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Creation of an HFRA Pension Board

Report by Treasurer and Chief Officer

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1 Summary

- 1.1 As administering authority of the Fire Fighters Pension Scheme (FFPS), HFRA must establish a Pension Board by 1 April 2015 to comply with the Public Service Pension Scheme Act 2013.
- 1.2 This paper outlines the proposed format of the Pension Board and puts the necessary approvals in place to ensure that the Authority has made the appropriate arrangements for its governance in time for the 1 April 2015 deadline.

2 Recommendations

It is recommended that:

- 2.1 A Pension Board is created for the Hampshire Fire Fighters Pension Scheme with Terms of Reference as set out in Appendix 1 to this report, which includes a separate code of conduct for board members.
- 2.2 The Authority delegates responsibility for 'Scheme Management' of the Fire Fighters Pension Scheme to Finance and General Purposes (F&GP) Committee.
- 2.3 Delegated authority is given to F&GP Committee to make changes to the Terms of Reference if required following publication of the final regulations
- 2.4 Authority is delegated to the Director of Professional Services to undertake a recruitment process and decide on appropriate scheme member representatives, with the assistance of a panel of members from F&GP Committee.
- 2.5 Authority is delegated to the Head of Legal Services to amend the Terms of Reference of the F&GP Committee to enable it to act as Scheme Manager and deal with alleged breaches of the Pension Board's Code of Conduct.
- 2.6 Members of the Pension Board shall be entitled to payment of travelling allowances on the terms set out in the relevant policies for members of HFRA and employees of HFRS.

- 2.7 Costs associated with the Pension Board for administration, allowances and training are assessed during 2015/16 and included in future budget updates.

3 Contextual information

- 3.1 In 2010 the Government appointed Lord Hutton to chair the Independent Public Service Pensions Commission (IPSPC) review of public service pensions. One of the IPSPC reviews recommendations was the creation of Pension Boards. This was enshrined into legislation by the Public Service Pension Scheme Act 2013 ('the Act').
- 3.2 In order to comply with the Act, Pension Scheme Regulations are to be amended to include the establishment of Pension Boards by 1 April 2015. There have been two consultations from the Department for Communities and Local Government (DCLG) on the draft regulations, the second of which closed on 21 November 2014. The final regulations are still to be made public and are not expected until April this year. However, a decision on the creation of the Pension Board is required before that point in order to meet the 1 April 2015 deadline.

4 Governance structure of the Fire Fighters Pension Scheme

- 4.1 The Fire Fighters Pension Scheme (FFPS) is a national scheme and the Fund itself is managed by DCLG. However, HFRA is the administering authority (or Scheme Manager) with local responsibility for managing and administering the scheme (albeit that the actual day to day administration is undertaken by Hampshire County Council's Pension Services Department on its behalf).
- 4.2 At the present time, there is no specific focus on the management and administration arrangements since it forms part of the overall financial and democratic management of the Authority. Lord Hutton's review and more topically the issues around injury pensions, have highlighted the need for greater scrutiny and transparency of pension arrangements. The creation of Pension Boards is designed to address this point.

5 Pension Boards

- 5.1 In general terms, Government's intention in the creation of Pension Boards is to improve the accountability and transparency of the FFPS. The draft regulations give the purpose of the Pension Board to assist the Scheme Manager with securing compliance with the regulations, any other legislation and to ensure the effective and efficient governance and administration of the Scheme.
- 5.2 The main features of Pension Boards, as defined by the draft regulations are as follows:
1. Pension Boards must be separate from the body responsible for the management and administration of the scheme (presently

HFRA) and other conflicts of interest must also be avoided.

2. There must be an equal number of employer and scheme member representatives on the Pension Board (a minimum of two each).
 3. Only scheme member and employer representatives are allowed to vote. (This is an expected requirement based on what has been agreed for the LGPS scheme and the latest intelligence from the sector).
 4. Scheme members for the Fire Pension Board must be active members, that is they must be a firefighter who is currently employed by HFRS. (This differs from the Police and LGPS schemes where deferred and pensioner members are also allowed to be on the Boards).
 5. Scheme members on the Board may also be representatives of the trade union bodies but they would be on the Board to represent the views of all employees in the pension scheme, not the views of their trade unions.
 6. Employer representatives can be HFRA Members or officers, but they must not be responsible for making decisions on the pension scheme.
 7. There is a requirement in the draft regulations for a high level of experience and capacity from prospective Pension Board members.
- 5.3 One technical issue that points 1 and 6 raise is that if the full Authority remains the body that is responsible for making decisions on the pension scheme (defined as the Scheme Manager) this automatically prevents any HFRA Member from being on the Pension Board.
- 5.4 A proposed way to enable elected members to act as employer representatives of the Pensions Board, which is recommended in this report, is that HFRA delegates responsibility for scheme management to the F&GP Committee. This releases all other HFRA members to become members of the Pension Board.
- 5.5 Furthermore, since constitutionally the Pension Board will effectively be a Committee of HFRA, all members of the Board must be appointed at full Authority meetings.

6 Proposed format of the Hampshire Fire Fighters Pension Board

- 6.1 Following the publication of the draft regulations, and discussions held at CMT, officers have been working to produce the following proposals to establish Hampshire's Fire Fighters Pension Board by the deadline of 1 April 2015. The full proposed terms of reference for the Pension Board are shown in Appendix 1.

- 6.2 Chairman – Since only scheme members and employer representatives are likely to have voting rights, it is felt that having an independent Chairman would not aid the smooth business of the Board. It is therefore recommended that the Chairman is appointed by the Board Members themselves on a cyclical basis (rotating every year between an employer representative and a scheme member representative).
- 6.3 Membership – It is recommended that 3 employer representatives and 3 scheme member representatives should initially be appointed. For employers appointments, those members would be drawn from Elected Members of HFRA who are not on F&GP Committee. No Hampshire Fire and Rescue Service (HFRS) officer appointments are recommended at this stage.
- 6.4 Scheme members must be drawn from active members and applications to be on the Board will be invited from staff through the normal communication channels. Those interested in being a member of the Pension Board will be asked to complete a short application form with a short-list of applicants being interviewed. This is necessary given the expectations of knowledge and capacity set out in the draft regulations.
- 6.5 It is recommended that authority is delegated to the Director of Professional Services with the assistance of a panel of members drawn from F&GP Committee, to establish an appointments policy and to undertake a recruitment process to identify appropriate scheme member representatives for approval by HFRA in June 2015.
- 6.6 Conduct - Members of the Pension Board will not normally be bound by HFRA's Code of Conduct and the draft guidance, it is therefore recommended that the Board should have its own specific Code of Conduct. A draft Code of Conduct is included as an appendix to the draft terms of reference.
- 6.7 The adoption of a Code of Conduct necessitates a process for dealing with alleged breaches of the Code of Conduct. It is proposed that alleged breaches are referred to the F&GP Committee. This is on the basis that they hold the responsibility for Scheme Management.
- 6.8 Allowances - Some members of the Board may benefit from Members' Allowance Schemes but these schemes will not be available to Board Members who are not Members of local authorities. While it is not proposed to pay an allowance for being a member of the Board it is proposed to allow Board members to claim for travelling expenses on the same terms as Members and employees can claim for travel under their existing allowance schemes.
- 6.9 Meeting frequency - The draft Terms of Reference envisage the Board meeting at least 2 times each year, with the ability to call additional meetings. This will be reviewed once the Board has been operating for

a year to ensure that the meeting cycle is appropriate to transact the business of the Board.

- 6.10 Appointment periods – Since the formation of the Pension Boards is new and it will take time for Board members to build up their knowledge, it is recommended that all initial appointments are made for a 4 year period, which will be subject to a full review by F&GP Committee of the operation of the Pension Board near the end of the second year.

7 Supporting our corporate priorities and aims

- 7.1 The creation of a Pension Board will help to ensure that the people working for HFRS who are scheme members are treated fairly and proper arrangements are in place for their financial welfare. It will also ensure the best use of resources by scrutinising the arrangements for pensions and pensions administration.

8 Risk analysis

- 8.1 Recent issues around miscoding of injury pensions and further changes to the pension scheme, which is already very complex are key risks that currently have no direct governance focus. The creation of the Pension Board will assist in managing those risks more effectively.

9 People impact assessment

- 9.1 The proposals in this report are considered compatible with the provisions of the equality and human rights legislation and are necessary to comply with new legislation in respect of public sector pension schemes.

10 Environmental and sustainability impact assessment

- 10.1 There have been no impacts identified at this point.

11 Resource implications

- 11.1 Human Resources

Officer time will be required to support the Pension Board, in terms of attendance and report writing. Initially this is likely to focus at a senior level within HR, Finance, Legal and Professional Services. Administrative support for the running of the Board will need to be arranged with Democratic and Members Services at Hampshire County Council on the same terms as existing committee support.

- 11.2 Financial Resources

The majority of officer time in supporting the Pension Board will be drawn from existing support arrangements and will not attract any

additional costs. There will be increased costs relating to democratic support and there will be other costs for travel reimbursement and training for Board members. An assessment of the likely costs will be made during the first year of operation but under the legislation, Authorities are required to meet their own costs of setting up and running Pension Boards, which will be met from contingencies in the first year of operation and then built into future budgets.

12 Consultation

- 12.1 No formal consultation is proposed in respect of the setting up of the Pension Board, but discussions have been held within Corporate Management Team and the draft Terms of Reference have been sent to representative bodies.

13 Background papers

- 13.1 The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of the report :

Firefighters' Pension Scheme 2015: Proposals for new governance arrangements – consultation. Issued by the DCLG in October 2014.

Note : The list excludes: (1) published works; and (2) documents that disclose exempt or confidential information defined in the Act.

Terms of Reference for the Pension Board of the Hampshire Fire Fighters Pension Scheme

1. Introduction

- 1.1. Hampshire Fire and Rescue Authority (HFRA) has established a Pension Board in accordance with the requirements of the Public Service Pension Act 2013.

2. Role and Powers of the Hampshire Fire Fighters Pension Board

- 2.1. The role of the Board is to:

- Assist HFRA as the administering authority of the Hampshire Fire Fighters Pension Scheme (HFFPS):
 - to secure compliance with the Fire Fighters Pension Scheme (FFPS) Regulations and any other legislation relating to the governance and administration of the FFPS.
 - to secure compliance with requirements imposed in relation to the FFPS by the Pensions Regulator.
- To ensure the effective and efficient governance and administration of the HFFPS by the Authority.
- To consider how discretionary and other pension related issues are being addressed from an operational viewpoint.
- To present an annual report to the Authority on the exercise of its functions.

- 2.2. The Board shall have the power to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

3. Members of the Hampshire Fire Fighters Pension Board

- 3.1. The Board shall initially consist of 6 members and be constituted as follows:

- 3 employer representatives;
- 3 scheme member representatives;

- 3.2. The Chairman of the Board will be elected by the Board at the first meeting of the Board following the Annual General Meeting of the HFRA in each year.

- 3.3. The Vice Chairman of the Board will be elected by the Board at the first meeting of the Board following the Annual General Meeting of the HFRA in each year.

- 3.4. The Chairman and Vice Chairman of the Board will alternate between employer and scheme representatives each year (if the Chairman is a scheme representative then the Vice Chairman will be an employer representative and vice versa)

- 3.5. The employer representatives will be appointed by the HFRA at its Annual General Meeting.
- 3.6. Scheme member representatives will be appointed by the Authority in accordance with the recruitment policy agreed by F&GP Committee. They must be active members of the FFPS.
- 3.7. The term of office of the Chairman and Vice Chairman will be one year, but either can be re-elected by the Board up to a maximum of 4 years.
- 3.8. Each employer representative and scheme member representative so appointed shall serve for a fixed 4 year period which can be extended for a further period of 4 years.
- 3.9. Employer representatives and scheme member representatives will remain as members of the Board during their appointed term of office unless they become incapable of acting, cease to represent their constituency, resign by giving written notice to the Chairman of the HFRA or are removed from the Board pursuant to Paragraph 4 of the Board's Code of Conduct.
- 3.10. Employer representatives and scheme member representatives may also be removed from office during their term of appointment by a majority decision of a quorate meeting of the HFFPS Board if they do not comply with the requirements of paragraph 3.9. The removal of any Board member also requires the agreement of the HFRA.
- 3.11. The Chairman and employer representatives will be appointed by the HFRA at the Annual General Meeting and may be replaced at any time during the year by the HFRA.
- 3.12. Any vacancies arising for the scheme member representatives will be recruited in line with the recruitment policy approved by F&GP Committee and will be formally appointed by HFRA at any time during the year.
- 3.13. Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least half of the meetings held in each year.

4. Quorum

- 4.1. Half of the members of the Board will represent a quorum for Board Meetings.
- 4.2. In the absence of both the Chairman and the Vice-Chairman the members of the Board shall appoint a Chairman for that meeting who shall while presiding have any power or duty of the Chairman in relation to the conduct of the meeting.

5. Advisers to the Board

- 5.1. The Board will be supported in its role and responsibilities by officers of the HFRA and it will consult with such officers to help better perform its duties. In the event that specialist professional advice is not available from the officers of the HFRA then the Board may ask the Director of Professional Services to seek independent professional advice through the appointment of advisers on their behalf, subject to financial and legal considerations.

6. Knowledge and Skills

- 6.1. A member of the Board must be conversant with:
- The legislation and associated guidance of the FFPS.
 - Any document recording policy about the administration of the FFPS which is for the time being adopted by the HFRA.
- 6.2. A member of the Board must have knowledge and understanding of:
- The law relating to pensions, and
 - Any other matters which are prescribed in regulations.
- 6.3. A member of the Board representing employers or scheme members must have the relevant experience and capacity to represent employer and scheme members respectively on the Board.
- 6.4. Notwithstanding the requirements set out above, it is anticipated that training will be given to Board Members to help them fulfil their role and to keep them updated on changes in the FFPS.

7. Board Meetings

- 7.1. Meetings of the Board will be conducted in accordance with the Standing Orders of the HFRA and for all purpose including but not limited to notice of meetings, publication of agendas and reports, recording and publication of minutes of meetings and consideration of urgent items meetings of the Board shall be treated as if they were a meeting of a Committee of the HFRA.
- 7.2. There will be a minimum of two Board meetings a year and the Chairman of the Board, with the consent of the Board may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone or video conferencing and e-mails.

8. Voting

- 8.1. Each member of the Board will have an individual vote and items will be decided by a simple majority of members attending the meeting but it is expected the Board will as far as possible reach a consensus. The Chairman shall determine when consensus has been reached.

- 8.2. Where consensus is not achieved, this should be recorded by the Chairman who shall then have a casting vote.
- 8.3. In support of its core functions, the Board may make a request for information from the Scheme Manager, with regard to any aspect of the scheme manager's function. Any such request should be reasonable complied with in both scope and timing.
- 8.4. In support of its core functions the Board may make recommendations to the Scheme Manager which should be considered and a response made to the Board on the outcome within a reasonable period of time.

9. Standards of Conduct

- 9.1. The role of Board members requires the highest standards of conduct and therefore the 'seven principles of public life' apply to all Board members, these are:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

- 9.2. The Code of Conduct for Board Members set out in Annex A shall apply to all members of the Board. Members of the Board who are also a member of other authorities also remain bound by the Member's Code of Conduct of their own authority.

10. Publication of Pension Board Information

- 10.1. Up to date information will be posted on the Authority's website showing:

- The names and information of the Board members.
- How the scheme members are represented on the Board.
- The responsibilities of the Board as a whole.
- The full terms of reference and policies of the Board and how they operate.
- The Board appointment process.
- Who each individual Board member represents.
- Any specific roles and responsibilities of individual Board members.

11. Accountability

- 11.1. The Board will be collectively and individually accountable to F&GP Committee and the Authority.

12. Reporting Breaches

12.1. Any potential or actual Breach that comes to the attention of the Board shall be dealt with in accordance with the Protocol for Reporting Breaches agreed from time to time between the Board and the Authority.

13. Expense Reimbursement

13.1. No basic allowance is payable to Board members although employer and scheme member representatives shall be entitled to claim Travelling Allowances on the terms set out in the then current Member's Allowance scheme, or HFRS employees scheme as appropriate.

14. Definitions

14.1. The undernoted terms shall have the following meaning when used in this document:

<i>Breach</i>	Means non-compliance with a duty relevant to the administration of the FFPS which is likely to be of material significance to the Pensions Regulator in the exercise of any of its functions
<i>'Hampshire Fire Fighters Pension Board', 'Fire Pension Board', 'Pension Board' or 'Board'</i>	Means the Pension Board of Hampshire Fire and Rescue Authority for the Hampshire Fire Fighters Pension Scheme as required under the Public Service Pensions Act 2013.
<i>'HFFPS', 'FFPS' or Regulations</i>	The Fire Fighters Pension Scheme as constituted by the Firefighters pension scheme 1992, as amended, the Firefighters Pension Scheme 2006, as amended and the Firefighters Pension Scheme Regulations 2014 as amended.
<i>'Scheme'</i>	Means the Fire Fighters Pension Scheme as defined under 'HFFPS' above.

15. Interpretation

15.1. Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Authorities Monitoring Officer.

Code of Conduct for Members of the Hampshire Fire Fighters Pension Board Members

1. Introduction

This Code of Conduct for the Hampshire Fire Fighters Pension Board has been adopted by the HFRA pursuant to its statutory duty to appoint a Pension Board for the HFFPS.

This Code applies to members of the Hampshire Fire Fighters Pension Board when acting in their capacity as members of the Board. For the avoidance of doubt, members of the Board who are also members of other authorities also remain bound by the Member's Code of Conduct of their own authority.

This Code is based on and is consistent with the principles of;

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty and
- Leadership

2. Obligations of Members of the Board

As a Member of Hampshire Fire Fighters Pension Board, your conduct will address the principles of the Code of Conduct by:

- a. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing the interests of the HFFPS, or the good governance of the HFFPS in a proper manner.
- b. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
- c. Listening to the interests of all parties, including relevant advice from statutory and other professional officers of the HFRA (or those acting on their behalf), taking all relevant information into consideration, remaining objective and making decisions on merit.

- d. Being accountable for your decisions and co-operating when scrutinised internally and externally.
- e. Contributing to making the Board's decision-making processes as open and transparent as possible.
- f. Restricting access to information when the wider public interest, the Board's Terms of Reference or the law requires it.
- g. Valuing your colleagues and Officers of the HFRA and engaging with them in an appropriate manner.
- h. Always treating all people with respect and propriety.

3. Conflicts of Interest

- a. No member of the Board may participate in any business of the Board if they have a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board (this does not include a financial or other interest arising merely by virtue of membership of the Scheme or any connected Scheme) ('Conflict of Interest').
- b. All Board members must before becoming a member of the Board declare any potential Conflict of Interest to the Monitoring Officer of the HFRA.
- c. After appointment all Board members must within 14 days of becoming aware of any new potential Conflict of Interest declare that potential Conflict of Interest to the Monitoring Officer of the HFRA.
- d. A member of the Board must at any time provide the Monitoring Officer of the HFRA with such information as he or she requires for the purpose of establishing whether or not the Board member has a Conflict of Interest.
- e. A Board member should disclose any Conflict of Interest in any business of the Board either at the commencement of the meeting, the commencement of the consideration of the item or when the Conflict of Interest becomes apparent.
- f. If a Board member has a Conflict of Interest in any business of the Board then that Member may not participate in any discussion of, vote on or discharge any function in relation to the matter. In addition the Board member should withdraw from the room where the meeting is being held.

4. Non-Compliance with the Code of Conduct

Any alleged non-compliance with this Code of Conduct shall be referred to the HFRA F&GP Committee for consideration. In the event that the Committee find that a member of the Board has failed to comply with the provisions of this Code then the Committee may determine that the Member is to immediately cease to be a member of the Board or take such other action as the Committee regard as appropriate. This can include but is not limited to requiring the member to apologise or requiring the member to undertake such training as they feel is appropriate.