

## CITY AND COUNTY OF SWANSEA

### NOTICE OF MEETING

You are invited to attend a Special Meeting of the

### PENSION FUND COMMITTEE

**At:** Committee Room 6, Guildhall, Swansea

**On:** Tuesday, 18 October 2016

**Time:** 10.00 am

**Chair:** Councillor Rob Stewart

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#### **Membership:**

Councillors: P Downing, C E Lloyd, J Newbury, D G Sullivan and M Thomas

**Neath Port Talbot Co-opted Member:** Councillor P Rees

**Independent Investment Co-advisors:** V Furniss, N Mills

### AGENDA

Page No.

- 1 Apologies for Absence.
- 2 Disclosures of Personal and Prejudicial Interests.  
[www.swansea.gov.uk/DisclosuresofInterests](http://www.swansea.gov.uk/DisclosuresofInterests)
- 3 The Wales Investment Pool : A Memorandum of Understanding. 1 - 11

**Next Meeting:** Thursday, 8 December 2016 at 10.00 am



**Huw Evans**  
**Head of Democratic Services**  
**11 October 2016**

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**Contact: Democratic Services: - 636016**

## Report of the Section 151 Officer

Special Pension Fund Committee - 18 October 2016

### WALES INVESTMENT POOL – MEMORANDUM OF UNDERSTANDING (MOU) RE INTERIM GOVERNANCE ARRANGEMENTS

<b>Purpose:</b>	To approve the Memorandum of Understanding (MOU) Between the 8 Welsh Pension Fund Local Authorities
<b>Reason for Decision:</b>	To progress an interim governance structure
<b>Consultation:</b>	Legal, and Finance
<b>Recommendation(s):</b>	It is recommended that the Pension Fund Committee:  <ol style="list-style-type: none"><li>1. Note the progress in the development of the Wales Investment Pool.</li><li>2. Approve the draft Memorandum of Understanding.</li><li>3. Delegates authority to the Section 151 Officer / Interim Head of Legal and Democratic Services to approve any amendments to the MOU in consultation with the Chair.</li><li>4. Appoints one of its members to represent the Committee on the Joint Chairs Group and subsequently on the Joint Committee</li></ol>
<b>Report Author:</b>	Jeff Dong - Chief Treasury & Technical Officer
<b>Finance Officer:</b>	Mike Hawes - Section 151 Officer
<b>Legal Officer:</b>	Tracey Meredith – Interim Head of Legal & Democratic Services
<b>Access to Services Officer:</b>	N/A

## 1

### Background

- 1.1 In the July Budget 2015, the Chancellor announced the Government's intention to work with Local Government Pension Scheme (the Scheme) administering authorities to ensure that they pool investments to significantly reduce costs while maintaining overall investment performance. Authorities are now invited to submit proposals for pooling which the Government will assess against the criteria in this document. The Chancellor has announced that the pools should take the form of up to six British Wealth Funds, each with

assets of at least £25bn, which are able to invest in infrastructure and drive local growth.

- 1.2 In December 2015, the Government issued its criteria and guidance for what it expected to see addressed in its received proposals from LGPS funds in respect of their pooling proposals. This was considered by pension fund committee at its Dec 2015 meeting.
- 1.3 Following extensive work by the SWT Pensions Sub Group and their appointed advisors, Hymans Robertson, a joint submission has been formulated in respect of the 8 Welsh Pension Funds. The Pension Fund Committee Deputy Chairman has been involved at 2 Chairs meeting to agree the same and the Pension Fund Committee received a formal presentation of the final submission on the 4<sup>th</sup> July 2016.

## **2 Submission in respect of the 8 Welsh Pension Funds**

- 2.1 The submission in respect of the 8 Welsh Pension Funds to create a Wales Investment Pool was approved by Pension Fund Committee on the 4<sup>th</sup> July 2016.
- 2.2 The Pool will not be a merger of the eight funds. Each fund will retain its distinct identity and the administering authorities will remain responsible for complying with the LGPS regulations and pensions legislation in respect of their members. Annual Statements of Accounts and triennial Actuarial valuations will still be prepared for each individual pension fund and each fund will determine its own funding strategy. The Pool will have a limited remit and its objectives, as set out in the submission document, will be:
  - To provide pooling arrangements which allow individual funds to implement their own investment strategies (where practical).
  - To achieve material cost savings for participating funds while improving or maintaining investment performance after fees.
  - To put in place robust governance arrangements to oversee the Pool's activities.
  - To work closely with other pools in order to explore the benefits that all stakeholders in Wales might obtain from wider pooling solutions or potential direct investments
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## **3 Interim Governance**

- 3.1 The Wales Investment Pool proposal includes the establishment of a Joint Governance Committee comprising elected members from each administering authority, supported by an Officer Working Group. It is also proposed to appoint a Financial Conduct Authority (FCA) regulated Operator to supply the necessary infrastructure for establishing a pooling vehicle and to manage the Pool on behalf of the eight funds.

- 3.2 Work is ongoing within tight deadlines to establish the governance arrangements for the Pool including the drafting of a legally binding Inter-Authority Agreement (incorporating the Terms of Reference for the Joint Committee), the specification of the services to be provided by the Operator and the role of the Officer Working Group. Consideration is also being given to the needs of the Pool for specialist legal and investment advice.
- 3.3 It is anticipated that the Joint Committee will meet in a shadow form (i.e. without decision making powers) as a Joint Chairs' Group (JCG) during the remainder of 2016 and will be formally established early in 2017. The remit of the JCG is set out in the proposed Memorandum of Understanding (MOU) which is included as Appendix 1. The JCG will oversee the procurement process for the Operator but the formal Joint Committee will make the final recommendation to appoint the bidder who best meets the specification criteria.
- 3.4 It is proposed that the Joint Chairs' Group and the Joint Governance Committee will be made up of one representative from each of the 8 Welsh Pension Funds and so it is necessary to appoint this Committee's representative.
- 3.5 A schedule of meetings for this Committee has been arranged to align with the project plan for the Pool, see Appendix 2.

#### **4 Legal Implications**

- 4.1 The current legislative framework for the pension fund investments carried out by Administering Authorities is set by the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009. The law governing pensions is a complex and specialist area. National Government guidance indicates that the pooling of LGPS assets is permissible under current law.

The proposed Memorandum of Understanding, and the work of the Joint Chairs' Group, will not be legally binding upon Authorities but will prepare the way for a legally binding commitment to be entered into through an Inter-Authority Agreement. Since the Inter-Authority Agreement will include the setting up of a Joint Committee it will have to be approved by full Council in early 2017.

The Pension Fund Committee Terms of Reference and Scheme of Delegation sets out the Committees responsibility for the strategic governance of the Pension Fund.

#### **5 Financial Implications**

- 5.1 Financial implications are indicated within Appendix 1

**6**      **Equality Impact Assessment Implications**  
6.1    None

**Appendices**

**Appendix 1 - Memorandum of Understanding (MOU)**

**Appendix 2 - LGPS Pension Funds in Wales / Investment Pool Governance**

**Memorandum of understanding relating to the procurement of services by the administering authorities of the local government pension scheme in Wales**

1. This memorandum of understanding governs the relationship of the administering authorities for the local government pension scheme in Wales under Part 1 of Schedule 3 to the Local Government Pension Scheme Regulations 2013.
2. The administering authorities who are parties to this Memorandum are the City of Cardiff Council, the City & County of Swansea Council, Flintshire County Council, Carmarthenshire County Council, Torfaen County Borough Council, Gwynedd County Council, Powys County Council and Rhondda Cynon Taff County Borough Council ("the Constituent Authorities").
3. The Constituent Authorities have made a proposal to HM Government for the pooling of investment activities relating to the management of their several pension funds and that proposal has been accepted in principle by HM Government.
4. The proposal is to create a pooled investment vehicle (the "Pooled Vehicle") and to delegate the operation of the Pooled Vehicle to a third party operator holding the relevant regulatory permissions (the "Host Operator"). The Constituent Authorities may delegate additional investment related services (the "Ancillary Services") to the Host Operator or to another third party provider.
5. To further that proposal the Constituent Authorities have agreed that they will act in concert to procure the Host Operator and Ancillary Services so that the strategic investment requirements of the Constituent Authorities are being met.
6. The Constituent Authorities are committed to the development of formal joint arrangements under the Local Government Act 1972 via an Inter-Authority Agreement ("IAA") and a Joint Committee under the Local Government Act 1972 ("the Joint Committee") to ensure the effective operation of the services procured, such arrangements to take effect before the provision of those services commences and by no later than 31<sup>st</sup> January 2017. The target date for commencement of the new service arrangements is April 2017 with full development of those arrangements by April 2018.
7. The Constituent Authorities will work together in accordance with this memorandum of understanding until formal joint arrangements (including a Joint Committee and legally binding Inter-Authority Agreement) are in place.
8. This memorandum of understanding does not create any legal relationship nor is it intended by the Constituent Authorities to create such a relationship. The Constituent Authorities will act with good faith, openness, equality, reasonableness, respect and avoid bringing any of the others' reputations into disrepute.
9. Flintshire County Council will act as lead authority for the purpose only of undertaking the joint procurement of a Host Operator. The invitation will be issued by Flintshire CC who will formally respond to any queries and receive the bids. Flintshire will issue the decision notice and the services contract will be entered into either by each Constituent Authority as co-signatories, one authority on behalf of the other Constituent Authorities or such other method as the Constituent Authorities agree in relation to the services described in paragraph 5. The contract will not be awarded until the Inter-Authority Agreement is entered into by the Constituent Authorities.
10. Costs incurred until the Inter-Authority Agreement is completed (including costs of challenge other than any arising from the act or omission of Flintshire) are to be allocated and recovered from each of the Constituent Authorities on an equal basis.
11. In order to act in concert the Constituent Authorities will form a Joint Chairs Group ("JCG") on which each Constituent Authority will be represented by one member who

must be a member of that authority's pension committee or equivalent body (normally the Chairman of the Constituent Authority's LGPS pensions committee or his nominated representative). The Joint Chairs Group will make recommendations to the Constituent Authorities.

12. The JCG will not be a formally constituted joint committee under the Local Government Act 1972 and the provisions of that Act relating to access to information will not apply.
13. The JCG will have no powers delegated to it by the Constituent Authorities and will be responsible for:
  - 13.1 Making recommendations to the Constituent Authorities on the services and functions to be delivered by a Host Operator, the Ancillary Services and the method of delivery;
  - 13.2 Making recommendations to the Constituent Authorities on the evaluation methodology to be used in the appointment process;
  - 13.3 Making recommendation to the Constituent Authorities on the appointment of a Host Operator and other service providers;
  - 13.4 Making recommendations on the structure of the Pooled Vehicle (or Pooled Vehicles), the number and make up of sub-funds, and the commercial design of the Pooled Vehicle (or Pooled Vehicles);
  - 13.5 Making recommendations to the Constituent Authorities on common minimum standard policies in respect of ethical, social and governance matters and voting rights;
  - 13.6 Making recommendations to the Constituent Authorities on the role and procedures of the Joint Committee;
  - 13.7 Making recommendations on any other matters which they consider to be necessary for the effective progression of the proposal.
14. In the event of any member of the JCG ceasing to be a member of the Constituent Authority which appointed them, or a member of the relevant Pension Committee the relevant Constituent Authority shall as soon as reasonably practicable appoint another member in their place.
15. At the commencement of each meeting a Chair will be appointed by the members of the JCG from amongst their own number by means of a vote.
16. A meeting shall be quorate when 6 members are present. No business will be transacted at a meeting unless a quorum exists at the beginning of the meeting. Should there be at any point in the meeting less than six members present then the meeting shall stand adjourned until the requisite number is present or a further meeting is called.
17. The JCG will in the first instance seek to reach decisions through consensus. Where it is not possible to reach a consensus position a decision will be reached by majority vote. Each Constituent Authority present will have one vote and voting will be by means of a show of hands. The Chair shall have a further and casting vote in the event of equality of votes.
18. The JCG will be supported by an officer working group comprising the each Constituent Authorities section 151 officer and/or appropriate nominated officer(s) from each Constituent Authority. The JCG may set up other working groups to advise it on matters within its remit. Such working groups may be formed of members or officers of the Constituent Authorities or any other third party as the JCG sees fit. Such working groups are advisory only and the JCG may not delegate its responsibilities to such working groups
19. The clerk to the JCG who will arrange for the provision of secretarial and administrative support will be an officer provided by the Welsh Local Government Association.

20. The JCG shall meet as is necessary for the group to execute its responsibilities.
21. Meetings will be held at such times, dates and places as may be notified to the members of the JCG by the clerk. Meeting papers will be circulated in advance of any meeting. Urgent items may be tabled at meetings with the agreement of the Chair.
22. Additional ad hoc meetings may be called in order to consider urgent matters of business within the remit of the JCG. Such ad hoc meetings may include virtual meetings facilitated by means of videoconferences or similar technology.
23. The JCG may invite any person, whether a member or officer of one of the Constituent Authorities or a third party to attend any meeting of the JCG and speak on any relevant matter.
24. Employees of the Constituent Authorities and advisers must declare whether they have any conflict of interest in respect of any business being conducted by the JCG. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as an adviser to the JCG. A conflicted person shall play no part in any portion of the meeting to which that conflict of interest relates.
25. Members of the JCG will be subject to the Member Code of Conduct as operated by their own Constituent Authority.
26. Under paragraph 18 there will be an Officer Working Group (OWG) drawn from the Constituent Authorities which supports and advises the shadow Joint Committee
27. The OWG is not a decision-making body but its members will as necessary individually exercise any powers delegated to them by a Constituent Authority. Its remit will be:
  - 27.1 Proposing and procuring external support requirements (e.g. legal and taxation advice);
  - 27.2 Proposals to JCG on pool governance arrangements including how the Host Operator and, where relevant, any provider of Ancillary Services, should be held to account;
  - 27.3 Proposing the specification of the scope of services required from the Host Operator and the extent of the Ancillary Services required for the purpose of a procurement exercise and proposing an appropriate procurement process;
  - 27.4 Proposals on the appointment of the Host Operator and provider of the Ancillary services;
  - 27.5 Liaising with lawyers (and other advisers) to determine proposals to the JCG on:
    - 27.5.1 finalising a proposed project plan setting out the structure of the proposal, including the services required from the Host Operator and the Ancillary Services, together with a detailed timeline;
    - 27.5.2 necessary protections in the Host Operator contract and contracts with any other service providers, including in particular exit triggers, liabilities and indemnities;
    - 27.5.3 the structure of the Pooled Vehicle (or Pooled Vehicles), the number and make up of sub-funds, and the commercial design of the Pooled Vehicle (or Pooled Vehicles);
    - 27.5.4 the actions required under existing investment-related contracts entered into by the Constituent Authorities, subject to agreement with the Constituent Authorities.
  - 27.6 Planning the transition from existing mandates to the Pooled Vehicle, including proposals on the procurement of one or more transition managers, the services required, the timing of transitions and the apportionment of transaction costs.



Signed on behalf of City of Cardiff Council

Signed on behalf of City & County of Swansea Council,

Signed on behalf of Flintshire County Council,

Signed on behalf of Carmarthenshire County Council,

Signed on behalf of Torfaen County Borough Council,

Signed on behalf of Gwynedd County Council,

Signed on behalf of Powys County Council

Signed on behalf of Rhondda Cynon Taff County Borough Council

Dated

## LGPS pension funds in Wales / Investment Pool Governance

The purpose of this note is to provide background information to constitutional officers representing each of the eight LGPS administering authorities in Wales.

### Background

You will be aware that the administering authorities for the eight LGPS funds in Wales are working together to establish a pension investment “pool” in line with government requirements set out in guidance issued by DCLG, who administer the LGPS, in November 2016. The government’s aim is that the 89 administering authorities in England and Wales should form 6-8 investment pools. It has set a target date of April 2018 for those investment pools to be operational and for money to start transitioning into the pools.

This is a large and complex project for the LGPS funds in Wales.

The investment pools will consist of an FCA regulated “**Operator**” (technically called an Alternative Investment Fund Manager) and regulated “**collective investment vehicles**” (CIVs) which will hold the assets of the participating local authority funds - these could be Authorised Contractual Schemes (ACS) and/or unit trusts (UTs) for example. Different investment vehicles might be used for different assets types (listed equities, bonds, property, etc).

After considering different options for implementation, the LGPS funds in Wales have decided to procure a third party supplier that will provide the regulated “Operator” service and the investment vehicles that will house the assets of the pool. In the terminology of the project, this is labelled a “**rent**” model. In the longer term, the Welsh LGPS funds may decide to move to an “owned” Operator model.

To meet DCLG requirements, one of the key initial tasks is to establish the necessary **governance arrangements** for the procurement phase (to secure a third party operator) and the implementation phase that will follow once the third party Operator is appointed.

For this purpose we need input and support from the constitutional officers working in the eight administering authorities to help finalise the governance arrangements and work through the appropriate local approval steps which may differ between the authorities involved.

### Proposed Governance arrangements for the LGPS investment pool

Very briefly, the proposed key components of the governance model for the Welsh LGPS investment pool (and the other pools being established in England) are as follows:

Component	New or existing	Summary of remit	Membership
<b>Pension Committees</b> (or equivalent) for individual funds	<b>Existing</b> S101 governance arrangements for individual local authority funds.	Governance of scheme member administration, investment and funding strategy (including strategic asset allocation and setting employer contribution rates). These committees will effectively be “clients” of the pool Operator.	<b>Elected members.</b> Some funds also have independent professional advisers and/ or other observers or stakeholder representatives in attendance.

<b>Joint Chairs Group</b> (“JCG”) for the pool	<b>New</b> joint chairs group for the all Wales investment pool.	Oversees the appointment the pool’s Operator, holds the Operator to account, ensures that the pool delivers what is needed by individual funds (eg sub-fund building blocks required to enable each individual fund to execute its investment strategy), provides “client” input on matters such as the investment managers used by the Operator.	One <b>elected member</b> from each administering authority pensions committee (expected to be the <b>Chair</b> or his/her nominated representative).
<b>Officer Working Group</b> (“OWG”)	<b>New</b> but builds on existing working relationships between Pension Fund Treasurers and will now have a more formalised role.	Advises the JCG and, as representatives of the Operator’s “clients” (the individual authorities) liaises with the Operator and monitors the Operator’s performance against SLAs and agreed KPIs.	<b>Treasurers</b> (and their <b>investment officers</b> ) from each of the eight administering authorities.

Consideration will also be given to potential roles for other parties in pool governance including any role for professional advisers; any observer role for employee representatives; and whether there should be an independent Chair for the JCG. We will also need to decide what entity or organisation will host the JCG and provide a secretarial function.

### High level plan for implementing pool governance arrangements

Key steps in the short term include the following:

	<b>Target timescale</b>	<b>Deliverables</b>	<b>Comments</b>
1	Mid-October 2016	Agree <b>Memorandum of Understanding</b> (“MoU”) between the participating administering authorities	<ul style="list-style-type: none"> <li>• Not legally binding.</li> <li>• Precursor to legally binding Inter-Authority Agreement.</li> <li>• Individual authorities to review and sign agreed version.</li> <li>• Draft prepared by Eversheds attached.</li> </ul>
2	Mid/Late - October 2016	<b>Terms of Reference</b> (“TOR”) for “Shadow” JCG	<ul style="list-style-type: none"> <li>• Not legally binding.</li> <li>• Chairmen of individual funds who will be the members of the Shadow JCG to approve (after individual authorities review).</li> <li>• Draft prepared by Hymans and reviewed by Eversheds and officers attached.</li> </ul>
3	November 2016	Form <b>Shadow JCG</b> and hold first meeting	<ul style="list-style-type: none"> <li>• Precursor to formal JCG.</li> <li>• Need in place for the Operator procurement phase.</li> </ul>

4	February 2016	<b>Inter-Authority Agreement (“IAA”)</b>	<ul style="list-style-type: none"> <li>• Successor agreement to MoU</li> <li>• Legally binding agreement between participating authorities</li> <li>• Preliminary legal advice suggests advisable to have this agreed and signed before conclude procurement and appoint Operator</li> <li>• Likely to require formal Council approval (within Terms of each Councils constitution)</li> <li>• In order to have this signed in January we would expect to share early drafts in October / November 2016</li> </ul>
5	January 2016	Review <b>TOR</b> for JCG	<ul style="list-style-type: none"> <li>• Make any appropriate amends before formalising JCG</li> <li>• Members of shadow JCG to approve (after individual authority review)</li> </ul> <p><i>*May be incorporated within the IAA</i></p>
6	February 2016	Shadow JCG becomes <b>formal JCG</b>	<ul style="list-style-type: none"> <li>• Preliminary legal advice suggests advisable to have shadow JCG converted to “formal” JCG before conclude procurement and appoint Operator</li> <li>• Hold first meeting of “formal” JCG in January 2016</li> </ul>

The timelines above are stretching but provisional. They are highly dependent on local timescales processes for reviewing and agreeing some of the key documents (including the MoU and IAA between authorities and TOR for the shadow JCG). We will need your input to determine whether these timescales are realistic

Hymans Robertson, September 2016