

Essex Pension Fund Board	EPB/01/15
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Essex Pension Fund Governance structure incorporating the formation of a new Local Pension Board

Report by the Director for Essex Pension Fund and the Independent Governance & Administration Adviser

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1. Purpose of the Report

- 1.1 To put forward a ***draft*** proposal on the Fund's Governance structure incorporating the formation of a new Local Pension Board (as required by the Public Service Pensions Act 2013 (PSPA13)) from 1 April 2015 for consideration by the Board.

2. Recommendations

- 2.1 It is recommended that the Board:

- considers the *draft* proposal in section 5 of this report including membership arrangements illustrated in annex A;
- amend where/if required;
- agrees a proposal to be considered by Essex County Council; and
- agrees that if necessary, the Director for Essex Pension Fund, after consulting the Chairman of the Board, may revise the recommendation if the final form of the Regulations is different from the latest draft.

3. Background

- 3.1 At its meeting on 9 July 2014, the Board agreed to the formation of a Governance Working Group (GWG) to explore options relating to the revised governance arrangements stemming from the Public Service Pension Act 2013 (PSPA13) and subsequent draft LGPS Regulations. The GWG's membership was agreed to be Cllr Barker, Cllr Whitehouse and Jenny Moore.
- 3.2 At its meeting on 17 September 2014, the Board agreed an outline timetable, an extract of which is set out below.

Date	Event	Comment
19 November 2014	Governance Working Group	GWG explore options in light of available publications.
10 December 2014	Pension Board	GWG update the Pension Board on progress. Board invited to comment.
19 January 2015	Pension Board (additional meeting)	GWG reports on completion of its work. Board agrees final proposals to be submitted to Council.

- 3.3 It is important to note that the Regulations which will require the Fund to have revised governance structures were not made, at the time of writing. In 2014 the Government consulted twice (in August and November) on draft regulations. The final regulations have not yet been published, but it is understood that the Government intends to make regulations very soon, and that these will require Scheme Managers/Administering Authorities to adopt the new arrangements by 1 April 2015.

4. Progress

- 4.1 The GWG met on Wednesday 19 November 2014 and were able to agree certain principles.
- 4.2 These principles formed part of a report that was on the agenda for the Board meeting on 10 December 2014. In his absence officers also shared with the Board, some draft suggestions on membership arrangements from Cllr Bass, Chairman. The Board discussed both the principles and the draft suggestion, and comments were noted.
- 4.3 The GWG again met on Monday 15 December 2014 to consider the Board's comments in line with their agenda. Officers have also subsequently met with Cllr Bass.
- 4.4 The Director for Essex Pension Fund and Independent Governance & Administration Adviser (IGAA) have aimed to encapsulate the key themes of the discussions to date within the *draft* proposal in section 5 below. It is therefore recommended that the Board:
- consider the *draft* proposal in section 5 below including membership arrangements illustrated in annex A;
 - amend where/if required;
 - agrees a proposal to be considered by Essex County Council; and
 - agrees that if necessary, the Director for Essex Pension Fund, after consulting the Chairman of the Board, may revise the recommendation if the final form of the Regulations is different from the latest draft.

5. Draft proposal

- 5.1 The proposal covers a number of areas:

- A** Naming of existing and new bodies
- B** Remit of the new Local Pension Board
- C** Constitutional structure of new Local Pension Board
- D** Impact on current governance structure and current *Scheme of Delegation*
- E** Other matters

A: Naming of the various bodies

- 5.2 The current Essex Pension Fund Board will be retained and renamed as the Essex Pension Fund Strategy Board and known colloquially as the Pension Strategy Board (**PSB**).
- 5.3 The new Local Pension Board be named the Essex Pension Fund Advisory Board and known colloquially as the Pension Advisory Board (**PAB**)
- 5.4 The current Essex Pension Fund Investment Steering Committee, known colloquially as the Investment Steering Committee (**ISC**) will be retained.

B: Remit of the PAB

In principle, the PAB will

- 5.5 be a 'critical friend' to the PSB and ISC;
- 5.6 not be unwieldy in size, with appropriate experience, co-opting if necessary;
- 5.7 assist the PSB (in accordance with the PSPA13) in meeting the Essex Pension Fund's compliance requirements with legislation, regulations, guidance and the pension regulator's (tPR's) code of practice; and
- 5.8 provide oversight of decisions made by the PSB, ISC and officers to ensure that due process has been followed (to be expanded in PAB's proposed terms of reference to ensure that any intervention is on material grounds only).

At the invitation of the PSB, the PAB may also (not exhaustive):

- 5.9 reduce the workload of the PSB and allow/enable the PSB to focus on strategic issues and decision making at the discretion of PSB – examples include reviewing the risk management process, detailed review of risks and detailed review of the scorecard whilst noting that the PSB remains responsible for the identification and management of those risks;
- 5.10 review administration standards to ensure they are fit for purpose, review administration performance and review the efficacy of scheme member and employer communications;
- 5.11 review published administering authority policies to ensure they remain fit for purpose and are complete;

- 5.12 review Fund annual reports;
- 5.13 consider producing PAB annual report in accordance with requirements, guidance and general accountability to stakeholders;
- 5.14 be considered an integral part of any consultation process with the purpose of adding value to that process based on, for example, their representation of employers and scheme members; and
- 5.15 discuss strategic matters such as communications where requested by the PSB.

The PAB will:

- 5.16 commence a review of its efficacy after the first 18 months to determine whether it is meeting the needs of Fund's stakeholders and in time for any changes to be made at the 2-year anniversary.

The proposed terms of reference for the PAB will be circulated at the meeting.

C: Constitutional structure of the PAB

- 5.17 At the Board's meeting on 10 December 2014, a breakdown of the Fund's membership profile was requested. This was subsequently considered by the GWG in the proposed structure of the PAB and is set out in detail in the following table. (Annex A illustrates the proposed membership of PAB, PSB and ISC)

2013 Valuation: Membership Profile	%	%
County Council		47.3%
Borough, City & District Councils		15.6%
Unitary Councils		12.1%
Police	3.9%	
Fire	0.5%	
Probation & Magistrates	1.1%	
Academies	6.6%	
Universities & Colleges	6.2%	
Transferee Admission Bodies	3.1%	
Community Admission Bodies	3.3%	
Town & Parish Councils	0.4%	25.0%
Total		100.0%

Accordingly, the PAB will be made up of 9 members:

- 5.18 4 employer representatives made up of ECC (1), Borough/City/District (1), Unitary (1) plus the remainder (1);
- 5.19 4 scheme member representatives of which 1 will be nominated by the trade unions and the rest drawn from the total scheme membership (actives, deferreds and pensioners);
- 5.20 no substitutes;
- 5.21 an initial 2 year term of office in line with an initial 18-month review;
- 5.22 an officer chairman for an interim period (see below);
- 5.23 employer and scheme member representatives to be appointed through a clear and transparent process but the mechanism itself will be dealt with separately;

- 5.24 a reciprocal chairing proposal from the Norfolk Pension Fund was previously highlighted to the GWG and mentioned to the Board. Under this proposal the Director for Essex Pension Fund would be required to chair Norfolk's local pension board and the Head of the Norfolk Fund would chair the Essex PAB. It is proposed that this reciprocal arrangement is agreed for an initial period;
- 5.25 all PAB Members will be entitled to vote unless otherwise stated in the Regulations;
- 5.26 no member of the PAB will be a member of the PSB. All members of the PAB may attend the PSB and ISC. However, the PAB will appoint 1 employer representative and 1 scheme member representative as official observers to the PSB and ISC. These observers may be appointed by rotation at the discretion of the PAB and will be required to report back to the PAB; and
- 5.27 Fund Officers will be in attendance as required for support and to provide background information.

D: Impact on current governance structure and current Scheme of Delegation

The PAB will be a new body. Since it will not be permitted that an individual can be a Member of both the PSB and the PAB, the PSB:

- 5.28 could 'transfer' some of its membership to the PAB to help ensure appropriate experience on the PAB.

Furthermore:

- 5.29 the PSB could reduce its membership on the basis that employer and scheme member representation would be through the PAB - the PSB then retains the balance of power in favour of ECC, which is appropriate given that the ECC, as Administering Authority has the ultimate obligation to the Essex Pension Fund;
- 5.30 the PSB would focus activities on strategic matters e.g. funding strategy, administration, communication and governance;
- 5.31 the ISC will continue to report to the PSB on all investment matters; and
- 5.32 those wishing to be members of the PSB could gain the appropriate experience and expertise by initially being a member of the PAB.

In light of the above, the proposed membership of the PSB is as follows:

- 5.33 the 7 ECC elected councillors forming the membership of the ISC is chosen by ECC in line with ECC's political balance;
- 5.34 1 Borough/City/District representative who will not be from the same Borough/City/District as the corresponding employer representative on the PAB;
- 5.35 1 Unitary representative who will not be from the same Unitary as the corresponding employer representative on the PAB;
- 5.36 1 representative for the remainder who will not be from the same sector as the corresponding employer representative on the PAB;
- 5.37 1 trade union nominated representative;
- 5.38 substitutes may continue to be allowed to attend meetings but will be subject to the same training requirements as the full members of the PSB; and
- 5.39 no member of the PSB will be a member of the PAB. Any member of the PSB may attend the PAB and ISC as an observer. However, the PSB will appoint 1 member as an official observer to the PAB. This observer may be appointed by rotation at the discretion of the PSB and will be required to report back to the PSB.

Annex A illustrates the proposed membership of PAB, PSB and ISC.

E: Other matters

The GWG also discussed the following matters which it proposes are reflected in the PAB's proposed terms of reference. The PAB:

- 5.40 will consider when best to meet in order to meet its obligations but will meet at least 2 times a year, one of which will be its AGM for considering, for example, its annual report;
- 5.41 will be supported by Essex Pension Fund Officers and may finalise a business plan in agreement with the Director for Essex Pension Fund;

- 5.42 will have unfettered access upon request to all papers in connection with the Essex Pension Fund;
- 5.43 no member of the PAB will have a conflict of interest and the PAB will produce and maintain a conflict of interest policy;
- 5.44 allowances and expenses will be in accordance with established practice for the PSB under the ECC constitution;
- 5.45 quorum will be the Chairman, 1 employer representative and 1 scheme member representative; and
- 5.46 training opportunities will be shared with the PSB and ISC as far as is practical and reasonable.

6. Regulations and guidance

- 6.1 The Government has twice consulted on draft Regulations, most recently in November 2014. Final Regulations are expected shortly.
- 6.2 TPR's code of practice is now expected to be laid before parliament this month.

7. Next steps

- 7.1 Following any changes recommended at the Board meeting on 19 January 2015, the Director for Essex Pension Fund, with advice from the IGAA where required, will finalise the Board's proposal for the revised Fund governance structure and formation of a PAB for consideration by ECC.
- 7.2 The GWG is likely to be required to meet again to consider the process to be adopted for the appointment of members to the PAB.
- 7.3 The GWG will then report back to the meeting of the Board on 4 March 2015. At this point the Board will be asked to approve the final arrangements so that implementation of the new governance structure can be effected.

8. Link to Essex Pension Fund Objectives

8.1 Maintaining awareness of current issues with regard to LGPS reform will assist the Board in achieving the following Fund objectives:

- ensure the Pension Fund is managed and its services delivered by people who have the appropriate knowledge and expertise
- act with integrity and be accountable to our stakeholders for our decisions, ensuring they are robust and well based
- understand and monitor risk and compliance
- to ensure the Fund is properly managed
- compliance with Fund's governance arrangements.

9. Risk Implications

9.1 The Fund's risk register includes the following risk (Ref G1): *"Failure of governance arrangements to match up to recommended best practice leads to loss of reputation and employer confidence and / or need to make major changes at short notice"*.

10. Communication Implications

10.1 Communication with scheme members/employers/stakeholders will take place at the appropriate stage of the process of forming the PAB.

11. Finance and Resources Implications

11.1 The expenses of the PAB will be met from the Fund.

12. Background Papers

12.1 Fund response to Local Government Pension Scheme (England & Wales) new governance arrangements – discussion paper, September 2013.

12.2 Training session on Governance by Independent Governance & Administration Adviser 22 January 2014.

- 12.3 Item 6C (Draft Regulations on Scheme Governance) from Pension Board agenda 9 July 2014.
- 12.4 Fund response to DCLG consultation: Draft Regulations on Scheme Governance, August 2014.
- 12.5 Item 5B (LGPS) Reform Scheme Governance from Pension Board agenda 17 September 2014.
- 12.6 Item 5B (LGPS) Reform Scheme Governance from Pension Board agenda 10 December 2014.

ANNEX A – DRAFT MEMBERSHIP PROPOSAL

DRAFT proposal	% Fund Population	Invest Steering Cttee (ISC)	Pension Strategy Board (PSB)	Pension Advisory Board (PAB)	Key
County Council	47.3%	7	7	1	Members
Borough, City & District Councils	15.6%		1	1	PSB / PAB Representative Observer
Unitary Councils	12.1%		1	1	Additional Observer
Smaller Employers (including Police & Fire)	25.0%		1	1	
Trade Unions (Scheme Member Representative)			1	1	
Scheme Member Representative				3	
Officer Chairman				1	
Total Members		7	11	9	
PSB / PAB Representative Employer Observer		1			
		1	1		
PSB / PAB Representative Scheme Member Observer		1			
		1	1		
Maximum potential Additional Observers		9	7	11	
Grand Total	100.0%	20	20	20	