



**Paul Darby, Corporate Director of Resources**

**Electoral division(s) affected:**

n/a

**Purpose of the Report**

- 1 This report provides Council an overview of the Local Pension Board and sets out proposals to expand the Board from 6 to 8 members for the reasons that are explained.

**Executive summary**

- 2 The Public Service Pensions Act 2013 requires the council, in its capacity as Administering Authority of the Durham County Council Pension Fund, to maintain a Local Pension Board. Durham's Pension Board was established in 2015, with its first meeting held on 9 July 2015.
- 3 The purpose of the Board is to secure compliance with The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and; to ensure the effective and efficient governance and administration of the Scheme.
- 4 The Board currently consists of 6 members, split equally (as is required) between Scheme Employer and Scheme Member representatives.
- 5 There are presently 2 Scheme Employer vacancies. Before progressing with filling the vacancies, it is proposed to expand the Board membership to 8 in order to ensure meetings are quorate and that the Board can effectively discharge its remit going forward. The proposed expansion would need to maintain the balance between Scheme Member and Scheme Employer representatives (4 each).

**Recommendation(s)**

- 6 County Council is recommended to:

- (a) note the report; and
- (b) note the intention to recommend to Council the expansion of the Local Pension Board from 6 to 8 members.

## Background

- 7 The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 (SI 2015/57) established a national Scheme Advisory Board (the SAB) and set out the requirements for each Local Government Pension Scheme administering authority (LGPS) to establish a local pension board by 1 April 2015. The majority of the provisions came into force on 20 February 2015 allowing administering authorities to establish a Board by 1 April 2015.
- 8 Durham County Council, in its capacity as administering authority of the Durham County Council Pension Fund (“the Fund”) subsequently took the necessary step to approve and establish a Board; setting its composition and its terms of reference.
- 9 Guidance<sup>1</sup> developed by the (then) shadow SAB set out that a Pension Board did not necessarily have to be fully operational by 1 April 2015, but that it should have had its first meeting within four months of that date. The initial shadow SAB guidance on the establishment and conduct of the Pension Board is expected to be updated at some point in the future, but the initial published guidance remains current.
- 10 A report to was considered by the County Council on 25 February 2015 to approve the establishment of a Pension Board in Durham and the initial Terms of Reference. Subsequently, the Local Pension Board held its first meeting on 9 July 2015 – in compliance with the guidance<sup>1</sup> published by the shadow SAB.

## The Purpose of a Local Pension Board

- 11 Under Section 2 of the Public Service Pensions Act 2013<sup>2</sup> (“the Act”), each pension scheme must have a ‘responsible authority’ which is the person who may make regulations for the running of that scheme. The responsible authority of the LGPS is the Secretary of State. Additionally, Section 4 of the Act requires that the scheme should have a Scheme Manager who is responsible for managing or administering the scheme.
- 12 In the case of the LGPS, Scheme Managers are the 87 Administering Authorities in England and Wales; of which the council is one. Durham County Council is therefore the scheme manager in respect of the Fund, and is responsible for maintaining and investing its fund of assets and for making decisions relating to its operation. Section 5 of the Act provides for the establishment of a Board with responsibility for assisting the scheme managers.

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<sup>1</sup> Local Government Pension Scheme: Guidance on the Creation and Operation of Local Pension Boards in England and Wales

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2013/25/contents>

- 13 This requirement resulted in a requirement for a Local Pension Board (LPB) for each LGPS fund. The regulations set out that the LPB has the responsibility for assisting the administering authority to secure compliance with:-
- (a) the Scheme Regulations;
  - (b) other legislation relating to the governance and administration of the LGPS; and
  - (c) the requirements imposed by the Regulator in relation to the LGPS.
- 14 The Board also has the responsibility for ensuring the effective and efficient governance and administration of the Scheme.
- 15 The Guidance provides the opinion that such assistance shall be interpreted as helping the Administering Authority, including undertaking work requested by it. The LPB does not, however, replace the Administering Authority or its responsibilities, nor does the Board make decisions.

### **Composition of the Board**

- 16 The LPB must include an equal number of Scheme Employer and Scheme Member representatives, with a minimum requirement of no less than four Board Members in total. The Board cannot include an officer or Councillor of the administering authority who is responsible for the discharge of any of the functions under the LGPS regulations. When considering the size of their LPBs, the original guidance advises that Administering Authorities need to consider factors including, but not limited to:-
- (a) the number of scheme members, the number and size of employers;
  - (b) the breadth and diversity of scheme members and employers;
  - (c) the assets within the Fund and any collective arrangements in place for them to make decisions or provide input in relation to Fund matters;
  - (d) the cost of establishing and operating the Board;
  - (e) the existence or proposal to form any other advisory groups; and
  - (f) the scope of the Board's remit and workplan.

- 17 Prior to the establishment of Durham's Board, the Council considered Unison's view that the more assets under management (AUM), the greater the workload. At that time, Unison therefore suggested that the appropriate numbers of Scheme Member and Scheme Employer representatives on a Board, linked to AUM, was:-
- (a) 2 each for a fund below £500m in asset value;
  - (b) 3 each in any fund above £500m to £3bn in asset value;
  - (c) 4 each in any fund between £3bn and £10bn in asset value; and
  - (d) 5 each in any fund above £10bn.
- 18 At the time of the Board's establishment, the value of the Durham Pension Fund's assets was £2.1bn. Since the establishment of the Board, the Fund's AUM has risen to £3.7bn whilst the Fund has also pursued an investment strategy of greater complexity.
- 19 Having considered a range of issues, it was recommended to Council in February 2015 that the LPB comprise 3 Scheme Employer representatives and 3 Scheme Member representatives. The LPB was therefore established with 6 members in total, with the equal representation required.

### **Training Requirements**

- 20 Knowledge and understanding must be considered in light of the Board's role in assisting the Administering Authority in securing compliance with legislation and ensuring effective governance and administration of the Scheme. Following appointment, Board Members should be, or become, conversant with:
- (a) The legislation and associated guidance of the Local Government Pension Scheme (LGPS);
  - (b) General pensions legislations applicable to the LGPS;
  - (c) Role and Responsibilities of a LPB;
  - (d) Role and Responsibilities of the Administering Authority;
  - (e) Role and Responsibilities of Scheme Employers, Advisers and key persons; and
  - (f) Funding and Investment.

- 21 The full requirements in place to ensure that Board Members maintain appropriate Knowledge and Skills are set out in the Fund's Training Policy<sup>3</sup>.

## **Board Activity**

- 22 Since its establishment the Board has followed a workplan to fulfil its remit in securing compliance with regulations and ensuring efficient and effective governance and administration. The Board provides regular feedback to the Pension Fund Committee, which remains the decision-making body for the Fund. Specifically, the Board is able to report its requests, recommendations or concerns to the Committee.
- 23 Additionally, the Board provides an Annual Report to the Committee summarising its activity. The most recent report is included in Appendix 2. This Report includes a summary of Board Member attendance during the municipal year 2023/24. The Board's Terms of Reference are also included in Appendix 3.
- 24 The Board is required to meet at least twice annually, but in practice meets every quarter. Meetings normally take place between the hours of 9:00am and 5:00pm at County Hall, Durham. The Chair of the Board however, with the consent of the Board membership, may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails.
- 25 Local Pension Boards are not local authority committees and are not therefore subject to the same legal requirements and conventions as, say, a LGPS Pensions Committee. The legal requirement for committees established under section 101 of the Local Government Act 1972 to conduct face to face meetings do not therefore apply to Boards who may meet remotely, face to face or a combination of both if agreed locally. Meetings of the Board have, however, remained in person to ensure effectiveness and to maintain access for members of the public.
- 26 A meeting of the Board is only quorate when at least one member and one employer representative is present. A meeting that becomes inquorate may continue but any decisions will be non-binding.
- 27 The Board meetings are open to the general public (unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public).

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<sup>3</sup> <https://www.durham.gov.uk/media/44689/Pension-Fund-Training-Policy-2024-25/pdf/PensionFundTrainingPolicy.pdf?m=1716899461467>

- 28 The Administering Authority as the Scheme Manager must publish information about the Board (and keep that information up-to-date). That information must include information about:-
- (a) who the members of the board are,
  - (b) representation on the board of members of the scheme or schemes, and
  - (c) the matters falling within the board's responsibility.
- 29 This information is published, and kept up to date, on the council's website<sup>4</sup>.

### **Proposed Change to Board Composition**

- 30 The Board currently has four members and two vacancies. The Scheme Member representatives are:
- (a) Ian Pritchard, representing Unison
  - (b) Les Oliver, a retired scheme member
  - (c) Wendy Pattison, an active scheme member
- 31 There is currently one Scheme Employer representative, Councillor Amanda Hopgood, whose membership is derived from her position as a Durham County Councillor, rather than in her capacity as leader of the Council.
- 32 In seeking to address the current vacancies it was considered a timely point to review the composition of the Board. Whilst the Board has effectively undertaken its role in securing compliance, there have been occasional challenges with quoracy.
- 33 Additionally, as set out in the report, the size of the Fund has increased significantly since the establishment of the Board whilst the Fund has pursued a more complex investment strategy. Further, the complexity of the Scheme has also increased since 2015, with major administration and governance matters including implications of the McCloud Judgement, GMP Rectification, Good Governance recommendations and the Pension Regulator's General Code of Practice.
- 34 It is therefore considered that expanding the Board from 6 members to 8, without changing the current quorum, would assist in terms of both

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<sup>4</sup> <https://www.durham.gov.uk/article/6164/Durham-County-Council-Pension-Fund-Local-Pension-Board>

enabling quoracy and ensuring efficient and effectiveness governance and administration.

- 35 Whilst Unison are already represented on the Board, GMB have indicated a desire to also participate in the Board's functions and would therefore be able to fill the resulting Scheme Member vacancy that would arise.
- 36 In terms of the Scheme Employer representatives, there would be 3 vacancies on the Board. Canvassing the Fund's external employers has not generated any material interest in the roles. Fund Officers have therefore spoken to the Group Leaders within the County Council all of whom have indicated a willingness to provide nominees for the Board. It is therefore anticipated that should Council agree to the expansion of the Board, the vacant roles could be filled.
- 37 The proposals have the support of the Local Pension Board.

### **Next Steps**

- 38 Whilst the Board sits outside of the Constitution and is not a local authority committee, it is necessary for changes of the Board's composition to be approved by Full Council. Constitution Working Group (CWG) has been consulted and supports the proposal. Should Council agree to expand the Membership, Board Members will be enrolled as soon as practical thereafter.

### **Other useful documents**

- Previous Cabinet reports / None

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**Contact:** Paul Cooper

Tel: 07435184532

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## **Appendix 1: Implications**

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### **Legal Implications**

Maintaining a Local Pension Board meets the council's obligations under the Public Service Pensions Act, and the expansion of the Board will help ensure that the Board is quorate. The Board itself helps the council secure compliance with relevant legislation. It is a requirement for Board members to have the necessary Skills and Knowledge to undertake the role, and new members will therefore have to undertake the training requirements set out in the Fund's Training Policy.

### **Finance**

All costs associated with the Board will be recharged to the Pension Fund. Presently no fees are paid to Board Members, but reasonable expense claims will be reimbursed from the Fund. There is no material cost associated with the expansion of the number of Board members.

### **Consultation**

N/A

### **Equality and Diversity / Public Sector Equality Duty**

N/A

### **Climate Change**

N/A

### **Human Rights**

N/A

### **Crime and Disorder**

N/A

### **Staffing**

N/A

### **Accommodation**

N/A

### **Risk**

N/A

## **Procurement**

N/A