

DEVON PENSION BOARD – ONE YEAR ON

Joint Report of the County Solicitor and County Treasurer

Recommendation: that the Board consider this Report.

~~~~~

1. The Devon Pension Board has now been in existence for just under 12 months and it is therefore timely to review how things have gone in that time and provide an opportunity for Members to discuss and raise any issues about the role and responsibilities of the Board or any operational or procedural matters.
2. Devon's approach was broadly consistent with that adopted in other Authorities and was felt to be a pragmatic, realistic approach to discharging those new responsibilities, ensuring scheme members benefited from the work done on their behalf to ensure their scheme was well managed, without imposing further unnecessary or additional demands or costs upon the Council, the Fund or upon Board Members themselves. That seems to have stood the test of time so far.
3. A number of issues have arisen during the year which are referred to below – which Members may wish to comment upon in more detail - and also attached is a simple summary of the role and responsibilities of both the Board, Members and the Scheme Manager, which may prove to be an helpful aide memoire. Members may themselves have other issues they might wish to raise at the meeting, to obtain clarity or certainty.
4. The Guidance for establishing/operating local Pension Boards recommended that Boards should 'compile' a budget (which the administering authority is required to pay as part of the costs of administering the Fund) to cover the cost of its administration. It was generally accepted at the outset that determining a 'budget' for administrative support, accommodation, training and legal, technical and other professional support would have been difficult without a degree of practical experience upon which to formulate it. In light of the knowledge and experience now gained over the first months of operation and in line with the national guidance that this should be a matter for early consideration by the Board a draft budget has now been prepared for consideration at this meeting, elsewhere under this Agenda, which in the view of the County Treasurer/Scheme Manager is a sound, achievable financial plan based on a reasonable assessment of current workloads.
5. There has been some comment about the frequency of meetings. While, in establishing the Board, the Council opted for the minimum requirement of two meetings a year (to meet normally in April in October) it is of course open to the Board to meet more frequently or schedule further meetings. It is clearly important that should the Board wish to meet, for example, on a quarterly basis as opposed to bi-annually that all meetings should have a clearly defined purpose and warrant members attendance. Additional meetings will of course impact upon the Boards' budget referred to above and the management costs upon the Fund. Should the Board wish to meet more frequently it is strongly suggested that meetings be 'themed' in advance to reflect the primary tasks and objectives it has been asked to undertake, as indicated below.
6. There is of course a difference between the headline *Terms of Reference* of the Board which delineate the broad parameters within which the Board will work and the detailed arrangements and specific tasks set out in Report CS/15/3 (*approved by the Procedures Committee and ratified by the County Council on 19 February 2015, available at: <http://www.devon.gov.uk/cma.htm>*), such as those listed below, which the County Council has asked the Board to undertake and which reflect national guidance, namely:

- monitor compliance of the Pension Fund with legislation, guidance issued by the Pensions Regulator, and with the policies set out in the Fund's statutory statements;
  - review and scrutinise the performance of the Pension Fund in relation to its governance and administration, policy objectives and performance targets;
  - approve the Annual Internal Audit Plan for the Devon Pension Fund and for Peninsula Pensions;
  - consider the Internal Audit Annual Report and any updates for the Devon Pension Fund and Peninsula Pensions;
  - consider External Audit report on the Pension Fund Annual Report and Statement of Accounts;
  - review the Pension Fund Risk Register, and
  - monitor the Fund's Internal Dispute Resolution Procedures
7. The Pension Board is of course an advisory and not an executive body and does not have direct decision making powers over the management or administration of the Fund. Nonetheless and as indicated above the Board has been tasked to exercise a full role consistent with national guidance. In that sense the Board is still work in progress and while it may take a little time for all concerned to work through any issues and achieve a common understanding good progress has, it is felt, already been made. The rules of procedure and arrangements for meetings of this Board – accompanying its terms of reference – follow those of the County Council, as enshrined in the latter's Constitution. While there may be some minor differences in wording or approach to 'model' terms of reference produced nationally these are not regarded as significant nor would they be at variance from the general principles of law and conduct of meetings.
8. Training and Development of Board Members has and continues to be an important feature of the first 12 months, for obvious reasons, with Members having been involved in a number of discrete and joint sessions (with the Investment & Pension Fund Committee). Members have generally commented favourably on the training provided to date, details of which are set out more fully in the separate Report also to be considered at this meeting. It is important that Members attend such events in order to make a full contribution to the work of the Board.
9. Circulation of information to Board Members, despite some initial teething problems and misunderstanding, has not proven to be an issue. In line with the Council's approach to transparency of its decision making processes, Board Members receive automatically papers for the Investment & Pension Fund Committee and other relevant documents and they may, of course, attend meetings of that Committee - including Part II discussions – to enable them to fulfil their role, to exercise a watching brief and observe proceedings, as a means of satisfying themselves that the governance and administration of the scheme complies with the rules. As a matter of good practice and wherever practicable Officers will also circulate any relevant information, data or statistics direct to Board Members as and when it is available and will not necessarily delay doing so simply to report formally to a future Board meeting, especially if that is some months away. In the same vein, the Scheme Manager would be expected to brief members on any action taken in response to any issues or concerns raised at a Board meeting as soon as was practicable, by electronic means, rather than again delaying that until the next meeting, as a matter of course. Members would of course be able to indicate then that they would like any particular issues to be discussed further at a subsequent meeting.
10. Members of the Board must of course maintain and demonstrate their impartiality at all times and this has been reflected in the training so far provided. Separate and specific guidance on conflicts of interest was agreed for the Board at the time it was established – again in line with national guidance - but if the Board were so minded it would not be inappropriate to endorse formally the principles which are already well established in a number of local authority quasi-judicial, regulatory committees along the lines, say, of:

*'The deliberations of the Board should leave no grounds for suggesting with any justification that a decision has been partial, biased, or not in any way well founded. Whilst Members of the Board may be influenced by the opinions of others, their decisions must not discriminate in favour of any individual, group or area, nor appear to do so, but must be in the best interests of the Fund and Scheme Members. Members of the Board should preserve their role as impartial*

*advisers and it would be unacceptable for any instruction to be given by or on behalf of a political party or of any other body whose principle purpose is to influence public opinion or policy as to how any Member of the Board shall speak or vote on any matter before the Board or for there to be any application or threat to apply any sanction against any Member of the Board should he/she speak or vote in any particular manner.'*

11. The question of public liability has also been raised and the Board can rest assured that its work and that of individual Board members is covered under the Council's insurance policies, as it is '*undertaking work specifically for or on behalf of the County Council*'.
12. This Report has no specific equality, sustainability, legal or public health implications that have not already been assessed and appropriate safeguards and/or actions taken or included within the detailed policies or practices or requirements relating to the conduct of meetings, to safeguard the Council's position.

JAN SHADBOLT

M DAVIS

[Electoral Divisions: All]

**Local Government Act 1972: List of Background Papers**

Contact for Enquiries: R Hooper

Tel No: 01392 382300 Room: G31

| <b><u>Background Paper</u></b> | <b><u>Date</u></b> | <b><u>File Reference</u></b> |
|--------------------------------|--------------------|------------------------------|
|--------------------------------|--------------------|------------------------------|

Nil

## A Quick Guide to ....

| The Pension Board ..                                                                                                                                                                                                                                                                           | A Pension Board Member ..                                                                                                                                                                                                                                                                                                                                                               | The Scheme Manager ..                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| helps ensure a scheme complies with governance and administration requirements including any requirements of the Pensions Regulator                                                                                                                                                            | should have a knowledge and understanding of relevant pensions law and a working knowledge of the Council's scheme, regulations and documentation                                                                                                                                                                                                                                       | is responsible for the governance and administration and management of the fund                                                                                                                                                                                                                                                                     |
| may review the status of the scheme and associated issues and make appropriate recommendations on, or to improve, standards of scheme governance and administration and may draw to the attention of the Scheme Manager or the Pensions Regulator any potential breach of rules or legislation | will play an important role through scrutinising the governance and administration of public service pension schemes in assisting the scheme manager in ensuring that the governance and administration of the scheme complies with its own rules and legislation                                                                                                                       | is responsible for managing risks, ensuring there are adequate internal controls, keeping records, ensuring the quality of member data, ensuring correct contributions are paid, managing conflicts of interest, publishing information about the Board, communicating information to members, resolving disputes and reporting breaches of the law |
| comment upon Annual Internal Audit Plans for the Devon Pension Fund and for Peninsula Pensions and on any external Audit Reports                                                                                                                                                               | will ensure the Scheme Manager (and those with delegated responsibilities) comply with scheme regulations and legislation, questioning and examining existing arrangements to ensure they are compliant and for purpose and to identify any issues needing examination                                                                                                                  | may delegate any the above responsibilities to a Committee, an Officer of the Council or an Investment Manager, but not to a local Pension Board                                                                                                                                                                                                    |
| scrutinise the overall performance of the Fund and any relevant statutory statements, policies, risk registers and dispute resolution procedures                                                                                                                                               | reviews the findings of internal and external audit reports, including published risk assessments - to identifying any areas or concerns where action may need to be taken by the Scheme Manager                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                     |
| endorse an annual budget and training and development plans or events organised for its benefit or in conjunction with Investment & Pension Fund Committee                                                                                                                                     | should attend meetings of the Board and any training or development events and may attend meetings of the Council's Investment & Pension Fund Committee and must have regard to the Principles of Public Life namely, selflessness, honesty/integrity, objectivity, accountability, openness, personal judgment, respect for others, duty to uphold the law, stewardship and leadership |                                                                                                                                                                                                                                                                                                                                                     |