC SERVICE PENSIONS ACT 2013 AND THE LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) (GOVERNANCE) REGULATIONS 2014</b>
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<b>CABINET MEMBER</b>	<b>COUNCILLOR PEREDUR JENKINS</b>

## 1. Summary

This report asks Members to consider changes to those sections of the Constitution which relate to the Local Government Pension Scheme (LGPS). The proposed changes have been drafted to ensure the Council, as Administering Authority for the Gwynedd Local Government Pension Scheme, complies with the requirements of the Public Service Pensions Act 2013 and the Local Government Pension Scheme (Amendment) (Governance) Regulations 2014 relating to the creation of a Local Pension Board.

The changes proposed define the functions, membership and operating structure of the Gwynedd Pension Board (Appendix 3).

## 2. Background

- 2.1 The Public Service Pensions Act (PSPA) 2013, was the culmination of a fundamental structural review of public service pension provision conducted by Lord Hutton on behalf of the government (“the Hutton Review”). Its purpose was to facilitate the introduction of changes to the governance arrangements; valuations methodology; scheme benefit structure; cost sharing arrangements etc. across all public sector pension schemes and for the first time bring them all under a single statutory framework.
- 2.2 With the exception of the regulations relating to governance and cost control, the Local Government Pension Scheme (Amendment) (Governance) Regulations 2014 (the Governance Regulations), the changes required under the PSPA in relation to the Local Government Pension Scheme (LGPS) have no impact upon the Council’s Constitution and have been fully implemented by Gwynedd Pension Fund.
- 2.3 The Governance Regulations require amendments to the Council’s Constitution. This is because the PSPA sets out a requirement for all public service pension schemes to establish Local Pension Boards by 1<sup>st</sup> April 2015.

- 2.4 The members of the Pensions Committee have received a briefing on the changes to governance arrangements and officers have worked with other Administration Authorities in determining how best to respond to the regulatory requirements.
- 2.5 To ensure this statutory deadline is met and the Gwynedd Local Pension Board is established in accordance with regulations the attached additions and revisions to the Constitution and the pension scheme management arrangements (Appendices 1, 2 and 3) are proposed. The changes cover the following areas:
- 2.5.1 Updating the delegations to the Section 151 Officer in order to include authorising expenditure by the Pension Board (Appendix 1).
- 2.5.2 Updating the functions of the Pensions Committee in order to include have regard to and consider recommendations from the Gwynedd Local Pension Board. (Appendix 2).
- 2.5.3 Establish the Local Pension Board (Appendix 3).
- 2.5.4 To include the functions, membership and operating structure of the Gwynedd Pension Board (Appendix 3)
- The Pension Board reports to the Council as the Administration Authority for the Fund.
  - The Pension Board has an external reporting responsibility to the Pensions Regulator, who in accordance with the PSPA 2013 has a compliance and oversight role across all public sector pension schemes.
  - The Pension Board is constituted as a non-decision making body to assist the Administration Authority in:
    - securing compliance with scheme regulations, other legislation covering governance and administration and the requirements of the Pensions Regulator and
    - securing effective and efficient governance and administration of the Scheme.

### **3. Recommendation**

- 3.1 To recommend to Council revisions to the sections of the Constitution which relate to the LGPS, the aim of which is to ensure that the Council, as Administering Authority for the Gwynedd Local Government Pension Scheme, complies with the Public Service Pensions Act 2013 and the Local Government Pension Scheme (Amendment) (Governance) Regulations 2014.
- 3.2 Establish the Gwynedd Pension Fund Pension Board in accordance with the report, the Terms of Reference and Governance ( Appendix 3)

## **Appendix 1: Proposed Constitution amendment to delegations to the Section 151 Officer**

### **5. Head of Finance Department**

*In the “Scheme of Delegation to Committees” in Appendix 3 to Section 13 of the Constitution, it is noted where functions that are not the responsibility of the Executive have been delegated to Chief Officers. Where no chief officer has been named in that document, the power has not been delegated rather it has been reserved by the committee.*

#### **Functions Delegated by Council**

- 5.1 To be the proper officer for the purpose of Section 151 Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.

#### **Functions Delegated by Cabinet**

- 5.2 To act on a day to day basis and within the scheme in the following areas:-
- Internal Audit
  - Accountancy
  - Risk Management and Insurance
  - The Pension Fund and the Pension Scheme
  - Treasury Management (including investments)
  - Council Tax and Non-domestic Rates
  - Housing Benefits and Council Tax Reductions
  - Payments
  - Income and creditors
  - Payroll
  - Information Technology.
- 5.3 To be the proper officer for the purposes of Section 115 and 146 of the Local Government Act 1972.
- 5.4 The right to sign a certificate that contracts comply with the Local Government (Contracts) Act 1997.
- 5.5 To nominate benefit anti-fraud officers.
- 5.6 To authorise the write-off of debts up to the amounts noted in the Financial Procedure Rules.
- 5.7 To be the Authorising Officer for the purposes of the Regulation of

Investigatory Powers Act 2000 and may authorise other officers within their service similarly to be an Authorised Officer.

**5.8 Approval of expenditure of the Gwynedd Pension Fund Pension Board**

## Appendix 2: Proposed Constitution wording:

### PENSIONS COMMITTEE

<b>Function</b>	<b>A provision of an act or Statutory Instrument</b>	<b>Delegation -</b> (subject to any restrictions in the Schemes for Delegation to Officers)
1. A function involving local government pensions etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (p.11), <b>Section 3 Public Services Pensions Act 2013</b>	
2. Functions under current Pension Plans in relation to persons employed by fire and rescue authorities in accordance with Section 1 Fire and Rescue Services Act 2004	Sections 34 and 36 of the Fire and Rescue Services Act 2004. <b>Regulations under Section 3 Public Services Pensions Act 2013</b>	
<b>3.To have regard to and consider the recommendations of the Gwynedd Pension Fund Pension Board</b>		

## Appendix 3

# Terms of reference and governance for the Pension Board of the Gwynedd Pension Fund

Terms of Reference and Delegated Authorities

### 1) Introduction

The purpose of this document is to set out the terms of reference for the local Pension Board of the Gwynedd pension fund.

### 2) Role of the Local Pension Board

2.1 The role of the local Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is to:

- Assist Gwynedd Administering Authority as Scheme Manager; –
- - to secure compliance with the Local Government Pension Scheme (“LGPS”) regulations and any other legislation relating to the governance and administration of the LGPS
  - to secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator
  - in such other matters as the LGPS regulations may specify
- Secure the effective and efficient governance and administration of the LGPS for the Gwynedd Pension Fund

2.2 The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator. The Pension Board will also help ensure that the Gwynedd Pension Fund is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator. The Scheme Regulations and the Scheme Manager will determine the remit of the Board.

2.3 The Pension Board shall report twice yearly to the Pensions Committee on matters reviewed and suggestions for consideration. Meetings will be held during normal working hours and within County boundaries. The Board will meet on a minimum of two separate occasions annually.

2.4 The Pension Board should always act within its terms of reference.

2.5 The Board is constituted under the Public Service Pension Act 2013 and the Local Government Pension Scheme( Amendment ) ( Governance ) Regulations 2014 and is therefore not subject to the requirements of Section 101 of the Local Government Act 1972. The Board has no remit as a decisions making body.

### 3) Appointment of members of the Pension Board

3.1 Equal representation between scheme employers and scheme members is required.

Subject to Regulation 107(5) of the Local Government Pension Scheme Regulations 2013 the Pension Board shall consist of 6 members and be constituted as follows:

- 3 employer representatives ( one of whom shall represent the Administering Authority);

- 3 scheme member representatives;
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Members will be appointed with the aim so far as reasonably practical of securing that the Board is representative of employer and member groups within the fund.

3.2 Employers and employees will be asked to nominate representatives for the Pension Board. The Administering Authority will convene a panel to select the members of the Pension Board. The Appointment Panel will consist of the Section 151 Officer, Monitoring Officer and Cabinet Member for Finance. The selection of individual Board members within each category will depend on the overall balance of experience and skills within the group.

3.3 Subject to 3.4 and 3.7 appointment will be for four years and there will be no limit on the number of times a member of the Board can be re-appointed.

3.4 Where a Board Member is appointed in an employer or member representative capacity then immediately upon the Board Member ceasing to so represent employers or members in that capacity their membership of the Board shall determine

3.5 The Administering Authority will appoint the Chair and the Vice Chair of the Pension Board from amongst the members of the Board. The roles will be split with one being an employer representative and one being a member representative and this will be alternated on a two year cycle.

3.6 It will be the role of the Chair to ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.

3.7 Each Board member should endeavour to attend all Board meetings during the year. No substitutes will be permitted.

3.8 In the event of persistent non-attendance by any Board member at Board meetings or training, then the tenure of that membership will be reviewed by the other Board members in liaison with the Scheme Manager and the Scheme Manager can decide to terminate the membership. The Scheme Manager has discretion to terminate the membership of any Board member in the event that it considers it necessary or appropriate to do so.

3.9 Reimbursement of reasonable expenses for attendance at meetings and training sessions will be in accordance with the Council's agreed policies and rates for elected members.

3.10 As a non-decision making body the Board has no authority to establish Working Parties or Sub-groups.

#### **4) Quorum**

4.1 A meeting of the Board will be quorate if 3 Board Members are present, including the Chair or Vice Chair and the quorum must include at least, one employer representative and one member representative.

4.2 Each member shall have one vote but if required, the Chair will have the casting vote.

#### **5) Conflicts of Interest**

5.1 Prior to appointment to the Board all members will be required to sign up to the Board's Code of Conduct. As a body representing the public interest the Code of Conduct of members of the Pension Board will be aligned to those applicable to the Members of the Pensions Committee and is available on the Council's website. For the avoidance of doubt "conflict of interest" does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme  
(Section 5(5) of the Public Services Pensions Act 2013).

5.2 Members of the Pensions Board will be required to comply with the requirements of the Code of Conduct when acting in their capacity as Board Members.

## **6) Advisers to the Board**

6.1 The Board has the right to access the support of the experienced advisors and will have access to the advisors to the Administering Authority including the Actuary, Investment Managers, Investment Advisors and other advisors as approved by the Scheme Manager.

6.2 Due regard has to be taken of securing value for money and whether in the first instance Officers could provide the assistance required. Items of expenditure by the Board must have prior approval from the Section 151 Officer.

## **7) Knowledge and Skills**

7.1 A member of the Pension Board must be conversant with:

- The legislation and associated guidance of the Local Government Pension Scheme (LGPS).
- Any document recording policy about the administration of the LGPS which is for the time being adopted by the Gwynedd Pension Fund.

A member of the Local Pension Board must have knowledge and understanding of –

- The law relating to pensions, and
- Any other matters which are prescribed in regulations.

7.2 The administering authority must ensure that each person appointed to the Board has the relevant experience and capacity to represent employers or members (as appropriate) of the Fund. Initially this will be done through selection by the Administering Authority but, following appointment, it is a Board Members individual responsibility to ensure that they attend all training to enable them to fulfil the knowledge and skills requirements. Full training will be provide and all reasonable costs will be met by the fund.

7.3 In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

7.4 Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

7.5 Pension Board members will comply with the Scheme Manager's training policy.

## **8) Board Meetings – Notice and Minutes**

8.1 The Scheme Manager shall give prior written notice to all Pension Board members of every meeting of the Pension Board. The Notice shall include the agenda, the minutes of the previous meeting and any report to be considered at the meeting. Such Notice, save in the case of urgency be provided to the members no later than 5 clear working days prior to the meeting.

The Scheme Manager shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board or Board committee, they shall be circulated to all members.

## **9) Remit of the Board**

9.1 The Pension Board must assist the Scheme Manager with such other matters as the scheme regulations may specify. It is for scheme regulations and the Scheme Manager to determine precisely what the Pension Board's role entails.

#### **10) Publication of Pension Board information**

10.1 Scheme members and other interested parties will want to know that the Gwynedd Pension Fund is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, the governance and administration of the scheme and requirements of the Pension Regulator.

10.2 Up to date information will be posted on the Gwynedd Council website.

10.3 Pension Board papers, agendas and minutes of meetings will be published on the Gwynedd Council website. These may at the discretion of the Scheme Manager be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

10.4 The Scheme Manager will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

#### **11) Accountability**

11.1 The Pension Board and its members will be collectively and individually accountable to the Scheme Manager.