



COUNCIL

19 March 2015

Report by: THE MONITORING OFFICER & THE DEMOCRATIC SERVICES MANAGER

Subject:	Establishment of Local Pension Boards
Recommendations:	<p>Council is requested to:</p> <ol style="list-style-type: none"> 1. Note the statutory requirement to establish Local Pension Boards in respect of the Local Government Pension Scheme (LGPS) and the Firefighters' Pension Scheme (FPS); 2. Agree to the establishment of such boards in line with the proposals set out in section 5 and Appendix 1; 3. Agree to appoint two councillors as employer representatives on the Local Pension Board – LGPS and one councillor as employer representatives on the Local Pension Board - FPS; and 4. Delegate authority to the Monitoring Officer to appoint employer and member representatives to the remaining positions on both boards, following the process set out in sections 6 and 7; and 5. Agree the necessary constitutional amendments as set out in section 8 and Appendix 1 and delegate authority to the Monitoring Officer to make any further constitutional amendments required in order to ensure compliance with the relevant statutory requirements.

1. Purpose of Report

1.1 The purpose of this report is to inform council of recent changes to legislation which compel administering authorities to establish Local Pension Boards. The report seeks the necessary approvals to establish the boards required in respect of the Local Government Pension Scheme (LGPS) and the Firefighters' Pension Scheme (FPS), to appoint individuals to these boards and to make the necessary changes to the council's constitution.

2. How this decision contributes to the Council Plan

2.1 The Council's vision is to make Northamptonshire a great place to live and work. This is achieved through increasing the wellbeing of your county's communities and/or safeguarding the county's communities.

<p>This initiative specifically delivers increased wellbeing by:</p> <ul style="list-style-type: none"> • Contributing to creating prosperous communities • Access to information • Getting people involved.

And Through:

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| <ul style="list-style-type: none">• Intelligence Led Services |
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3. Background

- 3.1 In 2011, the Government accepted the recommendation of Lord Hutton and the Independent Public Services Pensions Commission that all public services pension schemes should have a properly constituted board that is responsible for meeting good standards of governance, including effective and efficient administration. The Public Services Pensions Act 2013 captured this recommendation and as a result every public service pension scheme must establish a local pension board, which, in the case of the Local Government Pension Scheme, is an addition to the existing governance arrangements that are already in place.
- 3.2 The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 were laid before Parliament on 28 January 2015. The Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 were laid before Parliament at the time of writing. These regulations incorporate the requirements of The Public Services Pensions Act 2013 in respect of the creation of local pension boards and, in the case of the LGPS, come into effect on 20 February 2015.
- 3.3 In line with the Public Service Pension Act 2013, the Local Pension Board for both the LGPS and the FPS must be formalised in the County Council's constitution by 1 April 2015. The existing arrangements for the Pension Fund Board and the Investment Sub-Committee will not need to change, with the exception that the Pension Fund Board will revert to its former name of Pensions Committee in order to avoid confusion between it and the new body.

4. The Role of Local Pension Boards

- 4.1 The role of local pension board as defined in the Public Service Pension Act 2013 referred to above is to assist administering authorities such as the Council in:
- securing compliance with the LGPS/FPS regulations and other legislation relating to the governance and administration of the schemes, as well as the requirements imposed by the Pensions Regulator; and
 - ensuring the effective and efficient governance and administration of the schemes.
- 4.2 Local Pension Boards are not decision making bodies. Rather like overview and scrutiny committees, they are expected to act as a critical friend to the existing Pension Fund Committee and Investment Sub-Committee. Each year, the Local Pension Boards will produce annual reports on their activities to be presented to the administering authorities.

5. Format of Local Pension Boards

- 5.1 In the case of both the LGPS and the FPS, the regulations stipulate that there must be equal numbers of employer and member representatives, with a minimum of two representatives per category. All representatives have equal voting rights.

- 5.2 In the case of the Local Pension Board for the LGPS, it is proposed that there will be three member representatives and three employer representatives. This reflects the complex nature of the work undertaken by the Council as an administering authority for the LGPS and will assist in maintaining a quorum. It is proposed that two of the employer representatives will be County Councillors with the third representing that of a non-precept raising organisation such as an admitted body or academy (that is a scheme employer within the Northamptonshire Pension Fund) via the open selection process as detailed in section 7. In respect of the member representatives, it must be noted that any person to be appointed to a Local Pension Board must have the capacity to represent members. It is therefore proposed that, while there will be an open recruitment process for these positions, in order to fulfil the representative nature of the role some of the member representatives will be trade union representatives. In all cases, appointment of member representatives will be via the process set out in section 7 providing that they meet the criteria set out in section 6 below.
- 5.3 It is proposed that the Local Pension Board for the LGPS will meet at least twice a year but will have the ability to call an extraordinary meeting should the need arise. The first meeting must take place by 31 July 2015.
- 5.4 In the case of the Local Pension Board for the FPS, it is proposed that there will be two member representatives and two employer representatives, reflecting the less complex nature of managing the FPS. It is proposed that the employer representatives will be one County Councillor and one officer (note that the officer will have to be a council employee as in the case of the FPS there are no other employers from which the Council can draw members). In respect of the member representatives, it should be noted that a similar open recruitment process to that outlined in 5.2 above and sections 6 and 7 below will be undertaken. This process will be open to the relevant trade unions as well.
- 5.5 In each case an independent chairman is permitted, but this role is precluded from having any voting rights. It is therefore anticipated that for each local pension board, the chairman will be selected from the membership of one of two groups of representatives. Representatives will be engaged in four year terms of office or until their qualification for membership ceases (for example if an employer representative who is a councillor ceases to be a councillor during their term of appointment). Individuals that are precluded from being a representative on the local pension board are those who are already engaged in the activity of the Fund as either an officer of the Administering Authority, an officer who is responsible for making decisions about the Firefighters' Pension Scheme or as a member of the LGPS Pension Fund Board and Investment Sub-Committee.

6. Knowledge, Understanding and Capacity Requirements of Local Pension Board Members

- 6.1 The Regulations and accompanying guidance on the creation and operation of local pension boards issued by the LGPS Shadow Advisory Board stipulate that in accordance with section 248A of the 2004 Pensions Act, every individual member of a local pension board must be conversant with:
- the rules and regulations of the LGPS; and
 - any document recording policy about the administration of the Fund.

Local pension board members must also have knowledge and understanding of:

- the law relating to pensions; and
- such other matters as may be prescribed.

Members of the local pension board must be able to commit to attend meetings and undertake the necessary training.

- 6.2 Conversant, in the Shadow Advisory Board guidance, is defined as having a working knowledge (i.e. a sufficient level of familiarity) of the LGPS rules and any document recording policy about the administration of the Fund. In particular, members of a local pension board should understand the rules and documents in enough detail to know where they are relevant to an issue and where a particular provision or policy may apply. Local pension board members need also to be aware of the range and extent of overriding law which applies to the LGPS and have sufficient knowledge and understanding of the content and effect of that law to recognise when and how it impacts on their role, responsibilities and duties.
- 6.3 Members of a local pension board should have a breadth of knowledge and understanding that is sufficient to allow them to:
- challenge any failure by the Administering Authority to comply with the Regulations and other legislation relating to the governance and administration of the LGPS;
 - challenge any failure to meet the Pensions Regulator's Code of Practice;
 - understand fully any professional advice; and
 - be able to challenge that advice or information and understand how that advice or information impacts on any decision relating to the local pension board's duty to assist the Administering Authority.
- 6.4 Section 248A of the Pensions Act 2004 is clear that the knowledge and understanding requirement applies to every individual member of a local pension board rather than to the members of a local pension board as a collective group.
- 6.5 It should be noted, however, that local pension board members will be expected to meet the knowledge and understanding requirements of the Pensions Act 2004 over a period of time by undertaking suitable training following appointment. They will not be expected to have appropriate experience upon appointment as the Government has acknowledgement that this could represent a barrier to finding suitable candidates.
- 6.6 It should also be noted that The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 require administering authorities to ensure that all representatives have the capacity to represent employers or members (as appropriate) of the Fund. This means that local pension board members will have to possess the ability to properly represent the interests of scheme employers and members (as appropriate) and channel information back to those persons effectively. All representatives will need to be able to represent the wide range of membership that exists in the fund to ensure all employers and all members are represented.
- 6.7 The Firefighters' Pension Scheme Regulations also carry these intentions.

7. Recruitment of local pension board representatives

- 7.1 Following the approval of local pension board by Full Council, the recruitment and selection of board member representatives will commence. In line with the Shadow Advisory Board guidance it is proposed that where positions are subject to a recruitment and selection process, this will be carried out in an open and transparent manner providing all potential representatives with the ability to take part in the process.
- 7.2 An application pack containing the terms of reference and an outline of the knowledge and understanding and capacity requirements will be made available and advertised to employers and members within the fund in a way that is compliant with the requirements set out above. Following receipt of applications from potential representatives, a short listing and interview process will determine that the representative has the required attributes to carry out the role effectively.
- 7.3 As part of the proposals on board membership set out in section 5 above, three County Councillors will be expected to assume roles on the LPBs; two in respect of the Local Government Pension Scheme LPB and one in respect of the Firefighters' Pension Scheme LPB. It should be noted that as the local pension board is not a committee as defined under Section 101 of the Local Government Act 1972, the requirements relating to political balance do not apply. Once these appointments have been made, representatives will be provided with the information they need to be able to carry out their roles effectively, including details on where to access the scheme rules and associated documents. They will also have the opportunity to attend relevant training courses in preparation for the first meeting of the local pension board and will be able to access ongoing training thereafter.

8. Changes Required to the Council's Constitution

- 8.1 A report outlining changes to the Council's constitution was considered and approved by the Councillor Services and Governance Working Group at their meeting on 3 March 2015. A number of changes will be required as detailed below.
- 8.2 As a result of the establishment of the Local Pension Board(s), it is proposed that the name of the Pension Board should revert back to the Pensions Committee in order to reduce confusion. This will involve changes to Parts 2 and 3 of the constitution, but it should be noted that no changes to the powers and duties of the Pensions Committee are proposed.
- 8.3 In respect of the Local Pension Boards, it is proposed that a new Article explaining the role and membership of the Boards be inserted into Part 2 of the constitution, as set out at Appendix 1. Consequential changes to Part 3 – Functions and Responsibilities (Scheme of Delegation) will also be required. These are also set out at Appendix 1.

9. Alternative Options Considered

- 9.1 The option of forming a combined board under Regulation 106(2) of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, whereby the Pension Fund Committee and the Local Pension Board form one board with secretary of state approval has been considered but it is thought that it would

detract from the effective good governance already in place within the decision making body.

- 9.2 The option of forming a joint Local Pension Board under regulation 106(3) of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 with the Cambridgeshire Pension Fund has been considered but deemed impractical at the current time.

10. Financial Implications

- 9.1 As per Regulation 106(9) of Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, the expenses of the local pension boards shall be regarded as part of the costs of administration of the Fund in the same way as the expenses of the Pensions Committee are.
- 9.2 These cost will include (but are not limited to) the cost of secretarial support and any necessary advisory support and overheads attached to the arranging of meetings and the payment of expenses to members of the local pension board. It is estimated that the costs associated with supporting the boards and ensuring they are compliant with statutory requirements will be in the region of £25k per annum.

11. Risk Implications

a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
The Council is unable to appoint or recruit members to the LPBs	Discussions have taken place with the Councillor Services and Governance Working Group to identify any potential issues. Discussions have also taken place with trade unions regarding the recruitment and selection process of member representatives.	Green

b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
Failure to establish LPBs by 1 April 2015 will be in direct contravention of the Regulations, potentially resulting in intervention by the Pensions Regulator who acts as an enforcer of the requirements of the Public Service Pensions Act 2013. Failure to create a local pension board is likely to be considered maladministration on the part of the Administering Authority and a complaint to the Local Government Ombudsman or Pensions Ombudsman could therefore be made.	Red

16. Appendices

Appendix 1: Proposed Changes to the Constitution.

Author:	Name: Paul Hanson Team: LGSS Law, Property & Governance
Contact details:	Tel: 01604 366813 Email: phanson@northamptonshire.gov.uk
Background Papers:	<ul style="list-style-type: none"> • The Constitution • Public Services Pensions Act 2013 • Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 • The Draft Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 • LGPS Shadow Advisory Board guidance • The Pensions Regulator's draft code of practice no. 14 – Governance and Administration of public service pension schemes
Does the report propose a key decision is taken?	NO
If yes, is the decision in the Forward Plan?	N/A
Will further decisions be required? If so, please outline the timetable here	N/A
Is this report proposing an amendment to the budget and/or policy framework?	NO
Have the financial implications been cleared by the Strategic Finance Manager (SFM)? Have any capital spend implications been cleared by the Capital Investment Board (CIB)?	YES Name of SFM: Rosemary Pallot N/A
Has the report been cleared by the relevant Director?	YES Name of Director: Quentin Baker
Has the relevant Cabinet Member been consulted?	YES Cabinet Member: The report has been endorsed by the Councillor Services and Governance Working Group which is chaired by Councillor Bill Parker.
Has the relevant scrutiny committee been consulted?	N/A
Has the report been cleared by Legal Services?	YES Name of solicitor: Laurie Gould
	Solicitor's comments:
Have any communications issues been cleared by Communications and Marketing?	N/A
Have any property issues been cleared by Property and Asset Management?	N/A

Has an Equalities Impact Assessment been carried out in relation to this report?	N/A
Are there any community safety implications?	N/A
Are there any environmental implications:	N/A
Are there any Health & Safety Implications:	N/A
Are there any Human Resources Implications:	N/A
Are there any human rights implications:	N/A
Constituency Interest:	None specific

Proposed changes to the constitution

Article 9 - The Local Pension Board(s)

1. Local Pension Boards

The Council has established two Local Pension Boards. The first is concerned with the Council's role as an administering authority in respect of the Local Government Pension Scheme. The second is concerned with the Firefighters' Pensions Scheme. The Local Pension Boards shall have the following membership and powers.

2. Local Pension Board – Local Government Pension Scheme

a) Composition

Representatives	Number of seats	Term of Appointment	Method of Appointment
Employers	3	4 Years	<ul style="list-style-type: none"> Two councillor representatives determined by Northamptonshire County Council. One representative of a Scheme employer such as an admitted body or non-tax raising body that participates in the Northamptonshire Pension Fund appointed via an open selection process.
Scheme Members	3	4 Years	<ul style="list-style-type: none"> Three representatives appointed via an open selection process. Any trade union members so appointed will represent scheme members.

b) Voting, Frequency of Meetings and Quorum

All Local Pension Board Members shall have the right to vote in meetings.

The Local Pension Board (Local Government Pension Scheme) shall meet a minimum of four times a year. The date, hour and place of meetings shall be fixed by the Board. The Chair may call additional meetings if necessary. Quorum shall be four Local Pension Board Members, provided that the employer and member sides are both represented.

No business requiring a formal resolution shall be transacted at any meeting of the Local Pension Board unless the meeting is quorate. If it arises during the course of a meeting that a quorum is no longer present, the Chair shall either suspend business until a quorum is re-established or declare the meeting at an end and arrange for the

completion of the agenda at the next meeting or at a special meeting. Substitutes shall be permitted.

The Chair and Vice-Chair of the Local Pension Board shall be elected by the Board at its annual meeting. The normal term of office for the Chair and Vice-Chair of the Local Pension Board shall be one year, subject to earlier removal by vote of the Local Pension Board.

3. Local Pension Board – Firefighters’ Pension Scheme

a) Composition

Representatives	Number of seats	Term of Appointment	Method of Appointment
Employers	2	4 Years	<ul style="list-style-type: none"> • One councillor representative determined by Northamptonshire County Council. • One officer representative determined by Northamptonshire County Council
Scheme Members	2	4 Years	<ul style="list-style-type: none"> • Two representatives appointed via an open selection process. Any trade union members so appointed will represent scheme members.

b) Voting, Frequency of Meetings and Quorum

All Local Pension Board Members shall have the right to vote in meetings.

The Local Pension Board (Firefighter’s Pension Scheme) shall meet a minimum of two times a year. The date, hour and place of meetings shall be fixed by the Board. The Chair may call additional meetings if necessary. Quorum shall be two Local Pension Board Members, provided that at least one member each from the employer and member sides are present.

No business requiring a formal resolution shall be transacted at any meeting of the Board unless the meeting is quorate. If it arises during the course of a meeting that a quorum is no longer present, the Chairman/woman shall either suspend business until a quorum is re-established or declare the meeting at an end and arrange for the completion of the agenda at the next meeting or at a special meeting. Substitutes shall be permitted.

The Chair and Vice-Chair of the Local Pension Board shall be elected by the Board at its annual meeting. The normal term of office for the Chair and Vice-Chair of the Local Pension Board shall be one year, subject to earlier removal by vote of the Local Pension Board.

4. Role and Function

The Pensions Fund Boards will have the following roles and functions:

- Authority to assist the administering authority in securing compliance with:
 - The Principal 2013 Regulations;
 - Any other legislation; and
 - Any requirements imposed by the Pensions Regulator in relation to the Scheme.
- Authority to assist the administering authority in ensuring the effective and efficient governance and administration of the Scheme.

5. Training and Knowledge of Members

Members may not be permitted to take part in meetings of the Local Pension Board unless they have complied with any training requirements for Board members as set out in the Public Services Pensions Act.

Part 3 – Responsibility for Functions (Scheme of Delegation)

Powers and Duties of the Local Pension Board(s)

Delegated Authority	Statutory Reference
Authority to assist the administering authority in securing compliance with (i) the Principal 2013 Regulations, (ii) any other legislation, and (iii) requirements imposed by the Pensions Regulator in relation to the Scheme.	Local Government Pension Scheme (Amendment) Regulations 2014 (Regulation 106(1)(a) & (b))
Authority to assist the administering authority in ensuring the effective and efficient governance and administration of the Scheme.	As above (Regulation 106(1)(b))

Note – the wording for the Local Pension Board (FPS) will be similar but cannot be finalised until the relevant regulations are available.