

By: Chairman Superannuation Fund Committee  
Corporate Director of Finance and Procurement

To: Superannuation Fund Committee – 20 March 2015

Subject: **LOCAL PENSION BOARD**

Classification: Unrestricted

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Summary: To make recommendations on the Pensions Board.

## **FOR DECISION**

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### **INTRODUCTION**

1. At its meeting on 6 February the Committee received a proposal for the Pension Board which the Council is required to establish. Members made a number of changes and the document was then sent to all employees.
2. This report will provide feedback on the consultation and seek agreement to a proposal to Council on 26 March.

### **CONSULTATION**

3. A summary of responses is attached in Appendix 1 and I also attach in full the Unison response in Appendix 2.
4. The proposal is set out in Appendix 3.
5. Once agreed the proposal will be reported to Council. Given the need to progress the selection process it was agreed with the Chairman that the proposal will go to Council on 26 March-the next meeting after that is 21 May. The report to Council reflects the proposals in Appendix 3 but any changes agreed by the Committee will be reported to Council.

### **WORKING ARRANGEMENTS**

6. The focus now needs to be on making the Board add value to the governance of the Fund and establishing a meaningful role for it. The Head of Financial Services will be responsible for developing a work programme and agenda and for liaising with the Chairman of the Committee and Board to ensure that both bodies work in a complementary way. As the investment management arrangements of the Fund have become more complex there is limited time to discuss a range of issues which are important to the broader management of the Fund. These issues include a more detailed consideration of the operation of the pension's administration operation, consideration of Internal Audit reports, Ombudsman and Internal Dispute Resolution Process issues.

7. There is a considerable amount of work to do in selecting members of the board and initially this will involve seeking nominations from 500 employers and 45,000 active members. It is proposed that the Head of Financial Services works with the Board Chairman, when determined by KCC, to ensure fit for purpose arrangements are in place.
8. The Committee will be kept informed of progress.
9. As a matter of course Committee and Board papers will be shared in full with the member of each body.

### **RECOMMENDATION**

10. Members are asked to endorse the proposed arrangements and recommend them to Council

**Nick Vickers**  
**Head of Financial Services**  
**03000 416797**

**Pension Board Consultation**

Organisation	Comment
Kent Active Retirement Fellowship	<ol style="list-style-type: none"> <li>1) KARF should retain its places on the Superannuation Fund Committee.</li> <li>2) There should be scope for substitution because of the age of members.</li> <li>3) Is the ratio of staff representation to pensioners fair?</li> </ol>
Golding Homes	Very good clear and easy to understand document.
Amicus Horizon	Interested in potentially participating as the other employer representative.
Herne & Broomfield Parish Council	Support the recommendation.
Southborough Town Council	Support the recommendation.
Janet de Rochefort Staff representative Superannuation Fund Committee	<ol style="list-style-type: none"> <li>1) Clarify that no member of the pension board may serve on the members of the Superannuation Fund Committee.</li> <li>2) A District Council or Medway representative on the Pension Board would have to step down if they became a member of the Superannuation Fund Committee.</li> <li>3) On payment of expenses clarify the word member to avoid confusion.</li> </ol>
Ashford Borough Council	1) Clarify what is meant by assist.
	2) Propose one member for District Councils/Medway and one for Police/Fire.

## Appendix 2

Our ref: SB5315

Your ref:

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Dear Mr Vickers

5<sup>th</sup> March 2015

### **UNISON Response to Kent County Council Superannuation Fund**

#### **Committee Consultation on Establishing a Pension Board**

This response is the result of UNISON consultation with its 16 Branches across Kent and Medway representing 14,000 members employed in Local Government, Police and Justice and Higher Education, who are members of the LGPS or have a contractual right to be members of the LGPS.

On 28<sup>th</sup> January 2015 the LGPS 2015 Regulations, Guidance on the creation and operation of Local Pension Boards in England & Wales and LGPS Advisory Board Terms of Reference to be used for Local Pension Boards were all published. UNISON holds two seats on the LGPS Shadow Scheme Advisory Board (SSAB) responsible for developing this guidance.

Section 109 of the Regulations requires that 'an administering authority must have regard to guidance issued by the Secretary of State in relation to local pension boards'. It is UNISON's view that the SSAB's guidance, including sample terms of reference for Local Pension Boards, detailed on the links below, should be the basis for Kent County Council as the administering authority to use in the creation of the Board.

[http://www.lgpsboard.org/images/Guidance/LGPS\\_Board\\_Guidance\\_FINAL\\_PUBLISHEDv1%20clean.pdf](http://www.lgpsboard.org/images/Guidance/LGPS_Board_Guidance_FINAL_PUBLISHEDv1%20clean.pdf)

[http://www.lgpsboard.org/images/Guidance/Template%20ToR%20LPB\\_PUBLISHED.pdf](http://www.lgpsboard.org/images/Guidance/Template%20ToR%20LPB_PUBLISHED.pdf)

The consultation document fails to reference these documents. Section 12 of the consultation in relation to terms of reference is of particular concern, as it not only fails to mention the national draft terms of reference, it also only references one of the two core responsibilities of the Board. This must be addressed in any final proposals and terms of reference for the Board.

Set out below is UNISON's response on each paragraph of the consultation.

1. Noted.
2. It should be noted that Local Pension Boards are created by the Public Service Pensions Act 2013, and the Local Government Pension Scheme Regulations 2013. Their primary function is to assist the LGPS administering authority in complying with the authority's legal obligations regarding the fund it administers, and in achieving good standards of scheme governance and administration. Boards are not committees of the administering authority. A separate regime for Board membership and functions is created by the 2013 Act and Regulations.
3. The responsibilities of the Superannuation Fund Committee are noted as being unchanged.
4. While Regulation 106 (1) is set out, the requirement to comply with all other Regulations needs to be considered and should be referenced; Regulation 106 (8) in particular. See (13) below.
5. Noted. A timetable for becoming fully operational is required.
6. This consultation is not only on the membership, as it also references terms of reference, officer support and frequency of meetings.
7. The Board member representation proposed is noted. See comments under (8) and (9) below in relation to appointment and the ability of representatives to meet the requirements of the Regulations. UNISON objects to the proposal for the chair to be pre-determined. Whilst Administering Authorities are responsible for establishing the Boards, clearly they are not the property of the Authority. Section 5.38 of the guidance sets out two options for determining the Chair of the Board. If there is not to be an independent chair as provided under 5.38.2, then 5.38.1 should be followed. This confirms that a chair may be appointed by the employer and member representatives of the Board from amongst their own number or on a rotating basis with the term of office shared between an employer and a member representative on an equal basis. The Superannuation Fund Committee is asked to withdraw its proposal

and to follow the national guidance and to ensure that the Board will have the opportunity to consider the appointment of a chair at its first meeting.

8. Selection of members. For the two proposed member representatives that are employees, further details on the process for self nomination and the operation of an appointment panel are requested, so that further consideration can be given.

UNISON as the union with the largest membership in the LGPS will work with other trade unions to seek a mechanism for appointing a representative. Such a representative will need to be democratically elected; with time allowed for this process. UNISON has three potential member representatives in Kent and Medway, who have completed our national training courses.

9. As well as relevant knowledge and understanding as set out in the consultation document, Regulation 107 (2) also requires that a person to be appointed to the local pension board as a member representative has the capacity to represent members. This should be included in any criteria to determine membership of the Board. Self nominated member representatives are extremely unlikely to have the capacity to meet the requirements set out in the guidance. Section 5.20 confirms that an individuals' ability to properly represent the interests of employers or members (as appropriate) and channel information back to those persons effectively should also be a key factor in selecting members of the Local Pension Board.

UNISON is uniquely placed to ensure Board member representatives have the capacity, support and resources to undertake the role. This includes the provision of training and access to Officers at a Regional and National level including members of the SSAB, as well as support for communications with members across Kent and Medway.

10. Four year terms of office are proposed. In line with section 5.29 of the guidance, consideration should be given to a proportion of members retiring on a rolling basis so that the Board has the benefit of gaining new members while retaining experience and stability.

11. The proposals are taken directly from the guidance and are acceptable.

12. Detailed terms of reference are required.

The SSAB's terms of reference template should be the starting point for the Board, including the statement of purpose at section 6. Compliance with the requirements of the LGPS Regulations and the Pensions Regulator is only one of the two functions prescribed by the Regulations.

The second core function of the Board, Regulation 106 (1) (b) to 'ensure the effective and efficient governance and administration of the Scheme' also needs to be included. This responsibility is detailed further in the guidance at section 3.28, which notes. The role of the Local Pension Board should be interpreted as covering all aspects of governance and administration of the LGPS, including funding and investments. Schedule A at points b) and d) further describe this as follows.

- b) Monitor performance of administration, governance and investments against key performance targets and indicators.
  - d) Monitor investment costs including custodian and transaction costs.
- The terms of reference should specifically reference the two core functions of the Board as detailed in the Regulations and Schedule A of the national guidance, which is set out at the end of this response.

13. While the KCC Corporate Director of Finance and Procurement can provide advice to the Board, the Board may also choose to seek its own external professional advice. Regulation 106 (8) provides that the Board has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. In line with the provisions of this regulation, when determining its budget, consideration will need to be given to whether the Board also requires an allocation for using advisors. Advisors, if used may be called upon on an ad hoc or ongoing basis to assist in areas of technical, legal or policy matters. Given the role of the Board under Regulation 106 is to assist the Administering Authority to secure compliance with legal and regulatory matters and to ensure the effective governance and administration of the LGPS, the need for the Board to seek its own legal, technical and other professional advice needs to be recognised.
14. Twice yearly meetings would be inadequate to undertake the responsibilities prescribed by the Regulations. At section 5.35.11, the SSAB guidance refers to the frequency of pensions committee meetings serving as a useful benchmark as to how often the Board should meet. UNISON's position is that the number of meetings should be the same as the Superannuation Fund Committee. There should also be an ability for a specified number of Board members to require a special meeting to be convened on notice.
15. Quorum noted
16. UNISON supports the use of substitutes for employer and member representatives. If no substitutes are allowed and the seat falls vacant during the four year term of office, a fresh election will be needed, yet there may not then be trained candidates available. To avoid the risk of disruption to the Board this would cause, it is suggested that a limited number of named substitutes be allowed so that all can be elected on a reserve basis.
17. The Board will need to have access to a budget to cover more than travel costs. It should include training, accommodation, meeting costs, expenses and professional advice. The terms of reference should set this out. The terms of reference should also prescribe that time off or 'facility time' will be provided to allow employees who are members of the Board to effectively carry out their role, in line with section 5.18 of the national guidance on the capacity of representative members.

## **SCHEDULE A**

### **Example of a remit of a Local Pension Board**

Administering Authorities should remember that the Local Pension Board does not replace the Administering Authority or make decisions or carry out other duties which are the responsibility of the Administering Authority.

The first core function of the Board is to assist the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- a) Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations by the Committee.
- b) Review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code of Practice.
- c) Review the compliance of scheme employers with their duties under the Regulations and relevant legislation.
- d) Assist with the development of and continually review such documentation as is required by the Regulations including Governance Compliance Statement, Funding Strategy Statement and Statement of Investment Principles.
- e) Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.
- f) Monitor complaints and performance on the administration and governance of the scheme.
- g) Assist with the application of the Internal Dispute Resolution Process.
- h) Review the complete and proper exercise of Pensions Ombudsman cases.
- i) Review the implementation of revised policies and procedures following changes to the Scheme.
- j) Review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme.
- k) Review the complete and proper exercise of employer and administering authority discretions.



l) Review the outcome of internal and external audit reports.

m) Review draft accounts and scheme annual report.

n) Review the compliance of particular cases, projects or process on request of the Committee.

o) Any other area within the core function (i.e. assisting the Administering Authority) the Board deems appropriate.

The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

a) Assist with the development of improved customer services.

b) Monitor performance of administration, governance and investments against key performance targets and indicators.

c) Review the effectiveness of processes for the appointment of advisors and suppliers to the Administering Authority.

d) Monitor investment costs including custodian and transaction costs.

e) Monitor internal and external audit reports.

f) Review the risk register as it relates to the scheme manager function of the authority.

g) Assist with the development of improved management, administration and governance structures and policies.

h) Review the outcome of actuarial reporting and valuations.

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i) Assist in the development and monitoring of process improvements on request of Committee.

j) Assist in the development of asset voting and engagement processes and compliance with the UK Stewardship Code.

k) Any other area within the core function (i.e. ensuring effective and efficient governance of the Scheme) the Board deems appropriate.

In support of its core functions the Local Pension Board may make a request for information to Committee with regard to any aspect of the Administering Authority

function. Any such request should be reasonably complied with in both scope and timing.

In support of its core functions the Local Pension Board may also make recommendations to Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

Yours sincerely

**Steve Brazier**

**Steve Brazier**

**Regional Manager**

**UNISON South East**

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## PENSION BOARD PROPOSAL

### 1. Membership

#### **Scheme member representation (4):**

Staff- 2 representatives; 1 KCC and 1 non KCC.

Kent Active Retirement Fellowship- 1 representative.

Trade unions- 1 representative

#### **Scheme employer (4):**

KCC- 2 representatives (including Chair)-not members of the Superannuation Fund Committee

District Councils /Medway Council- 1 representative

Police/Fire- 1 representative

#### **Total membership 8**

Note:

Chairman- KCC county councillor NOT currently on the Superannuation Fund Committee.

Vice Chairman- to be agreed by board.

### 2. Selection of members

This will vary by the type of member:

Employee representatives will be asked to nominate themselves and a panel of Finance and HR officers from employers will advise the Board Chairman.

Pensioner- nominated by Kent Active Retirement Fellowship.

Trade unions- nominated by Unison.

Employer representatives- will be nominated by those employers and the Board Chairman will select.

### 3. Relevant Knowledge and Understanding of Representative Members

The Regulations require that individuals appointed have relevant knowledge and understanding.

Individuals must not have a conflict of interest but membership of the LGPS or the Fund will not constitute a conflict of interest.

**4. Term of Office**

Membership will be for 4 year renewable periods with a maximum of 8 years..

**5. Termination**

A member should cease their office where:

A member has a conflict of interest which cannot be managed in accordance with the Board's conflicts policy;

A member dies or becomes incapable of acting;

A member who is a councillor of the Administering Authority is appointed to a Superannuation Fund Committee;

A member is appointed to the role of an officer of the Administering Authority with responsibility for the discharge of functions under the Regulations;

A member resigns.

A representative member ceases to represent his constituency, for example if an employer representative leaves the employment of his employer and therefore ceases to have the capacity to represent the Fund's employers; and

A member fails to attend 2 consecutive meetings or otherwise comply with the requirements of being a Board member, for example fails to attend the necessary knowledge and understanding training.

**6. Terms of Reference**

The board will assist the Superannuation Fund Committee to secure compliance with the requirements of the LGPS Regulations and of the Pensions Regulator.

The board will receive regular reports on governance and compliance issues.

**7. Officer Support**

The KCC Corporate Director of Finance and Procurement will be responsible for providing professional advice to the board.

Meeting agendas will be prepared and published by KCC Democratic Services, papers will be available on the KCC website and KCC Democratic Services will minute meetings and publish the minutes on the KCC website.

**8. Number of Meetings**

The board will meet twice a year in Sessions House, Maidstone. Additional meetings will be called if the volume of business makes it necessary.

**9. Quorum**

A minimum of 4 members will need to be present for the board to be quorate.

**10. Substitutes**

Substitutes will not be allowed given the highly technical nature of the work undertaken.

**11. Expenses**

Members of the board will be paid travel expenses for attending the meeting.

Any expenditure the board proposes to incur will need to be agreed in advance by KCC's Head of Financial Services.

**12. Data Protection**

All members of the board will be required to comply with KCC's data protection and information security policies.