

CUMBRIA LOCAL PENSION BOARD

Meeting date: 31 March 2023

From: Jo Moore, Interim Director of Finance (S151 Officer)

TERMS OF REFERENCE FOR CUMBRIA LGPS LOCAL PENSION BOARD

1.0 EXECUTIVE SUMMARY

- 1.1** *The role of the Board is to assist the Administering Authority in all aspects of the governance and administration of the Local Government Pension Scheme (LGPS).*
- 1.2** *Due to Local Government Reorganisation (LGR) in Cumbria, the seven current Councils covering Cumbria will be replaced by two new unitary councils from 1 April 2023 – Westmorland & Furness Council and Cumberland Council. The current Administering Authority, Cumbria County Council, will cease to exist after 31 March 2023. Westmorland & Furness Council will become Administering Authority of Cumbria Pension Fund from 1 April 2023.*
- 1.3** *Westmorland and Furness Council approved their Constitution in January 2023 and as detailed in item 8 on today's agenda the Fund's Policy document has been updated to incorporate that newly approved Constitution in respect of the management arrangements of Cumbria Pension Fund.*
- 1.4** *The approved Constitution contains the main aspects of governance relating to the Board such as 'Composition' and 'Functions' etc. It is proposed that the Board's Terms of Reference includes this along with further detail in relation to its governance. Like the Constitution, the Terms of Reference would be effective from 1st April 2023.*
- 1.5** *Many of the aspects of governance are similar to those in the current terms of reference for the Board as detailed at agenda item 2, however there are two key changes: the inclusion of an 'independent member (non-voting) who shall be appointed as Chair of the Pension Board';*

and the Vice Chair being elected annually by the voting scheme member and scheme employer representatives.

2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS

2.1 *The purpose of the Fund is to pay Cumbria LGPS members' pension benefits in accordance with regulations and in a secure, affordable and sustainable manner over the short, medium and long term. To do this, the Fund seeks to:*

- ensure that sufficient resources are available to meet all liabilities as they fall due;*
- manage employers' liabilities effectively and enable employer contribution rates to be kept at a reasonable and affordable cost to the taxpayers and the scheduled, resolution and admitted bodies;*
- achieve and maintain Fund solvency and long term cost efficiency, which should be assessed in light of the profile of the Fund now and in the future; and*
- maximise the returns from investments within reasonable risk parameters taking into account the above aims.*

2.2 *Good governance and risk management will aid the Fund in ensuring its regulatory responsibilities are met, a good service is provided to scheme members, costs are controlled, and its required investment return is achieved. Cost control and the investment performance of the Fund will have a direct impact on the funding level and therefore all employers' contribution rates. This will have a direct impact on the Fund Employers' revenue budgets.*

3.0 RECOMMENDATION

The Board is recommended to:

3.1 *Note and agree the updated Terms of Reference for the Cumbria Local Pension Board, to be effective from 1 April 2023.*

3.2 *Note the proposed process for the appointment of an 'independent member (non-voting) who shall be appointed as Chair of the Pension Board'.*

4.0 BACKGROUND

4.1 In 2015, to assist in the establishment of LGPS Local Pension Boards the LGPS Scheme Advisory Board (SAB) developed guidance on the creation and operation of Local Pension Boards for Administering Authorities. This guidance indicated that Administering Authorities should create terms of reference for their Boards on the basis that the Board is a stand alone body, and to set out the rules or how it will operate on a day to day basis. The guidance detailed a list of elements that a Board's terms of reference should include.

- 4.2 Due to Local Government Reorganisation (LGR) in Cumbria, the seven current Councils covering Cumbria will be replaced by two new unitary councils from 1 April 2023 – Westmorland & Furness Council covering the existing areas of Barrow, Eden and South Lakeland, and Cumberland Council covering the existing areas of Allerdale, Carlisle and Copeland. The current Administering Authority, Cumbria County Council, will cease to exist after 31 March 2023. Westmorland & Furness Council will become the Administering Authority of Cumbria Pension Fund, and this has been set out in legislation via a Statutory Instrument.
- 4.3 Westmorland and Furness Council approved their Constitution in January 2023 which included a section detailing the basic governance arrangements for Cumbria Local Pension Board. As detailed in item 8 on today's agenda the Fund's Policy document has been updated to incorporate that newly approved Constitution in respect of the management arrangements of Cumbria Pension Fund
- 4.4 The approved Constitution contains the main aspects of governance relating to the Board such as 'Composition' and 'Functions' etc. For further clarity and in consideration of the SAB's guidance, it is proposed that the Board's Terms of Reference is a more detailed document which mirrors the Constitution and also provides further detail of the Board's governance arrangements. Like the Constitution, the Terms of Reference would be effective from 1st April 2023.
- 4.5 Section 16 of the Westmorland and Furness Constitution covering the Cumbria Local Pension Board is provided at Appendix 1. The Terms of Reference being proposed for noting and agreement by the Board is provided at Appendix 2. The elements that replicate the contents of the Constitution are numbered 1.1 to 1.7.4 – therefore the additional sections for consideration are in section 1.8 Other relevant terms.
- 4.6 'Other relevant terms' section sets out a number of aspects of how the Board will operate on a day to day basis including but not limited to how Board Members will be appointed including to the new role of an Independent (non-voting) Chair; the duties of the Board Chair; knowledge and capacity requirements; and the requirements of the Code of Conduct and Conflicts of Interest Policy.
- 4.7 The majority of the Local Pension Board governance arrangements will remain the same such as:
- 3 Scheme Member Representatives, drawn from the membership of the Fund, selected to ensure all membership groups within the Cumbria Pension Fund are considered;
 - 3 Scheme Employer Representatives, drawn from the circa 130 Employers in the Fund (1 to the Council; 1 to Cumberland Council; and 1 for all other employers); and
 - Meeting as a minimum on a quarterly basis.

- 4.8 The main noticeable change is the introduction of a (non-voting) independent member who shall be appointed as Chair of the Pension Board. The selection process for this role will be through application, matching candidates to a role profile with the decision to appoint being made by an interview panel, consisting of the Section 151 Officer (or deputy), the Monitoring Officer (or deputy) and a member of the Board.
- 4.9 Appointments will be for a 4 year term with a maximum of two terms (i.e. eight years).
- 4.10 The use of Independent Chairs for Local Pension Boards is not new - it has been used on some Boards since 2015 when they were first created. CIPFA's "Guide for Local Pension Boards" recognises that Independent Chairs may bring a wider awareness of current and future developments within Pensions generally and their use is starting to be considered as 'best practice' by other such as the Pensions Regulator (TPR) and the SAB.
- 4.11 Coincidentally, the current Chair of the Board, had indicated she plans to step down from that role in June 2023, so this change comes at an optimum time.
- 4.12 The Vice Chair of the Board will be elected annually by the three scheme member voting representatives and the three scheme employer voting representatives
- 4.13 Linked to the introduction of an Independent Chair the Pensions Board shall have a quorum of 3 which will require the Independent Chair (or the Vice Chair in the absence of the Independent Chair), 1 employer representative and 1 scheme member representative to be present.
- 4.14 Officers have drafted an advert for the role of the Independent Chair which will be circulated for information and comment after this meeting. The advert will be shared with the LGPS network by the LGA and other contacts such as our independent advisors and partner funds with Border to Coast. In addition, the opportunity will be publicised on the Fund's website and shared as a link by the Council's HR Team, via LinkedIn.
- 4.15 The qualities skills and knowledge required for the role are considered to be:
- Proven leadership and excellent communication skills with the ability to chair meetings effectively;
 - the ability to balance the views and needs of the participating employers and the scheme members;
 - significant knowledge and experience of governance or management of occupational pension schemes (preferably with the LGPS) and the regulatory bodies involved;
 - integrity, strategic vision and good independent judgement; and
 - an understanding of the legal responsibilities Pension Boards and the members of Pension Boards

- 4.16 The proposed remuneration for the role is expected to be £10,000 per annum, to be paid as a 'members allowance', this will be incremented annually in line with inflation, on the anniversary of appointment. This sum is in line with a number of similar roles that have recently been advertised.
- 4.17 This is not the only change that will be progressed in the coming months, as previously mentioned the current Chair who is a scheme member representative will step down at the end of her term in June. In addition, another of the substantive scheme member representatives will come to the end of their term as will a couple of the substitute members. The Fund therefore will progress an advert to be circulated to the scheme members to seek applications for the substantive and substitute roles. Members who have come to the end of their term may re-apply for their role should they wish to be considered for continuing as members of the Board.
- 4.18 The Board will also lose the existing County Council and District Council representatives from the Board as at 31 March 2023 when those organisations cease to exist. Representatives of the two unitary authorities for both the Pensions Committee and Local Pension Board will be considered at the Annual General Meeting of each Council in April (20 April for Westmorland and Furness Council and 13 April for Cumberland Council).
- 4.19 In readiness for what is expected to be a significant change in membership on both the Pensions Committee and Board, Officers have already developed and provided three afternoons of induction training (two in Kendal and one in Carlisle). Details of these sessions were shared with all councillors from both unitary authorities, with the view of providing information on what being a member of an LGPS Pensions governance body may entail; together with any existing Members of the Committee and Board who may be able to continue in a role post 1 April 2023.
- 4.20 More information on the training already provided and the plan for 2023/24 is included in item 10 on today's agenda.

5.0 OPTIONS

- 5.1 To either note and agree the updated Terms of Reference for the Cumbria Local Pension Board, to be effective from 1 April 2023; or
- 5.2 Request further information from officers on the governance arrangements of the Cumbria Pensions Fund; or
- 5.3 Make suggestions for revisions for consideration, noting that some revisions may need to be considered by the Constitution Review Group of Westmorland and Furness Council.

6.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS

- 6.1 Improved governance aids the Fund in running efficiently and effectively, controlling costs and helps to achieve its actuarially defined investment returns. Cost control and the investment performance of the Fund will have

a direct impact on the funding level and therefore all employers' contribution rates. This will have an impact on the Fund Employers' revenue budgets.

7.0 LEGAL IMPLICATIONS

7.1 There are no direct legal implications arising from the report. The information contained within the report is for the Board's information. The Board's function is to assist the Administering Authority in all aspects of the governance and administration of the LGPS.

8.0 CONCLUSION

8.1 It is good practice and good governance to have effective and up to date Scheme Policies and documents such as Terms of Reference to support and demonstrate the good governance of the Fund. Up to date policies including effective, clear and complete Terms of Reference help the Administering Authority, employers, the administration provider (LPPA), the Administering Authority and the Local Pension Board to work together to fulfil their joint responsibilities in administering the Scheme.

Jo Moore
Interim Director of Finance (S151 Officer)

31 March 2023

APPENDICES

Appendix 1 – Extract from Westmorland & Furness Constitution – Section 16 for Cumbria Local Pension Board (approved 23 Jan 2023)

Appendix 2 – Proposed Terms of Reference for Cumbria Local Pension Board

Electoral Division(s): All

Executive Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
Key Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
If a Key Decision, is the proposal published in the current Forward Plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Is the decision exempt from call-in on grounds of urgency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
If exempt from call-in, has the agreement of the Chair of the relevant Overview and Scrutiny Committee been sought or obtained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Has this matter been considered by Overview and Scrutiny? If so, give details below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*

Has an environmental or sustainability impact assessment been undertaken?

		N/A*
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Has an equality impact assessment been undertaken?

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REPORT AUTHOR

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