

**West Midlands Pension Fund**

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Scheme Governance Discussion Paper  
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Dear Philip

### **Scheme Governance Discussion Paper**

Further to the scheme governance discussion paper issued on 20 June 2013, seeking feedback on how the governance provisions of the Public Service Pensions Act 2013 might be incorporated into the governance arrangements for LGPS 2014, please find attached, as requested in the consultation document, comments in response to the specific questions posed.

This attached response is on behalf of the West Midlands Pension Fund (WMPF), which provides pension services to over 260,000 current and former employees of the seven West Midlands district councils and over 370 participating employers. It is one of the largest funds in England and Wales, employing 115 FTE members of staff and as at 31 March 2013 had assets valued at £9.8bn.

In preparing this response, engagement has been undertaken with the Chair of the WMPF Pensions Committee and with the Fund's employing bodies, in addition to consultation with advisors and related organisations.

WMPF's opinion is that where possible, regulations should avoid being over-prescriptive and aim to allow funds the maximum possible flexibility to implement the requirements of the Public Service Pensions Act in such a way that suits local circumstances. This would follow the well-established and successful model for pension fund decision-making bodies in the LGPS, where individual funds structure their governance arrangements according to local determinants.

I hope these comments are a useful contribution to the consideration of the future LGPS governance requirements of the Public Service Pensions Act 2013. Should you wish to discuss further any of the points covered in the attached response, please do not hesitate to contact me.

Yours sincerely

Geik Drever

Director of Pensions

**GENERAL:**

**Q1. What period, after new governance regulations are on the statute book, should be given for scheme managers/administering authorities to set up and implement local pension boards?**

Given the likely resource requirements in implementing the revised governance structure, and in order to ensure that the transition does not conflict with local elections, WMPF would support an implementation date of no later than 1<sup>st</sup> April 2015.

**Q2. How long after new governance regulations are on the statute book should the national scheme advisory board become operational?**

In order that the transition does not impact on the current LGPS change agenda, including the new scheme and the review of the LGPS structure, WMPF would support an implementation date of no later than 1st April 2015.

**SCHEME MANAGER:**

**Q3. Please give details of any such “connected” scheme that you are aware of.**

Not aware of any other ‘connected’ scheme.

**Q4. Are there any schemes connected to the main Local Government Pension Scheme, other than an injury or compensation scheme, that the new Scheme regulations will need to refer to in setting out the responsibilities of scheme managers?**

Not aware of any other ‘connected’ scheme.

**PENSIONS BOARD:**

**Q5. What “other matters”, if any, should we include in Scheme regulations to add to the role of local pension boards?**

Given the existing requirements of the LGPS in respect of reporting on governance compliance, pensions administration, funding strategy, investment principles, communications etc., WMPF would be supportive of the Pensions Board being a ‘critical friend’ to the policies and procedures already in place, and indeed any new ones, by having oversight and exercising scrutiny of pension fund policies and procedures.

**Q6. Should Scheme regulations make it clear that nobody with a conflict of interest, as defined, may be appointed to or sit on a pension board?**

The Public Service Pensions Act already requires that the scheme manager (in the case of the LGPS, the administering authority) take steps to manage conflicts of interest in respect of persons appointed to a pension board. This should be supported by guidance to administering authorities on identifying and managing conflicts of interest which expands upon that given in the Public Service Pensions Act at Regulation 5(5).

The requirement for funds to prepare and operate a ‘Conflicts Policy’ would be supported; clearly setting out approaches to disclosure and management of conflicts and what criteria would deem a conflict as manageable or whether it effectively inhibits membership of the board.

**Q7. Should Scheme regulations prescribe the type of information that may be “reasonably required”?**

This is an area that is best left to the discretion of the administering authority supported by the guidance mentioned above.

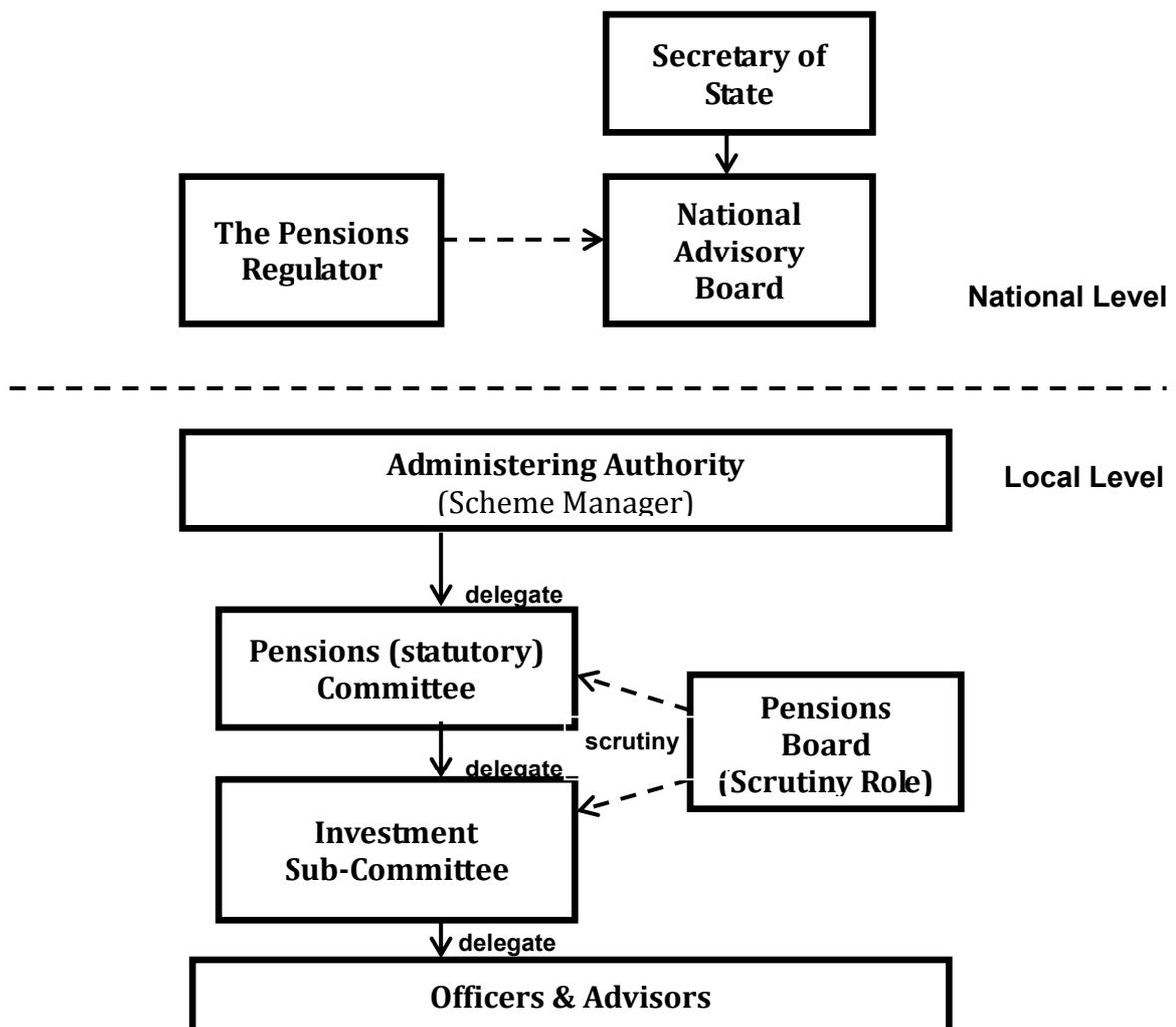
**Q8. Although not required by the Act, should Scheme regulations prescribe a minimum number of employer and employee representatives?**

WMPF would support a total membership of up to 12 members, split evenly between employer and employee representatives. Given the resource requirements of appointment, support and training, membership in excess of this number could become unwieldy and inhibit the effectiveness of the board.

**Q9. Should the new Scheme regulations require local pension boards to be a body separate from the statutory committee or for it to be combined as a single body?**

Although the Act permits DCLG to draft regulations that would allow the Pensions Committee to take on the role of the Pensions Board, principles of good governance would suggest that the roles of decision-making and scrutiny should be formally separated.

WMPF has included below an example of how the Pensions Board could be established in order to achieve the objectives of oversight and scrutiny in respect of the pension fund activities. In this example, access is available to all papers, including investment related reports and as such, a code of practice in respect of confidentiality would be expected.



WMPF would therefore strongly support the Pensions Board being a separate body to that of the Statutory Committee, not a combined or single entity.

**Q10. Apart from what is required under the Act, what other elements of local pension boards should be set out in the new Scheme regulations?**

WMPF has not identified any further elements that should not be left to local discretion.

**Q11. Apart from what is required under the Act, what other elements of local pension boards should be left to local determination?**

WMPF would support matters such as terms of reference, regularity of meetings, tenure, quorum, training requirements etc., being determined locally.

**Q12. Should the new Scheme regulations prevent any incumbent scheme member representative being moved from a statutory committee to the local pension board (if the committee and the board are not one and the same body)?**

WMPF do not consider it good governance to prevent a scheme member representative moving from a statutory committee to the pensions board, given that the member may be better suited in the alternate role and will have the transferrable knowledge and skills to enable them to undertake it successfully.

Indeed, if an alternate member then had to be appointed this would incur resources and costs associated with training and support in order to ensure the new member had the knowledge and skills to discharge their responsibilities.

**Q13. Should the new Scheme regulations include a requirement for each local pension board to publish an annual statement of its work and for this to be sent to the relevant scheme manager, all scheme employers, the scheme advisory board and Pensions Regulator?**

WMPF would not support the inclusion of such a requirement as a successfully functioning pensions board will report on its activity on an ongoing, regular basis as a matter of standard practice.

**Q14. Apart from the training and qualification criteria that may be covered by the Pensions Regulator in a code of practice, are there any specific issues that we should aim to cover in the new Scheme regulations as well?**

WMPF would support additional guidance on attendance expectations, knowledge and skills standards required and circumstances or criterion that could/would lead to a representative being removed from the board.

#### **SCHEME ADVISORY BOARD:**

**Q15. Should Scheme regulations simply replicate the wording of the Act? If not, what specific areas of work should the new Scheme regulations prescribe?**

WMPF agree that the Public Service Pensions Act is sufficiently broad as to allow the Scheme Advisory Board to develop its own remit and allow this to evolve, rather than requiring ongoing regulatory intervention to keep aligned with changes to areas of work.

**Q16. Should Scheme regulations include a general provision enabling the scheme advisory board to advise the Secretary of State on the desirability of changes to the Scheme as and when deemed necessary?**

WMPF agree that the Scheme Advisory Board should have within its remit, to advise the Secretary of State on the desirability of changes to the Scheme as and when deemed necessary, and if needed, then a specific provision should be made for it to do so.

**Q17. Are there any specific areas of advice that Scheme regulations should prohibit the scheme advisory board from giving?**

WMPF do not believe that the role and remit of the Scheme Advisory Board should be restricted in any way that would prevent it acting proactively within the scope of its overall remit of advising on public sector pensions provision.

**Q18. What options (if any other, please describe) would be your preference for establishing membership of the scheme advisory board?**

WMPF would support the transition of the Shadow Board structure to that of the Scheme Advisory Board, given the exhaustive process and consultation with stakeholders that has already been undertaken in its establishment. If the Secretary of State is so minded, and for effective decision making purposes, the membership size of the Scheme Advisory Board could be reduced from that of the Shadow Board.

**Q19. Should Scheme regulations require the Secretary of State to approve any recommendation made for the position of Chair?**

WMPF are clear that the Chair of the Scheme Advisory Board should be an independent appointment, but would support endorsement from the Secretary of State as this would benefit the status of the position.

**Q20. Should Scheme regulations prescribe tenure of office? If so, what should the maximum period of office be and should this also apply to the Chair of the board?**

WMPF would support a tenure of 3 to 5 years for all members of the Board, however changes to membership should be undertaken on a rotational basis, with some members initially serving longer than others in order to retain stability and the necessary level expertise and skills.

**Q21. Should Scheme regulations make provision for board members, including the Chair, to be removed in prescribed circumstances, for example, for failing to attend a minimum number of meetings per annum? If so, who should be responsible for removing members and in what circumstances (other than where a conflict of interest has arisen) should removal be sought?**

**Q22. Should Scheme regulations prescribe a minimum number of meetings in each year? If so, how many?**

**Q23. Should Scheme regulations prescribe the number of attendees for the board to be quorate? If so, how many or what percentage of the board's membership should be required to be in attendance?**

**Q24. Rather than make specific provision in Scheme regulations, should the matters discussed at Q19 to Q23 be left as matters for the scheme advisory board itself to consider and determine?**

WMPF believe that the matters detailed in Q19 to Q23 relate to procedural detail and should be left for the Board itself to consider and determine.

**Q25. Should the scheme advisory board be funded by a voluntary subscription or mandatory levy on all Scheme pension fund authorities?**

WMPF support a mandatory levy in order to give the Board financial certainty and to reinforce its legitimacy to act across all LGPS funds.

**Q26. What would be your preferred manner of legal constitution of the scheme advisory board and how should Scheme regulations deal with the issue of personal liability protection for board members?**

WMPF has no preferred manner of legal constitution of the Board but is clear that there should be no personal liability issues for its members on the grounds that they are volunteers and are not undertaking the role in a commercial capacity.