

The Highland Council

12 March 2015

Agenda Item	22
Report No	15 HC11

**Local Government Pension Scheme (Governance) (Scotland) Regulations 2015**

**Report by Director of Finance**

**Summary**

This report provides detail on new legislation around the governance of the Local Government Pension Scheme (LGPS) which will take effect on 1 April 2015 and recommends a change in committee structure to meet the new obligations.

**1. Background**

- 1.1 The Highland Council currently governs and administers the LGPS through its Pensions Committee and Investment Sub-Committee. The remit of both committees is attached at Annex 1. The membership is as follows:-

Pensions Committee – 11 Highland Council Members (voting), 1 representative Comhairle nan Eilean Siar, 1 representative for the other Employers, 2 scheme member representatives (non -voting)

Investment Sub-Committee – 7 Members drawn from representation on the Pensions Committee (voting); 1 representative Comhairle nan Eilean Siar; 1 representative for the other Employers (non- voting)

- 1.2 The 2015 regulations are made by Scottish Ministers from powers conferred by section 1 of the Public Service Pensions Act 2013 and will require a change to the current governance arrangements for the LGPS.
- 1.3 The detail within the new regulations is outlined below.

**2. Scheme Advisory Board**

- 2.1 A new body known as the Scheme Advisory Board will be established.
- 2.2 The Scheme Advisory Board will provide advice to Scottish Ministers on the desirability of changes to the Scheme.
- 2.3 The Scheme Advisory Board will also provide advice to Scheme Managers (Administering Authorities) or Pension Boards in relation to the effective and efficient administration and management of the LGPS and any connected scheme or fund.

2.4 The Scheme Advisory Board will be a bipartite body with an equal number of representatives from local government employers and relevant trade unions. There shall be 7 on each side. The Chair will be rotated on an annual basis between the two representative sides and must be approved by Scottish Ministers.

2.5 There shall be two Joint Secretaries appointed respectively by scheme employers and the relevant Trade Unions.

### **3. Pension Boards**

3.1 A Pension Board must be established for each Scheme Manager with responsibility for assisting the Scheme Manager to secure compliance with pension legislation and regulations relating to the governance and administration of the scheme.

3.2 Pension Boards must also assist in securing compliance with requirements imposed by the Pensions Regulator.

### **4. Constitution of Pension Boards**

4.1 A Pension Board will be a bipartite body with an equal number of representatives from local government employers and relevant trade unions. There must be a minimum of 4 from each side. The Scheme Manager has to be satisfied that appointees to the Pension Board do not have a conflict of interest.

4.2 The Chair will rotate on an annual basis between the two sides.

4.3 There shall be two Joint Secretaries, appointed respectively by the Scheme Manager and the relevant Trade Unions.

4.4 It shall be normal practice for the Pension Board to meet at the same place and time as the Pensions Committee and to consider the same agenda. The Chair of the Pensions Committee shall chair both meetings. The Pension Board or the Pensions Committee may meet separately as required.

4.5 The Pension Board may adopt the model constitution published by Scottish Ministers. The model constitution will be considered at the first meeting of the Pension Board.

4.6 In the case of disagreement on a matter relating to the establishment of a constitution, the Pension Board can apply to the Scheme Advisory Board for a resolution.

### **5. Remit of the Pension Board**

5.1 The Pension Board may consider any matter concerning pensions it deems relevant to the activities of the Pensions Committee including any report

produced for the committee, the fund's annual report, external engagement provisions, the fund's performance and administration, actuarial reports and valuations and the funding strategy.

- 5.2 The Board may monitor investments of the fund and its investment principles and strategy.
- 5.3 The Scheme Manager must provide reports on any aspect of the fund if requested by the Board within an agreed timescale.

## 6. **Dispute Procedures**

- 6.1 If at least half of the Pension Board disagree with any decision of the Pensions Committee, the Pension Board may request that the Pensions Committee review its decision. The Pensions Committee must accede to the request if the grounds of review comply with the 4 conditions described in the regulations.
- 6.2 If there is no agreement following referral back then the difference in view should be published in the form of a joint secretarial report on the website and in the annual report. The Scheme Advisory Board may provide advice to the Scheme Manager or Pension Board in relation to the disagreement.

## 7. **Conclusion**

- 7.1 Due to a change in pension regulations the governance arrangements for the LGPS have to change to accommodate the creation of a Pension Board.
- 7.2 The underlying legislation as regards responsibility for the LGPS has not changed. Therefore Highland Council remains responsible for the administration, investment and funding of the Highland Council Pension Fund.
- 7.3 Appropriate separation between the Council's responsibilities as "administering authority" dealt with by the Pensions Committee and as "an employer" participating in the Fund where duties are dealt with by the Resources Committee is still required.
- 7.4 The Pension Board has a scrutiny role on the fund's performance, administration and investments.
- 7.5 Trade Unions have been consulted on the proposals for a Pension Board and have requested 4 places.

## 8. **Proposed Future Governance arrangements for the Highland Council Pension Fund**

- 8.1 The membership of the **Pensions Committee** - 11 Highland Council Elected Members.
- 8.2 The membership of the **Pension Board** - 2 Highland Council Elected

Members, 1 representative from Comhairle nan Eilean Siar, 1 representative for the other Employers and 4 Trade Union representatives.

8.3 The membership of the **Investment Sub-Committee** – 7 Highland Council Elected Members, 1 non-voting representative from Comhairle nan Eilean Siar and 1 non-voting representative from the Trade Unions.

8.4 The remit for the Pensions Committee and Investment Sub-Committee remain as previously agreed.

8.5 The remit for the Pension Board follows the regulations as described in section 5 above. A model constitution has been provided by Scottish Ministers and it will be considered at the first meeting of the Pension Board.

## **9. Implications**

9.1 There are no Resource, Legal, Risk, Equalities, Climate Change/Carbon Clever, Gaelic or Rural Implications directly arising from this report.

## Recommendations

1. To note that the Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 require changes to the governance arrangements for the Highland Council Pension Fund.
2. To revise the Committee structure as follows:-
  - The membership of the Pensions Committee - 11 Highland Council Elected Members
  - The membership of the Pension Board - 2 Highland Council Elected Members, 1 representative from Comhairle nan Eilean Siar, 1 representative for the other Employers and 4 Trade Union representatives
  - The membership of the Investment Sub-Committee – 7 Highland Council Elected Members, 1 non-voting representative from Comhairle nan Eilean Siar and 1 non-voting representative from the Trade Unions
  - The remit for the Pensions Committee and Investment Sub-Committee remain as previously agreed and detailed at Appendix 1
  - The remit for the Pension Board follows the regulations as described in section 5 above. A constitution for the Board will be discussed at its first meeting
3. Approve the Head of Corporate Governance as the Scheme Manager's nominated Joint Secretary.

Designation: Director of Finance

Date: 3 March 2015

Author: David Robertson Head of Corporate Finance

Background Papers: Local Government Pension Scheme (Governance) (Scotland) Regulations 2015

## Annex 1

### Terms of Reference

#### 1. Pensions Committee

The role of the Pensions Committee will be to exercise on behalf of the Council all the powers and duties of the Council in relation to its functions as Administering Authority of The Highland Council Pension Fund (the Fund) except where they have been specifically delegated by the Council to another Committee or to an officer(s). This will include the following specific functions:-

- Ensuring that the Fund complies with best practice.
- Ensuring that the Fund complies with the relevant Local Government Pension Scheme Regulations and all other legislation governing the administration of the Fund.
- To review the Annual Report and Accounts of the Fund.
- To review the results of the Triennial Actuarial Valuation of the Fund.
- To set the Funds' objectives and ensure appropriate strategies, policies and procedures are put in place and kept up to date with a view to achieving these objectives including:
  - a. To set the Investments Strategy (including strategic asset allocation) and associated policies for the Pension Fund and Inverness Common Good Fund, and oversee the Investment Sub-Committee in the implementation of Investment Strategy and policies
  - b. To set the Funding Strategy and associated policies, and to set the policy on funding matters for employers joining and leaving the Fund
  - c. To ensure consistency between the Fund's Investment Strategy and Funding Strategy and the implementation of those strategies.
  - d. To set the Administration Strategy ensuring appropriate arrangements for the administration of benefits are in place and demonstrate the operational efficiency of the administration of benefits through the use of key performance indicators
  - e. To set the strategy for communicating with Scheme employers and employees in the Fund.
  - f. To agree the Fund's Governance Policy.
- Ensuring the delivery of the Funding Strategy ensuring the on-going monitoring and management of the liabilities as appropriate.
- To review, as appropriate, the Governance Structure of the Pension Scheme to set out the responsibilities of Elected Members, officers, investment managers, advisors, custodians and the actuary to the Scheme, including delegated powers and make recommendations to the Council for changes where necessary.
- Ensuring appropriate Additional Voluntary Contribution (AVC) arrangements are in place and review investment performance on such contributions.
- To set and monitor progress against annual business plans for the Fund.
- To develop and maintain a trustee training policy.
- To develop and maintain a risk management strategy.
- To exercise Pension Fund discretions on behalf of the Administering Authority.

- To appoint, dismiss and assess the performance of advisors to the Fund including investment advisers and actuaries .
- To agree where appropriate the Administering Authority responses to consultations by Central Government, professional and other bodies in relation to key consultations.
- To monitor and oversee the work of the Investment Sub-Committee and carry out any of that Sub-Committee's responsibilities if appropriate.

## **2. Investment Sub-committee**

The Investment Sub-Committee will be a sub-committee of the Pensions Committee and will exercise the delegated powers and duties of the Pensions Committee in relation to the management and investment of the Fund's assets. This will include the following specific functions:

- Ensuring that the management and investment of assets complies with best practice.
- Ensuring that the Fund complies with the relevant Local Government Pension Scheme Regulations and all other legislation governing the administration of the Fund as they relate to the management and investment of the Fund's assets.
- Ensuring the delivery of the Funds' investment objectives, strategies and policies and that they are kept up to date.
- To appoint, dismiss and assess the performance of investment managers, custodians and other advisers involved with the management and investment of assets and/or funding of liabilities.
- To undertake any task delegated to it by the Pensions Committee.

The Sub-Committee will also exercise on behalf of the Council all the powers and duties of the Council in relation to the management and investment of the Inverness Common Good Fund, Inverness Benevolent Fund, Inverness 2<sup>nd</sup> Benevolent Fund and Inverness Burial Grounds Commutation Fund, except where they have been specifically delegated by the Council to another Committee or to an officer(s). This will include the following specific functions:

- Ensuring that the management and investment of assets complies with best practice.
- To ensure that the investment of the Fund complies with the relevant legislation.
- To ensure the delivery of the Funds' investment objectives, strategies and policies, ensuring procedures are put in place and kept up to date.
- To appoint, dismiss and assess the performance of investment managers, custodians and other advisers involved with the management and investment of assets.