

Pensions Committee

2.00 p.m., Wednesday, 28 September 2016

Update on Governance

Item number	5.7
Report number	
Executive/routine	
Wards	All

Executive summary

Changes to the Pension Board Constitution and the Attendance and Training Policy are proposed in line with the legal opinion on fiduciary duty and to address some minor typographical errors.

The Fund has recently appointed three new employer representatives to the Pension Board:

- Sharon Dalli, Pensions Manager for the Scottish Police Authority;
- Alan Williamson, Chief Operating Officer at Edinburgh College and;
- Paul Ritchie, HR Partner from East Lothian Council.

The Local Government Association has sought legal opinion which has confirmed that members of the Pension Board do not fall into the scope of the Council's indemnity provisions. The Fund is investigating a newly designed policy specifically to provide protection to the Pension Board.

Links

Coalition pledges

Council outcomes [CO26](#)

Single Outcome Agreement

Update on Governance

Recommendations

That Committee:

- 1.1 invites the Pension Board to raise any relevant matters or concerns which the Committee should consider;
- 1.2 approves the Constitutional Updates; and
- 1.3 notes and ratifies the recent appointments of three new employer representatives to the Pension Board and the contribution of previous employer representatives, Linda Macdonald and Rucelle Soutar.

Background

- 2.1 The Pension Board has been established pursuant to the Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 (the “**2015 Regulations**”) and the Public Service Pensions Act 2013 with a remit is to oversee the operation and decisions of the Committee from a compliance perspective.
- 2.2 The Fund’s Nomination and Appointments Policy states that the Pension Board will comprise of five member representatives and five employer representatives and sets out the process for the nomination and appointment of such members.
- 2.3 Uncertainty as to whether members of a pension board are officials who fall within the scope of s council’s own indemnity provisions has been raised in England and Scotland over the last two years. Legal opinion has been sought by the LGC and James Goudie QC has now opined on the matter.

Main report

- 3.1 **Pension Board membership:** The Fund has received three Pension Board resignations from their employer representatives since June; Simon Belfer from Napier University, Linda Macdonald from Handicabs and Rucelle Soutar from the Royal Edinburgh Military Tattoo. The employer vacancy was advertised during July and the Fund received three applications from our employers. Further to the current policy, the review panel (consisting of Councillor Rankin, Clare Scott and Sarah Smart) reviewed all the applications and accepted all three. The Fund has now

appointed three new employer representatives who are, Sharon Dalli, Pensions Manager for the Scottish Police Authority, Alan Williamson, Chief Operating Officer at Edinburgh College and Paul Ritchie, HR Partner from East Lothian Council.

- 3.2 **Constitutional points:** A routine review of the Fund's governance policy documents highlighted the need to make three changes. The first change relates to paragraph 1.3. of the Pension Board Constitution, which states that *'members shall have a collective duty to act independently in the interests of the members and employer bodies in the Funds and also the taxpayers.* In light of the recent legal opinion on fiduciary duty it is proposed that the wording "and also the taxpayers" is deleted.
- 3.3 Two typographical errors within the Attendance and Training Policy have been identified within the Committee and Pension Board's Training and Attendance Policy. Paragraph 1.2 states that the Board and Committee must undertake *'no less than three days (21 hours) of training in each calendar year'*. Similarly paragraph 3.1 of the Training and Attendance Policy sets out the importance of attendance to Pension Board meetings that are held concurrently with the quarterly meetings of the Pension Committee and that Pension Board members *'shall not miss any more than two such additional meetings in any calendar year'* In both cases, the Fund measures training in each financial year and not each calendar year therefore the policy should be amended accordingly.
- 3.4 **Pension Board personal indemnity insurance:** Further to the Committee's previous consideration of this matter, the Local Government Association (**LGA**) has sought legal opinion which has confirmed that members of the Pension Board do not fall into the scope of a Councils indemnity provisions. Following on from this advice Aon insurance and partners have designed a pension liability policy specifically to provide protection to local pension boards. We are presently liaising with Aon to obtain a quotation for consideration and approval, together with an analysis of the associated risk to be covered (which is currently viewed as being minimal). We will also canvas the market for any other equivalent products from other insurers.

Measures of success

- 4.1 Pension Board operations comply with the law.

Financial impact

- 5.1 There is no direct financial impact as a result of this report.

Risk, policy, compliance and governance impact

- 6.1 Pension Board's purpose is to assist in ensure ongoing compliance of the pension funds.

Equalities impact

- 7.1 There is no equalities impact as a result of this report.

Sustainability impact

- 8.1 There is no sustainability impact as a result of this report.

Consultation and engagement

- 9.1 The Pension Board, comprising employer and member representatives, is integral to the governance of the Funds.

Background reading/external references

Pension Board Constitution, Nominations & Attendance Policy and Training & Attendance Policy are available on the Fund's website
http://www.lpf.org.uk/lpf1/info/40/how_the_fund_works/30/how_the_fund_works/9

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Coalition pledges

Council outcomes CO26 - The Council engages with stakeholders and works in partnerships to improve services and deliver agreed objectives

Single Outcome

Agreement

Appendices