

# ITEM 5 - LATE REPORT

## North Yorkshire County Council

### Pension Board

1 October 2015

### Governance Issues

#### 1.0 Purpose of the Report

1.1 To respond to Governance issues raised by the Committee at the previous meeting.

#### 2.0 Background

2.1 At the inaugural meeting of the Pension Board, held on 30<sup>th</sup> July 2015, Members of the Committee commenting on the agenda item titled "Pension Board Terms of Reference", highlighted the following:-

- **Membership & Appointment Process** – That it remained the view of the Unions that the appointment of employee/member representatives should be determined by holding an election. It was acknowledged that this view had been voiced when the terms of reference were drawn up.
- **Remit of the Board** – that this should include an opportunity for members to consider and comment upon the agenda and performance of the Pension Committee. Board members accepted that whilst not able to challenge Pension Fund Committee decisions they should nevertheless be able to offer comment on them.

2.2 The issues raised were referred to the Assistant Chief Executive (Legal and Democratic Services) who responded as follows:-

#### 3.0 Membership and appointment process

3.1 The Pension Board has a wide discretion on how it wishes to appoint employee/member representatives. It can determine its assessment criteria on a number of factors, including popularity and/or merit. A scheme manager should publish the pension board appointment process in an open and transparent way and that all members must have equal opportunity to be nominated.

3.2 Therefore from a legal perspective it is possible to amend the terms of reference to include a requirement that Scheme Member representatives would be 'selected by election by Scheme Members'.

3.3 However it should be noted that from preliminary research, it would appear that most Pension Boards use an appointment process based on merit. Indeed it is interesting to note, for example, that the City of London Pension Board created their Pension Board on the 29<sup>th</sup> April with the appointment process being through election by its members. They have now recommended through their report to the Policy and Resources Committee on the 24<sup>th</sup> September 2015 that they should change their terms of reference to appoint through an application process.

3.4 Their report stated that out of 19 London Boroughs they contacted, 18 had decided to appoint representatives through an application appointment process. They state:

"There are two main benefits to this approach. Firstly, there is a significant financial benefit. It is estimated that an election would involve an electorate of around 12,000 people and cost approximately £15,000, in addition to being administratively burdensome. It is estimated that an application and appointment process would cost approximately £3,000, including officer time

for review of applications and the selection process, including interviews, if required. There is likely to be a significant overestimate of the cost, as it is unlikely that two full days would be required for the selection process. However, it is financially prudent to assume the highest possible cost.”

“Secondly, appointment based on an application and appointment process, with assessment against clear and open criteria (which would include areas such as knowledge of pension schemes and the role of the Local Government Pension Board or openness to learning about the schemes) would be the most effective way to ensure that appropriate Board Members are selected.”

3.5 Whilst the options of appointing through a selection process or through an election are both possible, there is a trend of moving towards having members appointed on merit. This allows Pension Board members to be chosen and the relevant skills of existing and new members to be taken into account. In addition by using a selection process, it is easier to demonstrate that a member will be able to demonstrate they have the relevant experience, ability and capacity to carry out their role. Regulation 107 provides that the Administering Authority must ensure that any person it wishes to appoint as an employer or member representative has the capacity to represent the employers or members of the Fund.

#### **4.0 Remit of the Board**

4.1 The purpose of the Pension Board is to assist the Scheme Manager in securing compliance with the Local Government Pension Scheme Regulations, other pension legislation and the requirements of the Pensions Regulator.

4.2 It is important that the Pension Board is given access to all the relevant information in fulfilling its functions including confidential reports of the Pension Board in order to carry out its role. However the Board should not seek to undertake the work of the Pension Fund Committee nor comment on matters that do not come under the remit of the Pension’s Board. The regulations are clear that no officer or Councillor who is on a Pension Fund Committee can be a member of the Pension Board as their roles are distinct and the Pension Board should carry out its duties of ensuring compliance with the Pension Scheme Rules and Legislation.

4.3 The Pension Board is not a scrutiny committee of the Pension Fund Committee but it should have a wide remit in ensuring compliance with the Rules. Therefore the Pension Board should be able to comment on the agenda and performance of the Pension Committee on in so far as it relates to the Scheme’s compliance with the Rules.

#### **5.0 Recommendation**

5.1 That the report be noted.

BARRY KHAN  
Assistant Chief Executive (Legal and Democratic Services)

County Hall  
Northallerton  
SML

September 2015

Background Documents: Minutes of the Meeting held on 30 July 2015.