

FALKIRK COUNCIL

Subject: REFERRAL FROM JOINT MEETING OF THE PENSIONS COMMITTEE/PANEL ON 11 DECEMBER 2014
Meeting: FALKIRK COUNCIL
Date: 17 DECEMBER 2014
Author: CHIEF FINANCE OFFICER

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to refer the recommendations made by the Pensions Committee in relation to the governance arrangements to be applied to the Pension Fund from April 2015.

2. PROPOSED GOVERNANCE ARRANGEMENTS

- 2.1 The Pensions Committee at a joint meeting with the Pensions Panel met on 11 December 2014 and considered the future governance arrangements. The report considered by the committee and panel is attached as Appendix 1.
- 2.2 As the regulations prescribing the arrangements are not yet available in their final form, the Committee has made recommendations to Council which deal both with the regulations as currently drafted and for the addition of an option to allow non trade union member representative. The recommendations made were also agreed by the Panel.
- 2.3 The Committee agreed to recommend to Council that:-
- (i) the Pensions Panel be discontinued from 1 April 2015;
 - (ii) the Pensions Committee should continue to operate as at present (i.e. with 6 elected members from Falkirk Council and 3 co-opted members representing Employer, Trade Unions and Pensioners;
 - (iii) in the event that the legislation remains as presently drafted, there should be a Pensions Board of 8 members consisting of 4 Employer and 4 Trade Union representatives or in the event that the legislation permits non Trade Union member representation, there should be a Pensions Board of 10 members with 5 Employer representatives, 4 Trade Union representatives and 1 non Trade Union member representative; and
 - (iv) the allocation of Board seats to Employers and Unions should be as set out in Appendix 2 to this report.

3. RECOMMENDATION

Council is invited to consider the recommendations of the Pensions Committee.

Chief Finance Officer

Date: 15 December 2014

Contact Officer: Alastair McGirr

LIST OF BACKGROUND PAPERS

NIL

FALKIRK COUNCIL

Subject: PENSION FUND – GOVERNANCE ARRANGEMENTS
Meeting: JOINT MEETING OF THE PENSIONS PANEL AND COMMITTEE
Date: 11 DECEMBER 2014
Author: CHIEF FINANCE OFFICER

1. INTRODUCTION

- 1.1 The purpose of this report is to provide Panel and Committee with information regarding the revised pension fund governance arrangements to be put in place by April, 2015. The report makes reference to the national and local consultations held recently on the subject.

2. CURRENT GOVERNANCE ARRANGEMENTS

- 2.1 Falkirk Council is designated as an Administering Authority within Local Government Pension Scheme legislation with responsibility for maintaining and managing the Falkirk Council Pension Fund.
- 2.2 Under current governance arrangements, Falkirk Council has delegated pension fund business to its Pensions Committee. In addition, an advisory Pensions Panel, made up of Employer, Union and Pensioner representative groups, has been established to support the Committee.
- 2.3 The Pensions Committee consists of nine members – six elected members from Falkirk Council and three members drawn from the Panel. The Committee meets on a quarterly basis with all members having voting rights and access to papers.
- 2.4 The Panel comprises 15 members with one member from each of the representative groups sitting on the Pensions Committee. The Panel normally meets on a quarterly basis approximately two weeks prior to the Committee.
- 2.5 The Panel's role is to provide advice, guidance and opinion to the Pensions Committee on all matters relating to the business of the Falkirk Council Pension Fund. The Committee remains the decision making entity.
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3. PUBLIC SERVICE PENSIONS ACT 2013

- 3.1 The current round of pension reform began in 2011 with the publication of the Hutton report. This set out proposals for the establishment of a common UK-wide framework for public sector pensions in a bid to ensure that going forward the schemes were affordable, sustainable, fair and transparent. These proposals were carried forward in the Public Service Pensions Act 2013 ("the

2013 Act”) and have been amplified more recently through draft Governance regulations and associated agreements.

3.2 In essence, the 2013 Act requires that from April, 2015, each Fund must have:

- a Scheme Manager – the legally constituted decision making body; and
- a Pension Board – a supporting entity

3.3 At a national level, the Act also requires that the Scheme is overseen by an Advisory Board, made up of Employer and Trades Union representatives.

3.4 For the Falkirk Fund, the “Scheme Manager” will be Falkirk Council, in its capacity as a corporate body. Pension fund business will continue to be delegated to the Pensions Committee.

3.5 Whilst there are differences between the existing Pensions Panel and the Pension Board, it would seem impractical to go forward with both a Board and a Panel given the overlap in roles and the skills and knowledge requirements. Consequently, this report seeks approval for the Pensions Panel to be discontinued with effect from 1st April, 2015 and alternative governance arrangements put in place.

4. SCOTTISH MINISTERS CONSULTATION

4.1 As mentioned above, Scottish Ministers recently issued, for consultation, draft Regulations which seek to expand on the core governance requirements set out in the 2013 Act.

4.2. The full Falkirk Council response on behalf of the Fund is attached at Appendix A.

5. PENSION BOARDS

5.1 It is important to recognise that under the 2013 Act, the Pension Board has a specific statutory role, namely:

- securing compliance with the rules relating to scheme governance and administration;
- securing compliance with requirements imposed by the Pensions Regulator; and
- such other matters as the may be specified.

5.2 This role is expanded in the draft Governance regulations so that effectively the Board has a locus over most pension fund business.

5.3 The Governance regulations also make provision regarding the practical operation of the Pension Board, as follows:

- the Board should have an equal number of employer and trade union representatives with a minimum of 4 members from each group;
- the Scheme Manager must be satisfied that a person appointed to the Board does not at any time have a conflict of interest;

- the Board should normally meet together at the same place and at the same time as the Pensions Committee and consider the same agenda, in which case the Chair of the Pensions Committee should act as chair of both meetings.
- The Chair of the Board will rotate on an annual basis between employer and trade union representatives
- The administration costs of the Pension Board shall be met by the Fund.

- 5.4 Further direction as to how a Pension Board should operate is contained in the Governance Heads of Agreement and Model Constitution authorised by the Scottish Local Government Pensions Advisory Group (SLOGPAG). A copy of the model constitution is attached at Appendix B
- 5.5 The fact that the Regulations require the Board to have its own Chair (separate from the Pensions Committee Chair) would imply that it can meet on its own.
- 5.6 The statutory role of the Board means that it is not possible for persons to be simultaneously both members of the Board and Committee.

6. FALKIRK COUNCIL PENSION FUND CONSULTATION

- 6.1 As the final Governance regulations will not be published until late January, 2015 (too late to begin the Board appointment process in time for April, 2015), the Fund has conducted its own consultation with stakeholders (Fund Employers, Trade Unions contacts, Scheme Members and Pensioners). A letter of comfort indicating that final regulations will not deviate materially from the draft regulations has been provided by the Scottish Ministers.

- 6.2 A copy of the Falkirk Governance Consultation Paper is attached at Appendix C. The key questions raised in the consultation were as follows:

- a) How many member and employer representatives do you feel should sit on the Board?
- b) Which of the following Board models would you support in relation to employer representation?
 - 4 members (e.g. one from each of the 4 largest employers in the Fund), or
 - 4 members (e.g. two “Council” reps, a scheduled body rep and an admitted body rep) or
 - 5 or more employer representatives

(As Falkirk Council will have a majority position on the Pensions Committee, a further variation would be not to have any Falkirk representation on the Board?)

- c) Should member representatives be limited to Trade Union representatives or should they potentially include other member representatives such as pensioner or deferred member representatives? (At present, the draft governance regulations only refer to Trade Union representatives).
- d) Would your organisation be prepared to nominate someone to sit on the Pension Board?

- e) Would your organisation be prepared to nominate a substitute? A substitute would have to undergo the same knowledge and understanding regime as the lead representative. Having an available substitute could help ensure that Board meetings were quorate.
- f) The proposed term of office for a Board Member is 4 years, with the option of re-appointment. How should any re-appointment request be processed?
- g) Thinking about the configuration of the Pensions Committee, do you think there should continue to be non-Falkirk Council representation (e.g. Falkirk Council elected members being supported by a Pensioner or Other Stakeholder representative).
- h) Should an independent specialist be formally invited to sit on the Committee (such a member would bring specialist skills to discussions but would require to be paid)?

7. CONSULTATION RESPONSES

7.1 Responses have been received from the following organisations:

SEPA
SCRA
Scottish Autism
Stirling Enterprise (STEP)
Falkirk Community Trust

Responses have also been received from Mr Redpath (Committee member) and a Mr Gower (Pensioner).

7.2 The response from Falkirk Community Trust indicated that they would expect their interests to be catered for through Falkirk Council representation. The response from STEP was simply to confirm they would not seek to participate in the Pension Board.

7.3 The other responses have been summarised as follows:

	Board Size	Board Composition (Employers)	Board Composition (Members)	Prepared to sit on Board	Committee to have non Falkirk representation	Independent member to sit on Committee
SCRA	6 + 6	5 Scheduled + 1 Admitted	Include Pensioner & Deferred Pensioner	Yes	Yes	Yes
Autism	6 + 6	Places to go to larger employers	Supports more than just Trade Union	Yes, subject to time commitment	Yes, but maybe less important given joint meetings	Depends on costs / value of contribution
SEPA	8 + 8	2 Council + 4 Scheduled + 2 Admitted	Supports more than just Trade Union	Yes	Yes	Yes

Mr A Redpath	5 + 5	2 Council + 2 Scheduled + 1 Admitted	Support more than just Trade Union	N/A	Depending on joint meetings and Board structure, would support Committee being Falkirk only	Not convinced this is required
Mr Gower	6 + 6	2 Council + 2 Scheduled + 2 Admitted	Support more than just Trade Union	N/A	Minimum of 3 non Falkirk members on Committee	No

7.4 One employer stressed the importance of the Code of Conduct (including confidentiality) being explicitly brought to the attention of new Board members.

7.5 Notwithstanding that the level of response was small, there appears to be support for:

- the Board to be slightly smaller than the existing Panel;
- the Committee to retain some non-Falkirk representation; and
- Board composition for members to be broader than Trade Unions.

7.6 A significant obstacle to finalising Board arrangements is the uncertainty as to whether member representatives will be limited to Trade Union appointees only or whether they will encompass some broader form of member representative, such as a pensioner representative. As this issue may not be settled until late January/early February 2015, the Committee may need to consider options for both scenarios.

8. PENSIONS COMMITTEE

8.1 The introduction of a Pension Board means a fundamental change in the Fund's Governance arrangements. Given the scale of the change, the Committee may wish to consider whether any changes should be made to the Pensions Committee itself. These could include consideration of:

- Committee size
- Committee composition
- Co-opted members

8.2 Any changes to the Committee and the wider governance structure would require to be approved by the Council.

9. SCHEME ADVISORY BOARD

- 9.1 An overview of the Governance landscape would not be complete without a brief mention of the national Scheme Advisory Board, whose role it will be to provide advice to the Scottish Ministers on the desirability of changes to the LGPS.
- 9.2 The Board may also be called upon to provide advice to the scheme managers or the pension boards in relation to the effective and efficient administration and management of the Scheme or its Pension Funds. Conceivably, this could include intervening in disagreements between Pension Boards and Committees.
- 9.3 In Scotland, the Scheme Advisory Board is expected to be based on the existing Scottish Local Government Pensions Advisory Group (SLOGPAG), except that, unlike SLOGPAG, which has Scottish Government representation, the Scheme Advisory Board will be a bipartite entity with representation from local government and trade unions only. The Scottish Government will however have observer status.

10. NEXT STEPS

- 10.1 Subject to the Committee reaching a decision regarding the size and composition of the Pension Board, the next stage in the process would be to contact the organisations being represented on the Board and to invite them to put forward their nominees (and possibly substitutes).
- 10.2 The Committee would then need to ensure that any individuals nominated did not have a conflict of interest that could prejudice their role as a Board member.
- 10.3 With Board members in place, consideration could be given to implementing a training programme.

11. CONCLUSION

- 11.1 The Public Service Pensions Act 2013 and associated legislation requires local authority pension funds to put revised governance arrangements in place from 1st April, 2015.
- 11.2 The main requirement is for a Pension Board to be established. For the Falkirk Council Pension Fund, this means that the Pensions Panel will be discontinued and a Pension Board formed to support the work of the Pensions Committee.
- 11.3 The Committee and Panel should seek to construct a Pension Board that is large enough to undertake its duties and provide fair representation but which recognises the costs of running a Board and the practicalities in populating it.
- 11.4 Given the major governance changes underway, consideration should be given as to whether any changes are required in relation to the Pensions Committee itself.

- 11.5 The period during which the new governance arrangements require to be established is compressed owing to the delay in final regulations being produced.

12. RECOMMENDATIONS

- 12.1 The Panel and Committee are asked to note the contents of this report and invited to comment.

- 12.2 The Committee is asked:

- a) to agree that the Pensions Panel should be discontinued with effect from 1st April, 2015;
- b) to determine the number of employer and member representatives who should sit on the Pension Board;
- c) to determine the individual employers who should be represented on the Pension Board
- d) in the event that final Governance Regulations extend the definition of member representatives to members other than trade union representatives, to determine the number and composition of the non-Union member(s);
- e) to consider whether, in consequence of the replacement of the Pensions Panel by the Pension Board, it considers that its own structure and composition should change and, if so, to make recommendations thereon;
- f) to refer the its recommendations on the governance structure of the pension to the Council; and
- g) to request the Chief Finance Officer to report on progress in establishing the new governance arrangements to the next meetings or joint meeting of Panel and Committee

Chief Finance Officer

Date: 18 November 2014

Contact Officer: Alastair McGirr

LIST OF BACKGROUND PAPERS

The Draft Local Government Pension Scheme (Governance) (Scotland) Regulations 2014

Falkirk Council Pension Fund - Pensions Committee / Pension Board Arrangements

This paper sets out the configurations for the Pensions Committee and Pensions Board as agreed at the Joint Meeting of the Pensions Panel and Pensions Committee on 11th December 2014.

	Committee	Board
1.	<p>9 Members</p> <p>6 Falkirk Council Elected members + 3 Non-Falkirk Council members</p> <ul style="list-style-type: none"> - 1 Employer representative + - 1 Trade Union representative + - 1 Pensioner representative <p>For example:</p> <ul style="list-style-type: none"> - 1 x Stirling Council (1) - 1 x Unison - 1 x Pensioner representative <p><u>Comment</u> (1) Where the seat on the Committee is taken by Stirling Council, Clackmannanshire Council would be represented on the Board and vice versa.</p>	<p>8 Members</p> <p>4 Employer representatives + 4 Member representatives</p> <p>1 x Clackmannanshire Council 1 x SEPA 1 x SCRA 1 x Scheduled or Admitted Body</p> <p>1 x Unison(2) 1 x GMB 1 x Unite 1 x UCATT</p> <p><u>Comment</u> (2) It would be open to the Trade Unions to agree an alternative composition among them.</p>
2.	<p>As above</p>	<p>10 Members</p> <p>5 Employer representatives + 5 Member representatives</p> <p>2 x Local Authority (3) 1 x SEPA 1 x SCRA 1 x Scheduled or Admitted Body</p> <p>1 x Unison 1 x GMB 1 x UCATT 1 x Unite 1 x Non Union Member Representative</p> <p><u>Comment</u> (3) One of the local authority representatives would be appointed by Falkirk Council.</p>