

Review of Lothian Pension Funds Governance Framework

The City of Edinburgh Council

23 August 2012

1 Purpose of report

- 1.1 The purpose of this report is to provide an overview of changes to the governance of the pension funds and charitable trusts administered by the Council.

2 Summary

- 2.1 The governance arrangements of the pension funds and charitable trusts have been reviewed and this report summarises that review. The review incorporates the desire to reinforce the distinction between the pension funds and the Council and has incorporated consultation with stakeholders, including employers and trade union representatives.
- 2.2 The report outlines changes to the Council committee model so there is a Pensions Committee to consider only pensions issues and for stakeholders to be given voting rights at that committee. This is to strengthen governance for the benefit of the pension funds and their stakeholders.

3 Main report

Background

- 3.1 The City of Edinburgh Council (the 'Council') is the administering authority of three local government pension schemes in the Lothian area - the Lothian Pension Fund, the Lothian Buses Pension Fund and the Scottish Homes Pension Fund (the 'Funds'). This includes the pension arrangements for East, Mid and West Lothian Councils as well as over 100 other employers. Within Lothian Pension Fund, City of Edinburgh Council's employees and ex-employees make up less than 45% of the liabilities the Lothian Pension Fund.
- 3.2 The Council is responsible for ensuring that the business of the Funds is conducted in accordance with the law and appropriate standards. It delegates all pension scheme matters to its Pensions and Trusts Committee, which is currently comprised solely of elected councillors of the City of Edinburgh Council. This committee also considers matters relating to the charitable trusts administered by the council.

- 3.3 The Committee is supported in pension fund matters by the Lothian Pension Funds Consultative Panel (the 'Consultative Panel') which represents key stakeholders. Membership of the Consultative Panel consists of the Convenor of the Pension and Trusts Committee, 7 employer representatives and 8 employee representatives. They respond to the Pensions and Trust Committee in relation to all pensions fund matters and actively participate in meetings. The Pension and Trusts Committee takes account of the views of the Consultative Panel members when making decisions. However the Consultative Panel does not have voting rights.
- 3.4 A number of factors have led to the need for the City of Edinburgh Council to review and further improve governance arrangements to ensure the pension funds are best placed for the future. These include:
- Scottish Ministers issued governance best practice guidance to all Local Government Pension Scheme (LPGS) administering authorities in Scotland;
 - increasing scrutiny of the pension funds;
 - the merger of the former Corporate Services and Finance Departments of the Council under the new Director of Corporate Governance and;
 - the review of overall Council governance.
- 3.5 This review follows the appointment of the Pensions & Accounting Manager as the nominated Section 95 Officer for Lothian Pension Funds. (The Head of Finance is the Section 95 officer for the Council). This separation of duties reflects the desire to make clear distinction between the Funds and the Council.

Conclusions of the Governance Review

- 3.6 Principle "b" of the Scottish Ministers' Local Government Pension Scheme guidance states:
- "That representatives of participating LGPS employers, admitted bodies and scheme members (including pensioner and deferred members) are members of either the main or secondary committee established to underpin the work of the main committee."
- 3.7 Under section 57 of the Local Government (Scotland) Act 1973, it is for the appointing council to decide on the number of members on a committee and their terms of office. They may include committee members who are not elected members of the appointing council and such members may be given voting rights by virtue of section 14 of the Local Government and Housing Act 1989 provided the committee is not responsible for "regulating and controlling the finance of the local authority."
- 3.8 Non City of Edinburgh Council members of a committee would be required to comply with the Code of Conduct, City of Edinburgh Council standing orders, etc. in carrying out their duties as part of the Pensions Committee.
- 3.9 Expert legal advice indicates that non-elected individuals who would have voting rights on the pensions committee will have the same legal status (in relation to their personal liability) of an elected member.

- 3.10 Standing Orders currently set the size of the Committee at 5 members. Legally, elected members from the City of Edinburgh Council must make up at least two thirds of a committee. In order to keep the committee at a manageable size, a committee of 7 members is proposed, made up as follows:
- 5 City of Edinburgh elected members
 - 2 external members
- 3.11 The two places on the Committee would be offered to pension fund stakeholders, one employer representative and one member representative, taken from the Consultative Panel.
- 3.12 The Consultative Panel would continue to attend meetings of the pensions committee. This should ensure that committee continues to get representation from a broad group of stakeholders.
- 3.13 Pension fund guidance encourages the participation of non-administering authorities in pension committees. This is commonplace in England and Wales and some Scottish pension funds are also putting this in place. Pension fund stakeholders, including employers, trades unions and the current Consultative Panel are overwhelmingly supportive of extending the committee to other stakeholders.
- 3.14 In order to facilitate this, governance of the charitable trusts has been moved from the Pensions & Trusts Committee to the Corporate Policy and Finance Committee.
- 3.15 In the past, audit scrutiny has been undertaken by the Council's Audit Committee. The review has concluded that a separate pension audit sub-committee would improve the pension fund governance as well as reinforce the distinction between the council and the pension fund. The sub-committee would consist of 3 members (at least 2 of which would be elected members from City of Edinburgh Council). It would be supplemented by the attendance of representatives from the Consultative Panel.
- 3.16 The conclusions of this review were reported to the Pensions & Trusts Committee on 27 June 2012. The Committee and the Consultative Panel are supportive of the proposed changes.

Governance of pension funds in the long-term

- 3.17 In this review of governance, there has been overwhelming support from pension fund stakeholders for the introduction of voting members other than City of Edinburgh Council elected members on the pensions committee. However, local government regulations require that City of Edinburgh councillors must make up at least two thirds of a pensions committee or sub-committee.
- 3.18 Therefore, within the current statutory governance framework, the extent to which the governance arrangements can reflect pension fund stakeholders' interests is limited.

3.19 In England and Wales a separate review of governance of public sector pension funds is currently being taken forward following Lord Hutton's review in 2011. The expected standards of governance in local government pension fund may well change further. It will be important to continue to review pension fund governance arrangements to learn lessons from the new arrangement and to ensure best practice is maintained.

4 Financial implications

4.1 There are no financial implications as a result of this report.

5 Equalities impact

5.1 There are no equalities implications as a result of this report.

6 Environmental impact

6.1 There are no environmental implications as a result of this report.

7 Conclusions

7.1 The internal review of the governance arrangements of the Council's pension funds concluded that changes would improve and strengthen the governance framework as well as reinforce the distinction between the pension funds and the Council. Pension fund guidance encourages the participation of non-administering authorities in Pension Committees. Lothian Pension Fund stakeholders, including employers, trades unions and the current Pensions and Trust Committee and the Consultative Panel are overwhelmingly supportive of extending voting rights at committee to other stakeholders.

7.2 In order to facilitate this, governance of the charitable trusts has been moved from the Pensions & Trusts Committee to the Corporate Policy and Finance Committee.

7.3 A Pensions Committee and Audit sub-committee of the City of Edinburgh Council have been proposed in line with the agreed new political management arrangements.

8 Recommendation

- 8.1 That the Council notes the changes to the Pension Fund Governance framework.

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Appendices	None
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Wards affected	All
Single Outcome Agreement	National Outcome 15 - Our public services are high quality, continually improving, efficient and responsive to local people's needs.
Background Papers	None