

CLWYD PENSION FUND COMMITTEE

Date of Meeting	Wednesday, 31 st August 2022
Report Subject	Governance Update
Report Author	Head of Clwyd Pension Fund

EXECUTIVE SUMMARY

On each Committee agenda LGPS governance matters and the impact on the Clwyd Pension Fund (CPF) are provided for discussion along with updates on the Clwyd Pension Fund's governance strategy and policies for information. The last update report was provided at the June 2022 Committee meeting and therefore this update report includes developments since that report.

This update includes matters that are mainly for noting, albeit comments are clearly welcome. There are two areas for approval; these relate to some proposed changes to the Constitution and Pension Board Protocol mainly as a result of the departure of the last Chief Executive, and consequential changes to the Delegations of Functions to Officers Schedule.

The report includes updates on:

- Progress against the governance section of the Business Plan
- The results of the Pension Board Effectiveness survey
- A number of recent topical developments
- Changes to the governance risks on the Fund's risk register since the last meeting
- The latest changes to our breaches of the law register
- Forthcoming training and events, some of which are essential for Members.

RECOMMENDATIONS

1	That the Committee consider the update and provide any comments.
2	That the Committee consider the proposed changes to the Council's Constitution and Pension Board Protocol, relating to pension fund related responsibilities and recommend the proposed changes for consideration by Constitution and Democratic Services Committee and then approval by the Council.
3	That the Committee approve the proposed changes to the Delegations of Functions to Officers Schedule.

REPORT DETAILS

1.00	GOVERNANCE RELATED MATTERS
1.01	<p>Business Plan Update</p> <p>Appendix 1 shows progress with the first two quarter's work for the governance tasks in the 2021/22 Business Plan. Good progress is being made with all actions. The Committee should note the following:</p> <ul style="list-style-type: none">• <i>G1 – Induction Training</i> Most of the induction training sessions have now been completed for most new members who have joined the Committee. The final sessions and also wrap up sessions are being arranged to ensure that all members have received the full induction training.• <i>G2 – Develop business continuity arrangements including managing cyber risk</i> The development of a draft Fund specific business continuity plan is now being undertaken based on the current practices that were documented by the Deputy Head of Clwyd Pension Fund and Pensions Administration Officer. It is hoped this will be finalised in the next month or two and an update will be provided at the November committee. <p>In addition, within the cyber security workstream, the Fund continues to engage with FCC as host authority and the next steps are to develop a Fund specific Cyber Incident Response plan. The Cyber Hygiene Guidelines have been brought to this meeting for noting.</p> <ul style="list-style-type: none">• <i>G3 – Review against TPR new Single Code</i> The Pension Regulator's new Single Code has still not been laid before Parliament. On the update in the Appendix, the timing for Q1 has been moved and Q2 has been left blank as it is hoped this will be laid quite quickly after summer recess has finished.• <i>G4 – Review appointment of Local Pension Board and Pension Fund Committee Members</i> The appointments of two members of the Pension Board were due to end or be reviewed this year. As was reported last meeting, the trade union scheme representative has already been reappointed to the Board. The review of the non-trade union member representative will be carried out ahead of the end of their 3 year term in February 2023.
1.02	<p>Current Developments and News</p> <p><i>Pension Board meetings</i></p> <p>The Clwyd Pension Board met on the 6th June and a verbal update was provided at the last Committee meeting. The minutes are now available and included in Appendix 2.</p>

	The next Pension Board meeting is on 30 September 2022.
1.03	<p><i>Pension Board Effectiveness Survey</i></p> <p>Committee Members were recently asked to complete a survey to establish the Members' views on the effectiveness of the Fund's governance including the Committee arrangements, and the results were reported to the Committee in March.</p> <p>Subsequently, members of the Pension Board have completed a similar survey in respect of the Fund's governance relating to the Board's arrangements. The survey results are outlined as follows:</p> <ul style="list-style-type: none"> • Generally the survey results are positive about how the members find the Pension Board operates. • The points of concern mentioned below were only highlighted by one or two (out of five of the members), albeit they will still be discussed further with the Board at the September meeting • Some members do not feel work as well as face to face meetings, although one member was clear that they wished to retain hybrid Pension Board meetings. • There are also concerns around the length of meetings and the size of the agenda for each meeting. . • Finally, there was a suggestion that the Board would benefit from a facility where all current and past Pension Board papers and minutes could be accessed, to ensure that these are easily available for Board members. <p>The full summary results of the Pension Board effectiveness survey can be found in Appendix 3.</p>
1.04	<p><i>Constitution changes</i></p> <p>The Committee are being asked to consider proposed changes to the Council's Constitution and Pension Board Protocol, relating to pension fund related responsibilities. These changes must be approved by Flintshire County Council, and therefore the Committee are being asked to recommend the proposed changes for approval by the Council, after consideration by the Constitution and Democratic Services Committee.</p>
1.05	<p>The previous Chief Executive, Mr Colin Everett, had a number of delegated responsibilities in relation to the Clwyd Pension Fund including establishing and chairing the Clwyd Pension Fund Advisory Panel. The change in Chief Executive is a timely opportunity to consider whether any changes are required in relation to the responsibilities relating to the Pension Fund.</p>
1.06	<p>Proposed changes to the Constitution and Pension Board Protocol are outlined in Appendix 4 to this report. The key changes relate to two specific areas as explained in the following paragraphs. There are some further incidental changes.</p>

1.07	<p>Recommendations from a national good governance review carried out by the LGPS Scheme Advisory Board include that:</p> <p><i>“Each administering authority must have a single named officer who is responsible for the delivery of all LGPS related activity for that fund. (“the LGPS senior officer”).”</i></p> <p>The Fund’s Independent Governance Adviser advised that whilst the Good Governance recommendations are not yet confirmed in legislation, it would be best practice to identify a senior officer whose principal (or sole) focus is the pension fund, thus ensuring that person has the capacity to devote sufficient time to the role. This senior officer could then carry out the role recommended by the LGPS Scheme Advisory Board, which would include the pension fund administering authority responsibilities currently delegated to the Chief Executive. It was suggested that this should fall within the remit of the existing role of Head of Clwyd Pension Fund and this recommendation was endorsed by the previous Chief Executive and the Clwyd Pension Fund Advisory Panel. The recommended changes in the attached replace all Pension Fund administering authority responsibilities that currently fall to the Chief Executive with the Head of Clwyd Pension Fund. Furthermore, they include the addition of the Corporate Manager – Human Resources and Organisational Development as a new member of the Advisory Panel to replace the Chief Executive.</p>
1.08	<p>It has also been identified that further changes should be made to clarify the fact that Local Government Pension Scheme functions are a non-executive function. This means that:</p> <ol style="list-style-type: none"> 1. the role of the Cabinet Member for Finance, Social Value & Procurement should have Clwyd Pension Fund removed from his responsibilities; and 2. the remit of the Cabinet Member for Governance and Corporate Services including Health and Safety and Human Resources should include responsibilities to reflect the Council’s role as an employer within the Clwyd Pension Fund; and 3. the inclusion of the Clwyd Pension Fund Committee within the remit of the Corporate Resources element of the Overview and Scrutiny Committee should refer specifically to the Council’s role as an employer in the Clwyd Pension Fund.
1.09	<p>The associated changes to the Constitution and Pension Board Protocol have been discussed and accepted in principle by the Chief Executive and the Clwyd Pension Fund Advisory Panel. The Pension Board considered and agreed for recommendation, the principles of the changes to its Protocol. Subject to the approval of this Committee, the proposed updates to the Constitution and Pension Board Protocol can then be recommended for approval at the Council’s Meeting in October 2022 following consideration by the Constitution and Democratic Services Committee.</p>
1.10	<p><i>LGPS Scheme Advisory Board (SAB) meetings</i></p> <p>The LGPS SAB met on 6th June. A summary of the meeting is attached in Appendix 5.</p>

	<p>There are no matters to highlight to the Committee that aren't covered in other Committee update reports or self-explanatory within the update.</p>
1.11	<p><i>New ministers for the LGPS</i></p> <p>Following the resignation of many ministers of the Department for Levelling Up, Housing and Communities, there are some new appointments at DLUHC. Greg Clark MP has been appointed Secretary of State and Paul Scully MP is the new minister for Local Government and will therefore take up responsibility for the LGPS.</p> <p>It is expected that the change of minister, and the process of electing a new Conservative party leader and Prime Minister, will lead to some delays in current workstreams. The Scheme Advisory Board has written to Greg Clark MP seeking an assurance that the consultation on TCFD reporting can proceed as planned for the Autumn.</p>
1.12	<p><i>SAB publishes statement in response to UK Lawyers for Israel's (UKLFI) letter to the SAB Chair</i></p> <p>On 17 April, UKLFI wrote to the Chair of the LGPS SAB regarding a statement of SAB's website that UKLFI felt "gives a somewhat misleading impression" of a discussion with Mr Lynk about investments related to Israeli settlement economy. A copy of that letter can be found here – https://lgpsboard.org/images/PDF/BDS/UKLFI_Letter_to_LGPSAB_170422.pdf.</p> <p>On 3 August the SAB published a statement in response to UKLFI's letter to the SAB Chair. The SAB were keen to note that "LGPS funds' primary objective in investment is to ensure pensions are paid". They note that LGPS funds can and do take human rights issues seriously, and that funds should follow the statutory guidance when setting their ESG policies.</p> <p>A copy of the statutory guidance referred to can be found here - https://www.gov.uk/government/publications/local-government-pension-scheme-guidance-on-preparing-and-maintaining-an-investment-strategy-statement.</p> <p>As mentioned at a previous meeting, via the Public Service Pensions and Judicial Offices Act the Government has amended the Public Service Pensions Act 2013 to introduce powers to allow them to give guidance or directions to LGPS administering authorities on investment decisions which it is not proper for the administering authorities to make in light of UK foreign and defence policy. Government has indicated that such guidance/directions would not seek to restrict decisions that meet the Law Commission's tests for investment decisions influenced by non-financial considerations, except in a very narrow area concerned with UK foreign and defence policy. It further stated that the guidance would seek to provide protection to LGPS funds by preventing decisions which would otherwise have been subject to challenge under the Law Commission tests.</p>

1.13	<p><i>Harpur Trust V Brazel</i></p> <p>At the last Clwyd Pension Fund Advisory Panel meeting, the Corporate Manager – Human Resources and Organisational Development highlighted a recent Supreme Court judgement. The Harpur Trust v Brazel case relates to the calculation of holiday pay for part-year employees, and the final judgment means that employers should now consider revising how pay is calculated for part-year employees. It is our understanding that part-year includes employees with term-time and zero hours contracts.</p> <p>While this is primarily an issue for employers, there will be some implications for the LGPS. Firstly, it seems likely that part-year only employees will see an increase in their pay and it would appear this increase will fall within the definition of pensionable pay. This could have knock-on implications for the calculation of employer and employee pension contributions, particularly for education-based employers (such as the Councils, colleges and universities) who are likely to have large numbers of term-time employees, increasing CARE pay. Secondly, increases in pay could also knock on to increase the amounts of final salary benefits for those employees affected. Thirdly, there's the possibility that affected employees will be able to submit claims in relation to previous years, which could lead to pension benefits (including career average benefits) having to be further recalculated.</p> <p>Any required increase in pension benefits will adversely affect employer funding levels, although the funding impact will not necessarily be significant.</p> <p>Clearly there are potential resource implications for administration teams (and employers in collecting historical contributions and providing historical information to the administering authorities).</p> <p>This judgment is fairly new, and Aon have brought it to the attention of Local Government Pensions division of the LGA and also the SAB. Hopefully there will be further guidance issued in due course and updates will be provided at future meetings.</p>
1.14	<p>Policy and Strategy Implementation and Monitoring</p> <p><i>Knowledge and Skills Policy and Training Plan</i></p> <p><u>Policy requirements</u></p> <p>The Clwyd Pension Fund Knowledge and Skills Policy requires all Pension Fund Committee, Pension Board members and Senior Officers to:</p> <ul style="list-style-type: none"> • attend training on the key elements identified in the CIPFA Knowledge and Skills Framework as part of their induction and on an ongoing refresher basis • attend training sessions on "hot topic" areas, such as a high risk area or an area of change for the Fund and • attend at least one day each year of general awareness training or events.

Training undertaken - Appendix 6 sets out the Training Plan for the Fund.

Recent events include:

- 13 to 15 June 2022 - PLSA Local Authority Conference
- 22 June 2022 – CIPFA Pension Board Event
- June to August – Induction training for new Committee members
- 24 August – Actuarial Valuation and Funding Strategy

A summary of attendance at the Fund's essential training sessions over 2022/23 is included below:

	Date	Number of Committee attending (Proportion of total)	Number of Board attending (Proportion of total)	Number of Officers attending (Proportion of total)
Hot Topic Sessions – Target attendance is 75%				
Communications Strategy Review	Jun-22	6 (100%)	4 (80%)	4 (80%)
Actuarial Valuation and Funding Strategy	Aug-22	To be confirmed	To be confirmed	To be confirmed
Total		6 (100%)	4 (80%)	4 (80%)

Future training and events

Officers will continue to be in touch with information as further training sessions and events become available. In particular induction training is being arranged for the new committee members. In the meantime, if any Committee or Board members wish to attend any of the following optional events that count as general awareness training, please contact the Deputy Head of Clwyd Pension Fund:

- 8 to 9 September 2022 - LGC Investment Seminar (in person, and four places have been provisionally booked at a discount)
- 22 September 2022 – WPP training on sustainable active equities and private market assets including the role of the allocator
- October/November/December 2022 – LGA Fundamentals Training Programme which is a total of three days covering a range of governance, administration and investment issues (probably more relevant for new or new Committee and Board members)
- 19 October 2022 – WPP training on governance, administration and roles/responsibilities within the WPP
- 20 January 2023 – LGA annual LGPS governance conference.

Committee members should however note the following training sessions which are classed as essential for all Committee and Board members and senior officers:

- 5 October 2022 at 10.00 am – Investment strategy review and asset classes (in person, if permitted).

1.15	<p><i>Recording and Reporting Breaches Procedure</i></p> <p>The Fund's procedure requires that the Head of Clwyd Pension Fund maintains a record of all breaches of the law identified in relation to the management of the Fund. Appendix 7 details the current breaches that have been identified.</p> <p>The new breaches that have been added since the last Committee are as follows:</p> <ul style="list-style-type: none"> • A25 – this relates to an employer who has entered around 18 employees into the LGPS with Clwyd Pension Fund, whereas they should have been entered into the employer's other pension schemes. The employer is currently determining how to resolve this issue. • F78 onwards – These 7 new breaches relate to late payment of contributions or late submission of remittances by 3 separate employers. All but one of the breaches have now been resolved. That being said, it is concerning to see the number of recent breaches for late payment and/or remittances for Ruthin Town Council and Hafan Deg. These have therefore both been assessed as amber risks and officers are monitoring this for July 2022 payments and will have further discussions with the employers if necessary. <p>It is also worth noting that all the breaches highlighted at the last meeting relating to late payment of contributions or late submission of remittances have also been resolved</p>
1.16	<p>Delegated Responsibilities</p> <p>The Pension Fund Committee has delegated a number of responsibilities to officers or individuals. There have been no uses of delegated powers for governance matters since the last update report.</p> <p>As referred to above, the departure of Colin Everett as the Chief Executive of Flintshire County Council does also impact on the existing Delegations of Functions to Officers Schedule. The Schedule has been reviewed and the proposed updates are included in Appendix 8 for the Committees approval. The majority of the changes relate to moving the delegations from the Chief Executive to the Senior Manager – Human Resources and Organisational Development. However:</p> <ul style="list-style-type: none"> • The change in the second row to the "Function delegated to PFC" relates to one of the incidental proposed changes referred to in Appendix 4 • Three other changes reduce the need for both the Chief Finance Officer and the Senior Manager – Human Resources and Organisational Development to be involved (instead requiring one of them plus the Head of Pension Fund).
1.17	<p>Calendar of Future Events</p> <p>Appendix 9 includes a summary of all future events for Committee and Pension Board members, including Pension Fund Committee meetings,</p>

	<p>Pension Board meetings, Training and Conference dates. Key dates to note are:</p> <ul style="list-style-type: none"> • The next Committee meeting is on 23 November 2022. • The Fund's Annual Joint Consultative Meeting will take place on 13 December 2022 – all Committee and Board members are invited to attend this event and a save the date will be issued shortly.
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2.00	RESOURCE IMPLICATIONS
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2.01	As referred to in the other update reports, difficulties in recruitment and retention are resulting in pressures on resources, which are beginning to impact on services. Discussions are taking place within the Advisory Panel and an action plan is being developed with the assistance of the Senior Manager – Human Resources and Organisational Development and the Section 151 Officer.
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3.00	CONSULTATIONS REQUIRED / CARRIED OUT
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3.01	None.
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4.00	RISK MANAGEMENT
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4.01	<p>Appendix 10 provides the dashboard showing current risks relating to the Fund as a whole, as well as the extract of governance risks. The risk register has been updated since it was last presented to the Committee in June.</p> <p>The key change this month relates to risk number 6 (insufficient staff numbers meaning services are not being delivered to meet legal and policy objectives). The likelihood has been updated from Significant to Very High in difficulties with retention and recruiting to vacant posts.</p>
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4.02	<p>The other risks that are furthest from target are:</p> <ul style="list-style-type: none"> • Governance Risk 2 - Governance is poor including due to short appointments or poor knowledge at PFC, resulting in inappropriate or no decisions being made • Governance Risk 3 – Decisions, particularly at PFC level, are influenced by conflicts of interest, and therefore may not be in the best interest of fund members and employer meaning our legal fiduciary responsibilities are not met. <p>These rating of these risks can hopefully be reduced as the new members' knowledge increases through induction training, other training and events, and attendance at Committees.</p>
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5.00	APPENDICES
5.01	<p>Appendix 1 – Business plan progress 2022/23</p> <p>Appendix 2 – Pension Board Minutes</p> <p>Appendix 3 – Pension Board Effectiveness Survey results summary</p> <p>Appendix 4 – Proposed changes to FCC Constitution and Pension Board Protocol</p> <p>Appendix 5 – SAB Meeting summary note from 6 June 2022</p> <p>Appendix 6 – Training plan</p> <p>Appendix 7 – Breaches log</p> <p>Appendix 8 – Delegations of Functions to Officers Schedule</p> <p>Appendix 9 - Calendar of future events</p> <p>Appendix 10 - Risk Register</p>

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>None in this report</p> <p>Contact Officer: Philip Latham, Head of Clwyd Pension Fund</p> <p>Telephone: 01352 702264</p> <p>E-mail: philip.latham@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	<p>(a) CPF – Clwyd Pension Fund – The Pension Fund managed by Flintshire County Council for local authority employees in the region and employees of other employers with links to local government in the region.</p> <p>(b) Administering authority or scheme manager – Flintshire County Council is the administering authority and scheme manager for the Clwyd Pension Fund, which means it is responsible for the management and stewardship of the Fund.</p> <p>(c) Committee or PFC – Clwyd Pension Fund Committee - the Flintshire County Council committee responsible for the majority of decisions relating to the management of the Clwyd Pension Fund.</p> <p>(d) Board, LPB or PB – Local Pension Board or Pension Board – each LGPS Fund has an LPB. Their purpose is to assist the administering authority in ensuring compliance with the scheme regulations, TPR requirements and efficient and effective governance and administration of the Fund.</p> <p>(e) LGPS – Local Government Pension Scheme – the national scheme, which Clwyd Pension Fund is part of.</p>

- (f) **SAB – The national Scheme Advisory Board** – the national body responsible for providing direction and advice to LGPS administering authorities and to DLUHC.
- (g) **DLUHC – Department of Levelling Up, Housing and Communities** – the government department responsible for the LGPS legislation.
- (h) **JGC – Joint Governance Committee** – the joint committee established for the Wales Pension Partnership asset pooling arrangement.
- (i) **CIPFA – Chartered Institute of Public Finance and Accountancy** - a UK-based international accountancy membership and standard-setting body. They set the local government accounting standard and also provide a range of technical guidance and support, as well as advisory and consultancy services. They also provide education and learning in accountancy and financial management.
- (j) **TPR – The Pensions Regulator** – TPR has responsibilities to protect UK's workplace pensions and make sure employers, scheme managers and pension specialists can fulfil their duties to scheme members. This includes oversight of public service pension schemes, including the LGPS. Specific areas of oversight are set out in legislation and also expanded on within TPR's Guidance and Codes of Practice.
- (k) **PLSA - Pensions and Lifetime Savings Association** – PLSA aims to bring together the industry and other parties to raise standards, share best practice and support its members. It works collaboratively with members, government, parliament, regulators and other stakeholders to help build sustainable policies and regulation which deliver a better income in retirement.
- (l) **HMT – Her Majesty's Treasury** – HMT has a responsibility to approve all LGPS legislation before it is made.