

Warwickshire County Council

5 February 2015

Creation of new Warwickshire Local Pension Board

Supplemental Report

Recommendations

1. That the Council agree the **revised** Terms of Reference of the Warwickshire Local Pension Board at **Appendix A** of this Report; and
2. That the Council agrees the **revised** revision of the Council's Constitution to include the new Board.

1.0 Key Issues

1. At the time of writing the Report, the final Local Government Pension Scheme Regulations had not yet been published. These were laid before Parliament on 28 January 2015 and make some changes, the significant for the purposes of the Warwickshire Pension Board being:

(a) The role of Elected Members on the Board is now restricted to that of either an Employer or Scheme Member Representative, and not as an Independent Representative.

It is therefore proposed that Terms of Reference of the Warwickshire Pension Board be updated to reflect that whilst the membership of the Pension Board shall remain at seven (7) members, this shall now comprise of:

- i. 3 x Scheme Member representatives.
- ii. 3 x Employer representatives to include:
 - 1 Elected Member acting for Warwickshire County Council;
 - 1 x precepting employer;
 - 1 x non-precepting employer; and
- iii. 1 Independent Representative.

(b) Voting rights on the Board shall be conferred only on Employer and Scheme Member representatives. While Independent Representatives can still sit on, and indeed chair, Boards, they will not be able to vote.

It is therefore proposed that the Terms of Reference of the Board are updated to reflect that the non-voting Independent Representative is automatically given the role Chair of the Board. There is however an expectation that Board decisions will be met through consensus.

2. A revised Terms of Reference has been issued and is attached at **Appendix A.**
3. To reflect these changes, it is recommended that the County Council's Constitution now be revised in the following terms:

Part 2 Section 9 ('Responsibilities of Other Committees etc. And Joint Arrangements')

Other Statutory Bodies

LOCAL PENSION BOARD

Composition

*The Board to comprise 7 members ~~with equal voting rights~~ to include 2-3 each of Employer and ~~Employee~~ **Scheme Member** Representatives and 3-1 Independent member **acting as Chair. Each Employer Representative and Scheme Representative member will have individual voting rights.***

Terms of Reference

To assist the Scheme Manager to secure the effective governance and administration of the Local Government Pension Scheme for the Warwickshire Pension Fund.

Rules of Procedure

The proceedings other than where specifically confirmed in the Terms of Reference of the Board shall be governed by the standing orders in part 3 of this Constitution.

4. Council are asked to approve the Recommendation as outlined in this Report.

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Terms of Reference for the Local Pension Board of Warwickshire Pension Fund

1) Introduction

1.1 The Public Services Pensions Act 2013 (the '2013 Act') requires the establishment of a Pension Board with responsibility for assisting the Scheme Manager in securing compliance with all relevant pensions laws, regulations and directions and the Pension Regulator's codes of practice.

1.2 This document sets out the terms of reference for the new Local Pension Board of the Warwickshire Pension Fund (the 'Pension Board').

2) Role and Responsibilities of the Pension Board

2.1 The role of the Pension Board (as defined by sections 5 (1) and (2) of the 2013 Act) is to –

2.1.1 Assist the Scheme Manager -

- a. to secure the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) for the Warwickshire Pension Fund by effectively and efficiently complying with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator;
- b. to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS;
- c. to secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator; and
- d. in such other matters as the LGPS regulations may specify.

2.1.2 Provide the Scheme Manager with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest.

2.1.3 Produce an annual report to the Scheme Manager outlining the work of the Board throughout the scheme year.

2.2 The Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

2.3 The Pension Board will not have decision making powers in relation to the Warwickshire Pension Fund save as refer issues to the Pension Regulator. It will have the ability to hear disputes employers may have with the Fund.

3) Membership

3.1 The membership of the Pension Board shall consist of seven (7) members each to include -

- a. Scheme Member Representatives x 3
- b. Employer Representatives x 3
- c. Independent Representative x 1

3.2 Scheme Member and Employer Representatives to remain equal at all times.

3.3 Scheme Member Representatives nominated by Scheme employers to ensure a broad representation of scheme membership - for example to include deferred and pension representation.

3.4 Employer representatives nominated by categories of employers to include:

- a. 1 x Elected Member (acting for WCC)
- b. 1 x Precepting Employer
- c. 1 x non-precepting employer.

3.5 Independent Representatives shall comprise one individual to be appointed by the Scheme Manager following a recruitment and selection process involving role specification, application form, shortlisting and interviews accordance with current Warwickshire County Council's policy and procedure.

3.6 The Chair of the Pension Board shall be the Independent Representative. 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 Attendance is expected of Board members at all meetings; no substitution is allowed.

3.8 In the event of consistent non-attendance, or failure to achieve and maintain the required level of knowledge and skills by any Board member, then the tenure of that member should be reviewed by the Chair in liaison with the Scheme Manager. The Scheme Manager will have the final decision on whether to remove the Board member.

3.9 Other than by ceasing to be eligible as set out above, a Board member may

only be removed from office during a term of appointment by the Scheme Manager in consultation with the Board members or in the case of an Elected Member of Warwickshire County Council acting as a Board Member, ceasing to hold office as an Elected Member.

4) Quorum

4.1 3 members of the Pension Board will represent a quorum for Board meetings to go ahead.

5) Conflicts of Interest

5.1 The 2013 Act requires that members of the Pension Board do not have conflicts of interests. As such all members of the Pension Board will be required to declare any interests and any potential conflicts of interests in line with legal requirements in the Act and the Pension Regulator's code. These declarations are required as part of the appointment process, as well as at regular intervals throughout a member's tenure to the Scheme Manager's satisfaction.

5.2 A Conflicts of Interest policy with which Members must comply is included at Annex A to these Terms of Reference.

6) Board Review Process

6.1 The Board will undertake each year a formal review process to assess how well it and the members are performing with a view to seeking continuous improvement in the Board's performance.

7) Advisers to the Board

7.1 The Pension Board may be supported in its role and responsibilities through the appointment of advisers and shall (subject to any applicable regulation and legislation from time to time in force) consult with such advisers to the Board and on such terms as it shall see fit to help better perform its duties including -

- a. The Fund's Administration Manager;
- b. The Fund's Legal Adviser;
- c. The Fund's Section 151 Officer; and
- d. Other advisers, so approved by the Scheme Manager.

7.2 This will be done on an 'as required' basis; any advisor attending a Board meeting is not a Board member and does not have a vote. If required, sub-groups may be established to assist the Board.

7.3 The advisers shall support the Pension Board in delivering the Board's responsibilities by;

- a. providing advice as requested by the Board;
- b. having regard to the need effectively and efficiently comply with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator;
- c. having regard for the need to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS;
- d. notifying the Board of any matter which they decide the Board may need to know to carry out its responsibilities; and
- e. providing the Board with access to information as required;

8) Knowledge and Skills

8.1 Members of the Pension Board must have full capacity to act and will be expected to have good sound knowledge of the LGPS rules and administration adopted by the Warwickshire Pension Fund, pension law and regulations.

8.2 The performance of Board members will be assessed on a periodic basis by the Scheme Manager to ensure that all members are adequately meeting their duties. Poor performance will result in corrective action being taken, and in exceptional circumstances the removal of the Board member.

8.3 Pension Board members must be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Board members are therefore required to maintain a written record of relevant training and development.

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

8.5 Board members will undertake a personal training needs analysis undertaken on behalf of the Scheme Manager and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

8.6 The performance of Board members will be assessed on a periodic basis to ensure that all Board members are adequately meeting their duties. Poor performance will result in corrective action being taken, and in exceptional circumstances the removal of the Board member.

9) Board Meetings

9.1 The Pension Board will meet at least twice yearly in June and December and

this arrangement will be reviewed to ensure that it provides sufficient capacity to enable the delivery of the Board's key responsibilities.

9.2 The Scheme Manager will undertake the committee secretariat functions for the Board and will ensure that:

- a. facilities are available to hold meetings;
- b. an annual schedule of meetings is organised and shared with members;
- c. suitable arrangements are in place to hold additional meetings if requiring - ensuring adequate notice;
- d. papers are distributed at least 5 clear working days before each meeting except for exceptional circumstances;
- e. a formal record of Pension Board meetings is maintained; and
- f. following the approval of the minutes by the Chair, they are circulated to all Board members.

9.3 Meetings will be open for Scheme members and employers to observe.

10) Remit of the Board

10.1 The key priority for the Board is to focus on the administrative performance of the Fund, including the roles and responsibilities outlined in section 2 of this Terms of Reference.

11) Standards of Conduct

11.1 The role of Pension Board members requires the highest standards of conduct and the "seven principles of public life" will be applied to all Pension Board members and embodied in their code of conduct. These are

- a. Selflessness;
- b. Integrity;
- c. Objectivity;
- d. Accountability;
- e. Openness;
- f. Honesty; and
- g. Leadership.

12) Decision Making

12.1 The Pension Board is expected to operate on a consensus basis; however each Scheme Member Representative and Employer Representative member will have individual voting rights. Independent Members shall have no voting rights. In

the event that consensus cannot be reached, a vote will be taken. The Chair should report to the Scheme Manager when a decision is reached in this manner.

13) Publication of Pension Board information

13.1 Scheme members and other interested parties will want to know that Warwickshire 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.

13.2 Up to date information will be posted on the Warwickshire Pension Fund website showing -

- a. The names of the Pension Board members;
- b. How the Scheme members are represented on the Pension Board;
- c. The responsibilities of the Pension Board as a whole;
- d. The full terms of reference and policies of the Pension Board and how they operate;
- e. The Pension Board appointment process;
- f. Who each individual Pension Board member represent; and
- g. Any specific roles and responsibilities of individual Pension Board members.

13.3 The Pension Board papers, agendas and minutes of meetings will be published on the Warwickshire Pension Fund 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.

13.4 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.

14) Accountability

14.1 The Pension Board will be collectively, and members individually, accountable to the Scheme Manager. The Board will also be given the opportunity to present its findings at the Fund's annual meeting.

15) Remuneration

15.1 Remuneration for Board members will be limited to a refund of actual expenses incurred in attending Board meetings. The Chair remuneration will be agreed on

appointment and reviewed every three years.

15.2 The expenses of the Board are to be regarded as part of the administration costs of the Pension Fund.

16) Tenure

16.1 Tenure period for Board members will be for a 3 year period on a rolling appointment basis - up to a maximum of 9 years.

16.2 The term of office for the Chair will also be for a three (3) year period at which point it will be the decision of the Scheme Manager to confirm re-appointments.

16.3 Resignation of Board members will be documented in writing to the Chair. A suitable notice period must be given which is no less than one (1) month.

17) Reporting Breaches

17.1 Any breach brought to the attention of the Pension Board whether potential or actual shall be dealt with in accordance with the procedure set out in a separate policy document.

18) Review

18.1 These Terms of Reference may be reviewed and amended at any time by the Scheme Manager, in consultation with the Board, and any changes communicated to the Pension Board in advance of the next Board meeting.

19) Definitions

19.1 The undernoted terms shall have the following meaning when used in this document:

<i>"Pension Board" or "Board"</i>	Means the local Pension Board for the administering authority for the Warwickshire Pension Fund as required under the Public Service Pensions Act 2013
<i>"Scheme Manager"</i>	Means Warwickshire County Council as administering authority of the Warwickshire Pension Fund.
<i>"Chair"</i>	Reference to duties to be performed, or authorities exercised, by the Chair.

“LGPS”

The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009.

“Scheme”

Means the Local Government Pension Scheme as defined under “LGPS”

20) Interpretation

20.1 Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Scheme Manager.

Annex A to
Terms of Reference for the Local Pension Board for the Warwickshire Pension Fund
Conflicts of Interest Policy

Introduction

The Public Sector Pensions Act 2013 requires that members of the Local Pension Board (the Board) do not have conflicts of interests. As such all Board Members (Members) will be required to declare any interests and any potential conflicts of interests in line with legal requirements in the Act and the Pension Regulator's code. These declarations are required as part of the appointment process, as well as regular intervals throughout a Member's tenure to the Scheme Manager's satisfaction.

Conflict of Interests – General Principles

A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. The basic principle in relation to conflicts of interest can be found in the High Court case of *Re Thompson's Settlement* [1986] where the Court held that:

'...a man must not put himself in a position where duty and [personal] interest conflict or where his duty to one conflicts with his duty to another unless expressly authorised'

Conflicts of interest may arise for Members and their advisers. This simply reflects the fact that individual Members and their advisers will have a variety of other roles and responsibilities outside the Board.

Members and their advisers must be able to identify potential conflicts of interest and have procedures in place to manage them. This document outlines the procedure the Members have adopted to do this.

Procedure

For this procedure to work the Members have agreed that they must:

- declare any actual or potential conflict of interest they may have;
- be open with each other on any conflicts of interest they may have;
- provide information reasonably requested to assess whether there is any actual or potential conflict of interest;
- adopt practical solutions; and
- plan ahead and agree on how they will manage any conflicts of interest which arise.

With these objectives in mind the Members have adopted the following procedure:

1. Maintaining a register of Members' interests which could give rise to a conflict.
2. Maintaining a register of interests which could give rise to a conflict covering the Members' advisers.
3. Each Member and adviser will sign an annual return confirming that their information contained in the register of interests is correct. The updated register will then be

circulated to all Members and the Scheme Manager. These two events will be added to the Members' calendar of events distributed with each set of Member meeting papers.

4. The Board's Administration Manager is to identify any potential or actual conflicts of interest and to advise the Chair. The Chair in conjunction with the Scheme Manager is to decide on the action required and to advise the Members of any actions taken.
5. Any Member who feels that they, another Member or adviser has a conflict of interest must seek early advice from the Administration Manager.
6. Any member or advisor must withdraw from a Board meeting if they have a conflict of interest. The conflict of interest and the action taken must be recorded in the minutes.
7. If a conflict is identified outside of a Board meeting the Chair shall consult with the other Members prior to making a decision. The conflict of interest and the action taken must be recorded.

Management of confidential information

With regard to Members sharing confidential information received by them in their capacity as a Board Member with other parties, it is important to remember that each Member has a fundamental responsibility to act on behalf of the Board and this duty should not be compromised by acting on behalf of other groups.

Advisors

There may be circumstances where advisors are asked to give advice to the Board but this can only happen where there is no conflict of interest. All of the Board's advisors have a professional responsibility to advise the Members if any circumstances arise in which they feel they are conflicted. These responsibilities and guidelines for dealing with actual or potential conflicts of interest are covered by rules of their respective professional bodies.