

1. Objective

1.1 The purpose of this report is to ask the Pensions and Investments Committee to support a recommendation to modify the Terms of Reference of the Local Pension Board, including an increase in its size.

2. Local Background

2.1 According to the Terms of Reference (ToR) of the Powys Local Pension Board (LPB) (Appendix 1) membership of the Board shall consist of four voting members, as follows:

- two Scheme Member Representatives; and two Employer Representatives (paragraph 9)
- there shall be an equal number of Member and Employer Representatives (paragraph 10) and
- there shall also be no other representatives, unless determined by Powys County Council: any such representatives will not be entitled to vote (paragraph 11).
- Substitutes shall not be appointed (paragraph 18).

The ToR also state the Scheme Member representatives shall either be scheme members or have capacity to represent scheme members of the Fund (paragraph 12) and that Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.

2.2 In addition, an independent chair shall be appointed to the Board by Powys County Council but shall count as an "other member" (paragraph 22), which means not having voting rights (paragraph 11).

2.3 There is a variety in the size of membership on LPB's, with many being a "2+2" like Powys, but the vast majority are larger, and in a handful of cases are "6+6". It should be noted that there may sometimes be local difficulties in sourcing voting members of Boards, who, basically, are volunteers. Currently appointments to the Powys Board are for a fixed term of four years, although re-appointments are permitted.

2.4 Quorum for the Powys Board is one scheme member representative, one scheme employer representative, and the independent Chair.

3 Regulatory Background

3.1 As reflected in the Public Service Pensions Act 2013, and reflected in the Pension Regulator's Code of Practice 14 (CoP14), and subsequent LGPS Regulations, public service Pension Boards must consist of a minimum of 4 voting members, two each on behalf of scheme members and scheme employers. The current arrangements in Powys therefore satisfy these requirements.

Cop14 states that those responsible for appointing members to a pension board should also consider the mix of skills and experience needed on the pension board in order for the board to operate effectively in light of its particular role, responsibilities and duties.

- 3.2 The Pension Regulator (tPR) has indicated that Boards consisting nominally of four voting members, but operating with vacancies or absences, are operating illegally. The Regulator's mantra is now "clearer, quicker, tougher". This involves a wider range of regulatory interventions. In the last two years, tPR has both fined an LGPS fund and issued an Improvement Notice on another, and has recently released a cohort review of the LGPS. The Regulator's Annual Survey is currently (November 2019) out for completion.
- 3.3 The Regulator has on occasions questioned the effectiveness of Board meetings which have fewer than four Board members in attendance. In addition, tPR is interested in how many scheduled Board meetings are cancelled or postponed to avoid them being inquorate.
- 3.4 The Regulator had also indicated that Pension Boards should meet a minimum of four times per annum, notwithstanding that the regulations only require two meetings each year. The Powys Board meets quarterly, thus meeting tPR's guidance and there is no proposal to increase the frequency of meetings locally. There is however discretion to arrange additional meetings should particular circumstances so require (paragraph 37).
- 3.5 The proposals are aimed both at managing the reputational risk of the Pension Fund and facilitating increased resilience and effectiveness of the Pension Board in their role of assisting the Administering Authority.

4 Suggested Changes to the Terms of Reference

- 4.1 In my opinion, the Powys Board has made an impressive start in its meetings which commenced in July 2015. It has become firmly established and has produced useful outcomes. There has been a good relationship with the Committee and its Chairs, and with officers. I am fortunate to be able to write and present an Executive Summary of each Board meeting at the following Committee meeting. The Board's recommendations have been accepted by the Committee.
- 4.2 Despite the positive progress on many fronts, the main vulnerability lies in the occasional need to postpone a Board meeting to avoid it being inquorate. The interest of the Pensions Regulator is expressed in paragraph 3.3 above. For Powys Pension Fund, as the Board's agenda often include items either to be previewed before consideration by the Committee, or reviewed following Committee, the need to postpone a Board meeting can now have wider implications.
- 4.3 There has not yet been any written guidance, nor regulation change to require a minimum of six voting members. However, it is quite possible that, following completion and review of imminent surveys by both the tPR and the Scheme Advisory Board, such a change will be forthcoming.
- 4.4 I am therefore recommending that the size of the Board be increased to a minimum of six voting members, with an equal balance, as required, between scheme member and scheme employer

representation. Consideration could also be given to a “four plus four” arrangement should the Board Secretary feel such an increase could be sourced.

- 4.5 For any additional scheme member representatives, it is suggested that a new paragraph (15b) be added, to include the possibility of pensioner member representation.
- 4.6 For any additional scheme employer representatives, it is suggested that a further paragraph be added, which allows the Administering Authority a degree of flexibility to maximise its chances of successfully sourcing any vacancies.
- 4.5 Regarding the quorum required, it is suggested that, for a either a six or an eight voting member Board, it becomes three, plus the independent chair, with both voting sides to be present. As background information, it is rare for any issues to be put to a vote. Most votes have, for reasons of transparency, related to whether or not there is a need to report a particular breach of the law to tPR.
- 4.6 Mindful of experiences elsewhere, it is recommended that more flexibility be offered regarding the duration of appointment, in order to avoid the “cliff edge” scenario should all Board members’ periods of office expire simultaneously. The current period is four years. The democratic nature of appointments to Pensions and Investments Committee means potential “cliff edge” scenarios are unavoidable, so stability of Board membership would provide a degree of comfort during periods of change.
- 4.7 Any additional costs resulting from such changes are deemed to be minimal, and would fall as part of the governance costs of the Pension Fund.

Recommended:

That the Pensions and Investments Committee:

1. Support, in principle, the recommendation from the Pension Board Chair to increase the size of the Powys Pensions Board
2. Request that the Pensions Manager, together with colleagues and the Board Chair, produce appropriate detailed changes to the Terms of Reference of the Pension Board, to be agreed by the Chair and Vice Chair of the Committee, prior to submission to the County Council for ratification.

Gerard Moore

Independent Chair Powys Pension Board