

# CITY AND COUNTY OF SWANSEA

## NOTICE OF MEETING

You are invited to attend a Special Meeting of the

## PENSION FUND COMMITTEE

**At:** Committee Room 1, Civic Centre, Swansea

**On:** Tuesday, 12 August 2014

**Time:** 3.30 pm

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## AGENDA

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**Patrick Arran**  
Head of Legal, Democratic Services & Procurement  
6 August 2014

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Contact: Democratic Services: - 01792 636016

## PENSION FUND COMMITTEE (6)

### Councillors:

#### Labour Councillors: 4

Phil Downing	Rob C Stewart
Clive E Lloyd	Mark Thomas

#### Liberal Democrat Councillor: 1

John Newbury	
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#### Independent Councillor: 1

D Gareth Sullivan	
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#### Officers: Co-opted Neath Port Talbot Councillor: 1

Peter A Rees	
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Dean Taylor – Director of Corporate Services
Mike Hawes – Head of Financial Services
Jeff Dong - Finance
Nigel Havard – Directorate Lawyer
Democratic Services
Archives

#### Independent Investment Advisors:

Noel Mills
Valentine Furniss

20 Copies

## Disclosures of Interest

To receive Disclosures of Interest from Councillors and Officers

### Councillors

**Councillors Interests are made** in accordance with the provisions of the Code of Conduct adopted by the City and County of Swansea. You must disclose orally to the meeting the existence and nature of that interest.

**NOTE:** You are requested to identify the Agenda Item / Minute No. / Planning Application No. and Subject Matter to which that interest relates and to enter all declared interests on the sheet provided for that purpose at the meeting.

1. If you have a **Personal Interest** as set out in **Paragraph 10** of the Code, you **MAY STAY, SPEAK AND VOTE** unless it is also a Prejudicial Interest.
2. If you have a Personal Interest which is also a **Prejudicial Interest** as set out in **Paragraph 12** of the Code, then subject to point 3 below, you **MUST WITHDRAW** from the meeting (unless you have obtained a dispensation from the Authority's Standards Committee)
3. Where you have a Prejudicial Interest you may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, **provided** that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. In such a case, you **must withdraw from the meeting immediately after the period for making representations, answering questions, or giving evidence relating to the business has ended**, and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration (**Paragraph 14** of the Code).
4. Where you have agreement from the Monitoring Officer that the information relating to your Personal Interest is **sensitive information**, as set out in **Paragraph 16** of the Code of Conduct, your obligation to disclose such information is replaced with an obligation to disclose the existence of a personal interest and to confirm that the Monitoring Officer has agreed that the nature of such personal interest is sensitive information.
5. If you are relying on a **grant of a dispensation** by the Standards Committee, you must, before the matter is under consideration:
  - i) Disclose orally both the interest concerned and the existence of the dispensation; and
  - ii) Before or immediately after the close of the meeting give written notification to the Authority containing:

- a) Details of the prejudicial interest;
- b) Details of the business to which the prejudicial interest relates;
- c) Details of, and the date on which, the dispensation was granted; and
- d) Your signature

## **Officers**

### **Financial Interests**

1. If an Officer has a financial interest in any matter which arises for decision at any meeting to which the Officer is reporting or at which the Officer is in attendance involving any member of the Council and /or any third party the Officer shall declare an interest in that matter and take no part in the consideration or determination of the matter and shall withdraw from the meeting while that matter is considered. Any such declaration made in a meeting of a constitutional body shall be recorded in the minutes of that meeting. No Officer shall make a report to a meeting for a decision to be made on any matter in which s/he has a financial interest.
2. A “financial interest” is defined as any interest affecting the financial position of the Officer, either to his/her benefit or to his/her detriment. It also includes an interest on the same basis for any member of the Officers family or a close friend and any company firm or business from which an Officer or a member of his/her family receives any remuneration. There is no financial interest for an Officer where a decision on a report affects all of the Officers of the Council or all of the officers in a Department or Service.

## Report of the Section 151 Officer

Pension Fund Committee – 12 August 2014

### LGPS (AMENDMENT) REGULATIONS 2014 DRAFT REGULATIONS ON SCHEME GOVERNANCE - CONSULTATION

<b>Purpose:</b>	To participate in the Department for Communities and Local Government consultation exercise on Draft Regulations on Scheme Governance
<b>Reason for Decision:</b>	To approve the City & County of Swansea response to the aforementioned consultation exercise
<b>Consultation:</b>	Legal, Finance and Access to Services.
<b>Recommendation:</b>	It is recommended that the response on behalf of the City & County of Swansea to the DCLG consultation exercise on the Draft Regulations on Scheme Governance attached at Appendix 2 be approved
<b>Report Author:</b>	Jeffrey Dong
<b>Finance Officer:</b>	Mike Hawes
<b>Legal Officer:</b>	Deb Smith
<b>Access to Services Officer:</b>	Sherill Hopkins

#### Draft Regulations LGPS Governance

##### 1 Background

- 1.1 The City & County of Swansea Pension Fund governance arrangements are in line with current guidance issued by DCLG which were on a comply or explain basis and were adopted by Council in Sep 2009.
- 1.2 Draft Regulations on scheme governance ( attached at Appendix 1) were issued for consultation at the end of June 2014. The consultation exercise requested comments on certain elements of the regulations. The proposed response for the City & County of Swansea is attached at Appendix 2.

- 1.3 The draft regulations include proposals re:
- 1) Establishment of Local Pension Boards;
  - 2) Clear guidance on the membership of Local Pension Boards;
  - 3) Establishment of a national Pension Scheme Advisory Board;
  - 4) Wider employer and scheme member representation on Local Pension Board;
  - 5) Restricted elected member (in relation to other members) representation on Local Pension Board;
  - 6) Formal scrutiny of decision making body ;
  - 7) Minimum competence/knowledge /training requirements of Local Pension Board members;
  - 8) How the Boards are to be funded;
  - 9) How the Local Pension Board is to be established.

## **2 Local Arrangements**

- 2.1 Appendix 1 contains the draft regulations, however it can be assumed that the final regulations will not be materially different when issued later in the year. It is also planned by DCLG to issue accompanying guidance re. the work of the Local Pension Boards.
- 2.2 Therefore a body of work has been identified to formulate proposals for the local arrangements for the City & County of Swansea Local Pension Board in consultation with all interested stakeholders to determine its terms of reference, membership and support and monitoring arrangements.
- 2.3 A further report outlining the final proposals will be taken to full Council and the Pension Fund Committee pending issuance of Final regulations and accompanying guidance in readiness for implementation by 1/4/15.

## **3 Legal Implications**

- 3.1 There are no legal implications arising from this report.

## **4 Financial Implications**

- 4.1 There are no financial implications arising from this report.

## **5 Equality and Engagement Implications**

- 5.1 There are no equality and engagement implications arising from this report.

## **Appendices**

**Appendix 1** - LGPS (Amendment) Regulations 2014 - Draft Regulations on Scheme Governance.

**Appendix 2** - City & County of Swansea response to the consultation exercise.



Department for  
Communities and  
Local Government

# The Local Government Pension Scheme (Amendment) Regulations 2014

## Draft Regulations on Scheme Governance

Consultation

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This document/publication is also available on our website at [www.gov.uk](http://www.gov.uk)

Any enquiries regarding this document/publication should be sent to us at:

Department for Communities and Local Government

Eland House

Bressenden Place

London

SW1E 5DU

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# The Consultation Process and How to Respond

## Scope of the consultation

<b>Topic of this consultation:</b>	The Local Government Pension Scheme (Amendment) Regulations 2014
<b>Scope of this consultation:</b>	This consultation seeks responses from interested parties on draft scheme governance regulations for the new Local Government Pension Scheme which came into force on 1 April 2014.
<b>Geographical scope:</b>	England and Wales.
<b>Impact Assessment:</b>	These Regulations have no impact on business or the voluntary sector.

## Basic Information

<b>To:</b>	This consultation is aimed at all Local Government Pension Scheme interested parties.
<b>Body responsible for the consultation:</b>	The Secretary of State for Communities and Local Government is responsible for policy and the consultation exercise.
<b>Duration:</b>	8 weeks. As timing allows, account will be taken of representations made after the close of the consultation.
<b>Compliance with the Code of Practice on Consultation:</b>	This consultation complies with the Code and it will be for 8 weeks. The consultation is aimed at all parties with an interest in the Local Government Pension Scheme and in particular those listed on the Government's website: <a href="https://www.gov.uk/government/publications/local-government-pension-scheme-regulations-information-on-who-should-be-consulted">https://www.gov.uk/government/publications/local-government-pension-scheme-regulations-information-on-who-should-be-consulted</a>

## Background

<b>Getting to this stage:</b>	The Government commissioned Lord Hutton to chair the Independent Public Service Pensions Commission to review public service pensions and to make recommendations on how they can be made sustainable and affordable in the long term, and fair to both public sector workers and the taxpayer. Lord Hutton's final report was published on 10 March 2011. In that report he made clear that change is needed to "make public service pension schemes simpler and more transparent, fairer to those on low and
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	<p>moderate earnings”.</p> <p>The recommendations made by Lord Hutton were accepted by the Government and were carried forward into the Public Service Pensions Act 2013. The Act included a requirement for DCLG as a responsible authority to make regulations establishing a national scheme advisory board and enabling each LGPS administering authority to establish local pension boards.</p> <p>In June 2013, the Department published an informal discussion paper inviting comment from a wide range of interested parties on how the requirements of the 2013 Act should be taken forward into the new 2014 Scheme. The outcome of that exercise and comments from the Shadow Scheme Advisory Board has been fully taken into account in the preparation of the draft regulations. These draft regulations carry forward these requirements into the 2014 Scheme</p>
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## How to respond

1. You should respond to this consultation by **15 August 2014**.
2. You can respond by email to [Sandra.layne@communities.gsi.gov.uk](mailto:Sandra.layne@communities.gsi.gov.uk). When responding, please ensure you have the words “LGPS Governance Regulations 2014” in the email subject line.

Alternately you can write to:

LGPS Governance Regulations 2014  
 Department for Communities and Local Government  
 Zone 5/F5 Eland House  
 Bressenden Place  
 LONDON SW1E 5DU

3. When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please give a summary of the people and organisations it represents and, where relevant, who else you have consulted in reaching your conclusions.

## Additional copies

4. This consultation paper is available on the Department for Communities and Local Government website at: <https://www.gov.uk/government/organisations/department-for-communities-and-local-government>

## Confidentiality and data protection

5. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

6. If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.

7. DCLG will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

## Help with queries

8. Questions about the policy issues raised in the document can be sent to the address given at paragraph 2 above.

9. A copy of the consultation criteria from the Code of Practice on Consultation is at <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please email: [consultationcoordinator@communities.gsi.gov.uk](mailto:consultationcoordinator@communities.gsi.gov.uk)

or write to:

DCLG Consultation Co-ordinator, Zone 8/J6, Eland House, Bressenden Place  
London SW1E 5DU.

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**Chapter 3 - Other connected policy issues**

# Chapter 1

## Introduction

- 1.1 This document commences a period of statutory consultation on the new governance arrangements for the 2014 Local Government Pension Scheme (“LGPS”) which came into effect on 1 April 2014. Your comments are invited on the set of draft regulations at **Annex A**, and also on the separate policy issues included at Chapter 3 below.
- 1.2 **The closing date for responses is 15 August 2014.**

### **Background and context**

- 1.3 This consultation on the Local Government Pension Scheme (Amendment) Regulations 2014 represents a key step in the process of reform that began with the commitment given in the Coalition Government’s programme to review the efficiency, effectiveness and sustainability of public service pension schemes.
- 1.4 A key aim of the reform process is to raise the standard of management and administration of public service pension schemes and to achieve more effective representation of employer and employee interests in that process.
- 1.5 The Public Service Pensions Act 2013 included two main provisions to achieve this policy objective. Firstly, a requirement for responsible authorities such as DCLG to establish at national level a Scheme Advisory Board with responsibility to provide advice to the Department on the desirability of changes to the Scheme. And secondly, in cases where schemes like the Local Government Pension Scheme are subject to local administration, for scheme regulations to provide for the establishment of local pension boards to assist administering authorities with the effective and efficient management and administration of the Scheme.

### **Consultation responses**

- 1.6 In view of the need to give administering authorities and other interested parties sufficient lead-in time to establish local pension boards, Ministers have agreed to a consultation period of 8 weeks.
- 1.7 To allow for the fullest response to proposed Scheme regulations, every attempt will be made to include any late submissions.
- 1.8 Your comments should therefore be sent by 15 August 2014 to LGPS Governance Regulations 2014, Department for Communities and Local Government, Zone 5/G6, Eland House, Bressenden Place, London SW1E 5DU. Electronic responses can be sent to [Sandra.layne@communities.gsi.gov.uk](mailto:Sandra.layne@communities.gsi.gov.uk).

# Chapter 2

## Proposals for consultation

2.1. The Regulations are being made under the powers conferred by the Public Service Pensions Act 2013. Under Section 3(5) of the 2013 Act, the Regulations require the consent of Treasury before being made.

### Preliminary Provisions

2.2 **Regulation 1** covers the citation, commencement, interpretation and extent of the Regulations. The Regulations will apply to the Scheme in England and Wales and, for the most part, will come into operation on 1 October 2014 to allow sufficient time for the new Scheme Advisory Board and local pension boards to become operational on 1 April 2015.

2.3 **Regulation 2** amends the Principal 2013 Regulations in accordance with regulations 3 to 5.

2.4 **Regulation 3** deletes Regulation 53(4) from the Principal 2013 Regulations because that provision becomes obsolete in view of the amendments introduced by these Regulations.

2.5 **Regulation 4** amends Schedule 1 to the Principal 2013 Regulations to include definitions of “Local Government Pensions Scheme Advisory Board” and “local pension board”.

2.6 **Regulation 5** inserts new regulations 105, 106, 107, 108, 109, 110, 111, 112 and 113 into the Principal 2013 Regulations. These provisions are described in detail immediately below.

### Main Provisions

2.7 **New Regulation 105** confers power on the Secretary of State to delegate functions under the Principal 2013 Regulations and administering authorities to delegate their functions. It also allows for any delegated function by an administering authority to be sub-delegated.

## **Local pension boards : establishment**

- 2.8 **New Regulation 106** concerns the establishment of local pension boards.
- 2.9. **Regulation 106(1)** provides that each administering authority must establish a local pension board no later than 1 April 2015. This would not prevent a board being established before that date.
- 2.10 **Regulation 106(1)(a) and (b)** sets out the role of a local pension board as being to assist the administering authority in securing compliance with (i) the Principal 2013 Regulations, (ii) any other legislation, and (iii) requirements imposed by the Pensions Regulator in relation to the Scheme. The role is further extended by **Regulation 106(1)(b)** to assist the administering authority in ensuring the effective and efficient governance and administration of the Scheme. These provisions mirror those set out in section 5(2) and (3) of the Public Service Pensions Act 2013.
- 2.11. **Regulation 106(2)** carries forward into the Principal 2013 Regulations, section 5(7) of the Public Service Pensions Act 2013. This provides that where the scheme manager of a Scheme under section 1 of the Act is a committee of a local authority, the scheme regulations may provide for that committee also to be the board for the purposes of this section. This is discussed in more detail in Chapter 3.
- To ensure that any proposal to combine the committee and local pension board into a single, dual-function body is appropriate and practicable, **Regulation 106(2)** requires such proposals to be approved by the Secretary of State. Where appropriate, the Department may seek advice from relevant interested parties, in particular, the Scheme Advisory Board and Pensions Regulator.
- 2.12 **Regulation 106(3)** provides that the Secretary of State may, in giving such approval, impose any such conditions that he thinks fit.
- 2.13 **Regulation 106(4)** enables the Secretary of State to withdraw any approval given under Regulation 106(2) if any of the conditions given under Regulation 106(3) are not met or, more generally, that there is evidence to suggest that the combined body is no longer working as intended.
- 2.14 **Regulation 106(5)** sets out the means by which an administering authority establishes its local pension board but the draft offers two different alternatives of the regulations as described later in Chapter 3 (Other connected policy issues). Consultees are specifically invited to indicate and comment on their preference.
- 2.15. **Regulation 106(6)** provides that the costs of local pension boards are to be regarded as administration costs charged to the fund.

### **Local pension boards : membership**

- 2.16. **Regulation 107(1)** – requires each administering authority to determine the membership of the local pension board; the manner in which such members may be appointed and removed and the terms of their appointment.
- 2.17. **Regulation 107(2)** provides that in determining membership of their local pension board, an administering authority must include employer representatives and member representatives in equal numbers, the total of which cannot be less than four.
- 2.18. **Regulation 107(2)(a)** prevents a councillor member of a local authority being included either as an employer or member representative, but this does not prevent an administering authority from appointing councillor members of a local authority (or any other person) to the local pension board over and above the required equal number of employer and member representatives.
- 2.19. **Regulation 107(2)(b)** requires an administering authority to be satisfied that employer and member representatives appointed to a local pension board have the relevant experience and the capacity to perform their respective roles. There is a risk that could act as an unhelpful barrier to people putting themselves up as pension board nominees but we believe that this pre-condition is necessary to ensure that appointees to the board have the background and capacity to undertake the duties and responsibilities required of pension board members. The Department will work closely with all relevant interested parties in preparing and publishing guidance on the experience and capacity required of local pension board nominees.

(It is important to note that Regulation 107(2)(b) and the pre-condition of “relevant experience and capacity” is not to be confused with the requirement for pension boards members to acquire “knowledge and understanding” under section 248A of the Pensions Act 2004 as introduced by paragraph 19 of Schedule 4 (Regulatory oversight) to the Public Service Pensions Act 2013.

- 2.20. **Regulation 107(3)** ensures that the number of employer and member representatives appointed to a local board must represent a majority of total members.

### **Local pension boards : conflict of interest**

- 2.21. **Regulation 108(1)** carries forward section 5(4) of the Public Service Pensions Act 2013 and requires each administering authority to be satisfied that any person appointed to a local pension board does not have a conflict of interest as defined in section 5(5) of that Act.
- 2.22. **Regulation 108(2)** requires an administering authority to monitor conflict of interests over time.



2.23. **Regulations 108(3) and (4)** impose requirements on persons to provide relevant information to the administering authority on nomination as a member of a local pension board and, if appointed, during membership.

#### **Local pension boards : guidance**

2.24. **Regulation 109** requires an administering authority to have regard to guidance issued by the Secretary of State in relation to local pension boards. In formulating such guidance, the Department will work closely with all relevant interested parties, including the Scheme Advisory Board and the Pensions Regulator.

#### **Scheme advisory board : establishment**

2.25. **Regulation 110(1)** provides that a scheme advisory board is established.

2.26. **Regulation 110(2)** sets out the responsibility of the scheme advisory board to provide advice to the Secretary of State on the desirability of making changes to the Scheme in accordance with section 7(1) of the Public Service Pensions Act 2013. But note that we are not proposing to carry forward the provision in the Act that such advice is to be at the Secretary of State's request. We believe that the interaction between the Department and the scheme advisory board should be open and transparent and that scheme regulations should not prevent the scheme advisory board from initiating its own advice or recommendations to the Secretary of State.

2.27. **Regulation 110(3)** extends the scope of the scheme advisory board to include advice and assistance to administering authorities and local pension boards in relation to the effective and efficient administration and management of the Scheme and its pension funds.

2.28. **Regulation 110(4)** permits the scheme advisory board to establish its own procedures.

#### **Scheme advisory board : membership**

2.29. **Regulation 111(1)** sets out the membership requirements of the scheme advisory board. The Chair of the scheme advisory board is to be appointed by the Secretary of State and the Department will work closely with the Shadow scheme advisory board in formulating and organising the nomination and appointment process. Membership of the board must comprise at least 2 and no more than 12 persons appointed by the Chair with the approval of the Secretary of State.

2.30. **Regulation 111(2)** confers a duty on the Secretary of State to ensure that approval under Regulation 111(1)(b) is subject to consideration of how fair the Chair has been in nominating employer and scheme members to the board for approval.

- 2.31. **Regulation 111(3)** requires the constitution of the scheme advisory board to include details of the terms and conditions of members' appointments.
- 2.32. **Regulation 111(4)** permits persons who are not members of the scheme advisory board to be appointed as members of any sub-committee to the board.
- 2.33. **Regulation 111(5)** applies the same provision in Regulation 111(3) to members of any sub-committee to the board.

#### **Scheme advisory board : conflict of interest**

- 2.34. **Regulation 112** applies the provision in sections 7(4) and (5) of the Public Service Pensions Act regarding conflict of interest to nominees and members of the scheme advisory board.

#### **Scheme advisory board : funding**

- 2.35. **Regulation 113(1)** provides that the expenses of the scheme advisory board are to be treated as administration costs to the Scheme and recharged to administering authorities in such proportions as are determined by the board.
- 2.36. **Regulation 113(2)** ensures that safeguards are in place to ensure value for money. Before any monies can be levied on administering authorities by the scheme advisory board, the board's annual budget must first have been approved by the Secretary of State.
- 2.37. **Regulation 113(3)** requires an administering authority to pay the amount determined by the scheme advisory board under Regulation 113(2).

## **Chapter 3**

### **Other connected policy issues**

#### **Combined Section 101 committee and local pension board (Regulation 106(2)).**

- 3.1. Draft **Regulation 106(2)** enables a single, dual function body to carry out the functions of both a section 101 committee established by the administering authority to manage and administer the Scheme and those of a local pension board.
- 3.2. In practice, a combined body would be subject to two separate legal codes under both the Local Government Act 1972 and associated legislation, and the Public Service Pensions Act 2013. A combined body might also have difficulty

in ensuring that all members had both knowledge and understanding that is currently expected of elected members and the experience and capacity required of local pension board members. There could also be difficult and different issues about conferring voting rights and compliance with local government law on the political composition of committees.

- 3.3. The Public Service Pensions Act 2013 does allow for this facility in scheme regulations but we are not compelled to introduce it. Comments are therefore invited on whether the Regulations should include such provision.

### **Establishment of local pension boards (Regulation 106(5))**

- 3.4. The draft regulations offer two alternatives to the way in which an administering authority could establish their local pension board.
- 3.5. The first version of **Regulation 106(5)** offers a simple solution by proposing that establishment of a local board should be undertaken as if it was a committee under section 101 of the Local Government Act 1972. This would automatically apply the section 101 regime to the way in which local boards are to be established. Although this option would provide administering authorities with a ready-made set of provisions to help them establish local pension boards, it is arguable that local pension boards should be established on a bespoke basis best suited to their own role and responsibilities.
- 3.6. The alternative version of **Regulation 106(5)** confers a wide discretion on administering authorities to establish the procedures applicable to a local pension board such as voting rights, the establishment of sub-committees, the formation of joint committees and payment of expenses. This list is not exhaustive, and could include some of the features of the section 101 regime, such as voting rights, political composition, etc. Although this option would represent more of a burden to administering authorities, it would allow greater flexibility and choice at local level in the way that local pension boards are established.
- 3.7. Consultees are therefore invited to state their preference for option 1, option 2, or any other proposal. Where option 2 is preferred, it would be helpful if the response could also set out those elements which should either be specifically excluded or included from the wide discretion afforded by the second version of Regulation 106(5).

### **Funding of the Scheme Advisory Board (Regulation 113)**

- 3.8. It is accepted that funding the Scheme Advisory Board will be a complex and difficult matter. **Regulation 113** has been drafted on the basis of informal discussions with interested parties but we acknowledge that more work needs to be done to both ensure that the board is adequately funded to enable them to carry out their agreed work plans and that the cost of the board to each administering authority is fair and represents value for money.

3.9. Comments are therefore invited on what additional provision we need to make to Regulation 113 to achieve both objectives and regarding any other aspect of the scheme advisory board's funding.

### **Joint pension boards**

3.10. As currently drafted, these Regulations require each administering authority to establish a local pension board. However, the extent to which administering authorities are either already sharing, or planning to share, their administration with other administering authorities, suggests that provision ought to be made in these Regulations for a single pension board to serve more than the one administering authority.

3.11. On the other hand, it would run counter to the spirit of the primary legislation if a single board ended up serving a significant number of administering authorities. We believe therefore, that the default position must be one local pension board for each administering authority, but that exceptions where administration and management is mainly or wholly shared between two or more administering authorities should be catered for. This could be demonstrated by the management and administration being undertaken by a joint committee of the participating administering authorities.

3.12. Comments are invited on whether the Regulations need to provide for shared local pension boards and, if so, what test, if any, should be applied. For example, should provision be made for either the scheme advisory board or the Secretary of State to approve any proposal for a shared pension board?

### **Annual general meetings, Employer forums, etc**

3.13. The staging of AGMs, employer forums, etc, is currently a recommendation in the Department's statutory guidance on governance compliance. There is evidence to suggest that a significant minority of administering authorities do neither and also that those that do, receive positive feedback from employers and scheme members alike.

3.14. Comments are invited on whether the Regulations should require administering authorities to facilitate a forum for both employers and employees on at least an annual basis.

### **Public Sector Equality Duty**

3.15. The Equality Duty is a duty on all public bodies and others carrying out public functions to ensure that public bodies consider the needs of all individuals in their day to day work. It also encourages public bodies to ensure that their policies and services are appropriate and accessible to all and meet different people's needs.

3.16. This raises the question of whether these Regulations should extend the role of the scheme advisory board to have regard to the Equality Duty in making recommendations to the Secretary of State on the desirability of making

scheme changes and extending the scrutiny/.compliance role of local pension boards to include the Equality Duty.

3.17. Comments are invited on the appropriateness and practicality of this proposal.

### **Knowledge and Understanding**

3.18. These regulations would require members of local pension boards to have the knowledge and capacity to undertake that role. This contrasts with members of committees established by the administering authority to discharge its pension functions who, although recommended to have regard to the Knowledge and Skills Framework published by CIPFA, are under no regulatory requirement to do so. Whilst recognising that the knowledge and training needs of section 101 and local pension boards are not identical, it is open to question whether the same level of regulatory requirement ought to apply to both bodies.

3.19. Comments are invited on whether either in these Regulations or at some stage in the future, provision should be made in the Principal 2013 Regulations to require members of committees established by the administering authority to discharge its pension functions to comply with the Knowledge and Understanding Framework and other relevant training.

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STATUTORY INSTRUMENTS

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2014 No. 0000

**PUBLIC SERVICE PENSIONS, ENGLAND AND WALES**

The Local Government Pension Scheme (Amendment) Regulations  
2014

<i>Made</i>	- - - -	2014
<i>Laid before Parliament</i>		2014
<i>Coming into force</i>	- -	2015

These Regulations are made in exercise of the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013<sup>(1)</sup>.

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appeared to the Secretary of State to be likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

The Secretary of State makes the following Regulations:

**Citation, commencement interpretation and extent**

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Amendment) Regulations 2014.

(2) In these Regulations “the Principal Regulations” means the Local Government Pension Scheme Regulations 2013<sup>(2)</sup>

(3) These Regulations come in to force as follows—

(a) on 1st October 2014, regulations 2, 4 and 5—

(i) so far as they insert regulation 105 (delegation) into the Principal Regulations,

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(1) 2013 c. 25  
(2) S.I. 2013/2356.

- (ii) so far as they insert regulation 106 (local pension boards: establishment) into the Principal Regulations for the purposes of the obtaining of approval from the Secretary of State under paragraph (2) of that regulation, and
  - (iii) so far as they insert regulations 107 (local pensions boards: membership), 108 (local pensions boards: conflicts of interest), 111 (scheme advisory board: membership) and 112 (scheme advisory board: conflict of interest) for the purposes of appointment of members of local pension boards and the Local Government Pension Scheme Advisory Board; and
- (b) on 1st January 2015—
- (i) regulations 2, 4 and 5 so far as not already commenced, and
  - (ii) the remainder of these Regulations.
- (4) These Regulations extend to England and Wales.

**Amendment of the Local Government Pension Scheme Regulations 2013**

2. The Principal Regulations 2013 are amended in accordance with regulations 3 to 5.
3. Omit regulation 53(4) (scheme managers: establishment of pension board).
4. In Schedule 1 (interpretation) after the entry for “local government service” insert—
  - ““Local Government Pensions Scheme Advisory Board” means a board established under regulation 110 (Scheme advisory board: establishment);
  - “local pension board” means a board established under regulation 106 (local pension boards: establishment);”
5. After regulation 104(3) insert—

**“PART 3**  
**Governance**

**Delegation**

- 105.**—(1) The Secretary of State may delegate any functions under these Regulations.
- (2) Administering authorities may delegate any functions under these Regulations including this power to delegate.

**Local pension boards: establishment**

- 106.**—(1) Each administering authority shall no later than 1st April 2015 establish a pension board (“a local pension board”) responsible for assisting it—
- (a) to secure compliance with—
    - (i) these Regulations,
    - (ii) any other legislation relating to the governance and administration of the Scheme, and
    - (iii) requirements imposed by the Pensions Regulator in relation to the Scheme; and
  - (b) to ensure the effective and efficient governance and administration of the Scheme.
- (2) Where the Scheme manager is a committee of a local authority the local pension board may be the same committee if approval in writing has been obtained from the Secretary of State.
- (3) Approval under paragraph (2) may be given subject to such conditions as the Secretary of State thinks fit.

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(3) Regulation 104 was inserted by S.I. 2014/1146.

(4) The Secretary of State may withdraw an approval if such conditions are not met or if in the opinion of the Secretary of State it is no longer appropriate for the local pension board to be the same committee.

(5) [Where a local pension board is established by a local authority within the meaning of section 270 of the Local Government Act 1972(4), Part 6 of that Act applies to the board as if it were a committee established under section 101 of that Act].

(5) [An administering authority may determine the procedures applicable to a local pension board, including as to voting rights, the establishment of sub-committees, formation of joint committees and payment of expenses].

(6) The expenses of a local pension board are to be regarded as part of the costs of administration of the fund held by the administering authority.

### **Local pension boards: membership**

**107.**—(1) Subject to paragraphs (2) and (3) each administering authority shall determine—

- (a) the membership of the local pension board;
- (b) the manner in which members of the local pension board may be appointed and removed;
- (c) the terms of appointment of members of the local pension board.

(2) A local pension board must include an equal number, which is no less than 4 in total, of employer representatives and member representatives (5) and for these purposes—

- (a) a member of a local authority is not to be appointed as an employer or member representative; and
- (b) the administering authority must be satisfied that—
  - (i) a person to be appointed as an employer representative has relevant experience and the capacity to represent employers on the local pension board; and
  - (ii) a person to be appointed as a member representative has relevant experience and the capacity to represent members on the local pension board.

(3) The number of members appointed under paragraph (2) must exceed the number of members otherwise appointed to a local pension board.

### **Local pension boards: conflict of interest**

**108.**—(1) Each administering authority must be satisfied that any person to be appointed as a member of a local pension board does not have a conflict of interest(6).

(2) An administering authority must be satisfied from time to time that none of the members of a local pension board has a conflict of interest.

(3) A person who is to be appointed as a member of a local pension board by an administering authority must provide that authority with such information as the authority reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a local pension board must provide the administering authority which made the appointment with such information as that authority reasonably requires for the purposes of paragraph (2).

### **Local pension boards: guidance**

**109.** An administering authority must have regard to guidance issued by the Secretary of State in relation to local pension boards.

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(4) 1972 c. 70.

(5) See section 5(6) of the Public Service Pensions Act 2013 for definitions of these terms.

(6) See section 5(5) of the Public Service Pensions Act 2013 for the meaning of “conflict of interest”.



### **Scheme advisory board: establishment**

**110.**—(1) A scheme advisory board (“the Local Government Pension Scheme Advisory Board”) is established.

(2) The Local Government Pension Scheme Advisory Board is responsible for providing advice to the Secretary of State on the desirability of making changes to the Scheme.

(3) The Local Government Pension Scheme Advisory Board is also responsible for providing advice to administering authorities and local pension boards in relation to the effective and efficient administration and management of the Scheme and its pension funds.

(4) Subject to these Regulations, the Local Government Pension Scheme Advisory Board may determine its own procedures including as to voting rights, the establishment of sub-committees, formation of joint committees and the payment of remuneration and expenses.

### **Scheme advisory board: membership**

**111.**—(1) The Local Government Pension Scheme Advisory Board is to consist of the following members—

- (a) the Chair appointed by the Secretary of State; and
- (b) at least 2, and no more than 12, persons appointed by the Chair with the approval of the Secretary of State.

(2) When deciding whether to give or withhold approval to appointments under paragraph (1)(b) the Secretary of State must have regard to the desirability of there being equal representation of persons representing the interests of Scheme employers and persons representing the interests of members.

(3) A member of the Local Government Pension Scheme Advisory Board is to hold and vacate office in accordance with the terms of that member’s appointment.

(4) The Chair of the Local Government Pension Scheme Advisory Board may appoint persons who are not members of the Local Government Pension Scheme Advisory Board to be members of sub-committees of that Board.

(5) A member of a sub-committee of the Local Government Pension Scheme Advisory Board is to hold and vacate office in accordance with the terms of that member’s appointment.

### **Scheme advisory board: conflict of interest**

**112.**—(1) Before appointing, or approving the appointment of any person to be a member of the Local Government Pension Scheme Advisory Board, the Secretary of State must be satisfied that the person does not have a conflict of interest<sup>(7)</sup>.

(2) The Secretary of State must be satisfied from time to time that none of the members of the Local Government Pension Scheme Advisory Board has a conflict of interest.

(3) A person who is to be appointed as a member of the Local Government Pension Scheme Advisory Board must provide the Secretary of State with such information as the Secretary of State reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of the Local Government Pension Scheme Advisory Board must provide the Secretary of State with such information as the Secretary of State reasonably requires for the purposes of paragraph (2).

### **Scheme advisory board: funding**

**113.**—(1) The expenses of the Local Government Pension Scheme Advisory Board are to be treated as administration costs of the Scheme and are to be defrayed by the administering authorities within the Scheme in such proportions as are determined by the Board.

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(7) See section 7(5) of the Public Service Pensions Act 2013 for the meaning of “conflict of interest”.

(2) The Local Government Pension Scheme Advisory Board must identify the amount to be paid by each administering authority towards its annual costs based on—

- (a) its annual budget approved by the Secretary of State; and
- (b) the number of persons for which the administering authority is the appropriate administering authority.

(3) An administering authority must pay the amount it is required to pay under this regulation at such time or times as the Local Government Pension Scheme Advisory Board may determine.”.

We consent to the making of these Regulations

Date *Names*  
Two of the Lords Commissioners of Her Majesty’s Treasury

Signed by authority of the Secretary of State for Communities and Local Government

Date *Name*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”) to make provision in respect of governance of the Scheme.

Regulation 1 commences the substantive provisions from 1st January 2015 for the purposes of making appointments to local pension boards and the Scheme Advisory Board, and brings the provisions fully into force from 1st April 2015.

Regulations 3 and 4 make minor amendments to the 2013 Regulations consequential to the substantive provisions.

Regulation 5 inserts a new Part 3 into the 2013 Regulations.

New regulation 105 permits the Secretary of State to delegate functions under the 2013 Regulations. It permits administering authorities to delegate their functions and also for any delegated function to be sub-delegated.

New regulations 106 to 109 make provision for each administering authority to establish a local pension board to assist it to comply with its legal obligations relating to the Scheme. Where a local authority discharges its pension functions through a committee, it can, with the approval of the Secretary of State appoint that existing committee to be the local pensions board. Local pensions boards must have equal representation of employer representatives and member representatives who must not be councillors of the administering authority and who must constitute the majority of members of the board.

Regulations 110 to 113 establish the Local Government Pension Scheme Advisory Board to advise the Secretary of State, administering authorities and local pension boards in relation to the Scheme. Provision is made for the appointment of members to the Board and for its funding.

**The City and County of Swansea Pension Fund Response to Consultation on:**

**LGPS (Amendment) Regulations 2014  
Draft Regulations on Scheme Governance**

In inviting response to the draft regulations on scheme governance, DCLG have requested comment on specific elements of the regulations and policy issues namely at the following paragraphs of the consultation document:

- **3.3**
- **3.7**
- **3.12**
- **3.14**
- **3.19**

The City and County of Swansea Pension Fund responses shall follow under each specific request for comment repeated below for clarity.

However the City & County of Swansea Pension Fund would like to express its view that the implementation of such specific and bureaucratic regulations re. LGPS governance are extremely unwelcome when there are quite clearly sufficient governance frameworks within local government (and definitely at the City & County of Swansea to address any scrutiny or oversight requirements without the additional cost and resource required to support the proposed arrangements at a time when cost and resource reduction is at the top of everyone's agenda.

The following is the response of the City & County of Swansea Pension Fund:

**1. Combined Section 101 Committee and Local Pension Board**

**3.3 “Comments are therefore invited on whether the Regulations should include such provision.”**

In practice the combination of the Pension Fund Committee and the Local Pension Fund Board would be difficult at a local level due to the prescriptive nature of the membership of the Local Pension Board and the obvious conflicts arising out of self scrutiny.

**2. Establishment of Local Pension Board**

**3.7 “Consultees are therefore invited to state their preference for option 1, option 2 or any other proposal. Where option 2 is preferred, it would be helpful if the response could also set out those elements which should either be specifically excluded or included from the wide discretion afforded by the second version of Regulation 106 (5).”**

By adopting the more flexible approach suggested in the second regulation 106 (5) (option2), there is the assumption this would not stop an Administering Authority from cross referring to any particular provisions in the Local Government Act should they wish ( effectively adopting them), or more importantly cross referencing to the Council's Constitution ( or the equivalent for non local authorities). This would seem to be the preferred approach

### **3. Joint Pension Boards**

**3.12 “Comments are invited on whether the Regulations need to provide for shared local pension boards and, if so, what test, if any should be applied.”**

There should be the flexibility within the Regulations to allow Administering bodies where it is appropriate and reflects their current operational practices to establish joint local pension boards if it provides for more effective working.

### **4. Annual General Meetings, Employer Forums**

**3.14 “Comments are invited on whether the Regulations should require Administering Authorities to facilitate a forum for both employers and employees on at least an annual basis.”**

The City & County of Swansea Pension fund holds an AGM and puts on regular member/employer roadshows and this is outlined in our Communications Strategy, however it is recognised that perhaps not all Funds do likewise. Good communication between the Fund and its employers and members is very important and should be encouraged where it is not currently implemented. This should be in the form of robust guidance and monitored on a comply or explain basis rather than regulation.

### **5. Knowledge & Understanding**

**3.19 “ Comments are invited on whether either in these Regulations or at some stage in the future, provision should be made in the Principal 2013 Regulations to require members of committees established by the Administering Authority to discharge pensions functions to comply with the Knowledge and Understanding Framework and other relevant training.”**

It is incongruous that the knowledge and skills requirements of the Local Pension Board are out of alignment with the requirements asked of the primary decision making committee of the pension fund and should be addressed within the Regulations.