

REPORT TO: POLICY & RESOURCES COMMITTEE – 9TH FEBRUARY 2015

REPORT ON: REVIEW OF GOVERNANCE ARRANGEMENTS – TAYSIDE PENSION FUND

REPORT BY: DIRECTOR OF CORPORATE SERVICES

REPORT NO: 447-2014

1 PURPOSE OF REPORT

This report provides an overview of the new governance arrangements required by the 2015 Pension Scheme. The report provides Members with a proposal to create a local Pension Board for the Tayside Pension Fund and to amend the current constitution of the Pension Investment Sub-Committee to accommodate these new requirements.

2 RECOMMENDATION

It is recommended that the Committee:-

- (i) note the contents of this report;
- (ii) approve the Terms of Reference and operating arrangements appended hereto (Appendices 2 and 3) for the Tayside Pension Board;
- (iii) agree the name change of the Pension Investment Sub-Committee to the Pension Sub-Committee;
- (iv) agree to revise the Terms of Reference and operating arrangements for the Pension Sub-Committee to incorporate Pension Administration;
- (v) remit to the City Council to make the necessary appointments to the Pension Board; and
- (vi) remit to the Head of Democratic and Legal Services to make any necessary changes to the Council's Standing Orders and Scheme of Administration for Financial Regulations.

3 FINANCIAL IMPLICATIONS

The cost of set up of the Pension Board and the training expenses involved for both the Pension Board and the Tayside Pension Fund Investment Sub-Committee will have to be met by the fund as well as a proportion of the costs relating to the national Scheme Advisory Board. Although these costs are unknown at present the Council have recommended in its consultation response to the draft regulations that the costs relating to the Pension Board should be agreed by the Scheme Manager (Tayside Pension Fund) and that the costs relating to the Scheme Advisory Board should have some budget oversight within their constitution.

4 BACKGROUND

Tayside Pension Fund is administered by Dundee City Council as the administering authority with responsibility for the management of pension investment delegated to the Tayside Pension Fund Investment Sub-Committee with day to day operational matters further delegated in the main to the Director of Corporate Services.

The Public Service Pensions Act (PSPA) 2013 introduces a number of changes to public service pension schemes, including a number of key changes impacting on the governance of public service pension schemes. One of the key changes is the requirement for each Administering Authority in the Local Government Pension Scheme to create a local Pension Board to be in place by 1st April 2015 that will have the responsibility for assisting the

Council as Scheme Manager in securing compliance with requirements imposed by the Pensions Regulator and the scheme regulations or other legislation relating to the governance and administration of the scheme.

The key elements of the expected regulations (currently in draft) relating to local Pension Boards are outlined below:

Establishment

- Membership would consist of equal numbers of trade union representatives and employers drawn from other councils and scheduled or admitted bodies in membership of the fund
- As a minimum there will be 4 trade union and 4 local employer representatives
- Members must not have a conflict of interest
- Members must be conversant with the rules of the scheme and any document recording policy about the administration of the scheme.
- Members must have knowledge and understanding of the law relating to pensions and such other matters as may be prescribed.
- The Chair of the Pension Board will be rotated on an annual basis.
- The secretariat will be provided jointly from the pension fund and the local trade union representatives.
- Advisors and observers will also attend the Board but will not have membership status
- A Training Plan must be put in place for both Pensions Committees and Pensions Boards

6 ISSUES FOR CONSIDERATION

Dundee City Council must establish a new Pension Board and a Protocol detailing how the Pension Board is established and operated must be developed.

6.1 Pension Structure

The current structure diagram of Tayside Pension Fund and the future governance structure is attached as Appendix 1.

6.2 Constitution of Pension Board

The proposed constitution and protocol for the Pension Board is attached as Appendix 2. This constitution is based on the model constitution agreed by the Scottish Local Government Pension Administration Group (SLOGPAG) and has been adapted in order to best meet local needs. This sets out the role and remit as well as the administrative arrangements of the Pension Board. These recommended changes are subject to final LGPS Regulations. A further update will be provided to the Committee if there are any significant developments affecting the proposals.

6.3 Remit of Pension Investment Sub Committee

As one aspect of the Pension Board's remit includes monitoring the compliance of the Fund's administration, it is proposed that the current remit of the Pension Investment Sub-Committee be also extended to include administration in order to ensure alignment. It is proposed that the three observers from the trade unions at the Pension Investment Sub-Committee be discontinued as the Trade Unions will be represented on the Pension Board. It is also proposed that its name be changed to Pensions Sub-Committee. Substitutes to the Pensions Sub-Committee will only be permitted where the member has been suitably trained.

6.4 Terms of Reference and Appointment of Pension Board

Appendix 3 sets out the above for the Tayside Pension Board.

6.5 Timetable for Implementation

Appendix 4 sets out the timescales provided from COSLA which are required to be met in order to implement the new governance arrangements by 1st April 2015.

7 POLICY IMPLICATIONS

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

8 CONSULTATIONS

The Chief Executive and Head of Democratic and Legal Services have been consulted in the preparation of this report.

9 BACKGROUND PAPERS

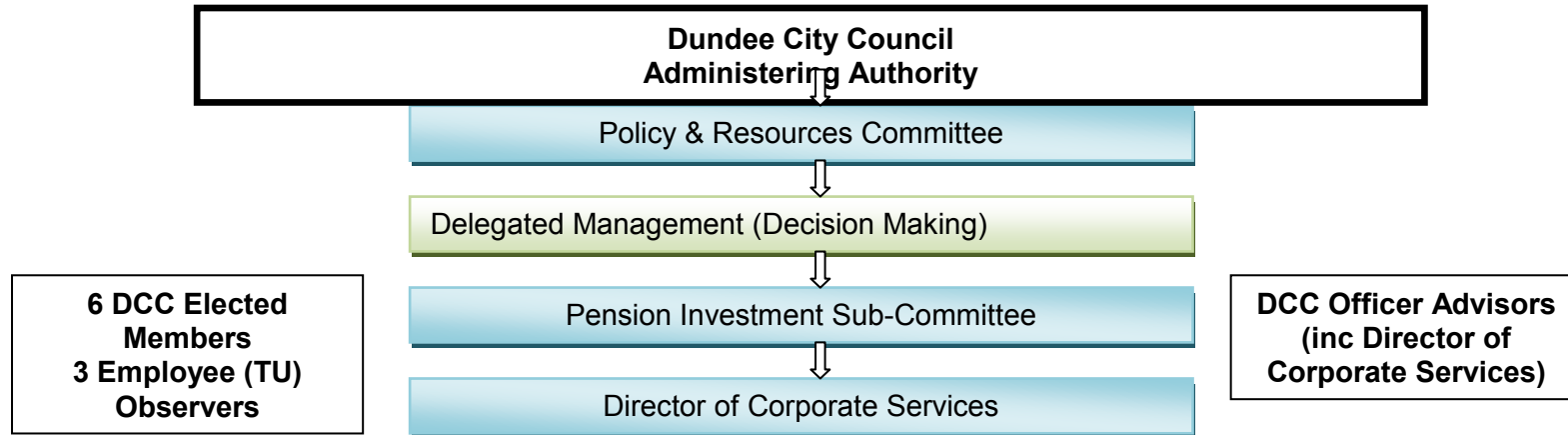
Heads of Agreement

**MARJORY M STEWART
DIRECTOR OF CORPORATE SERVICES**

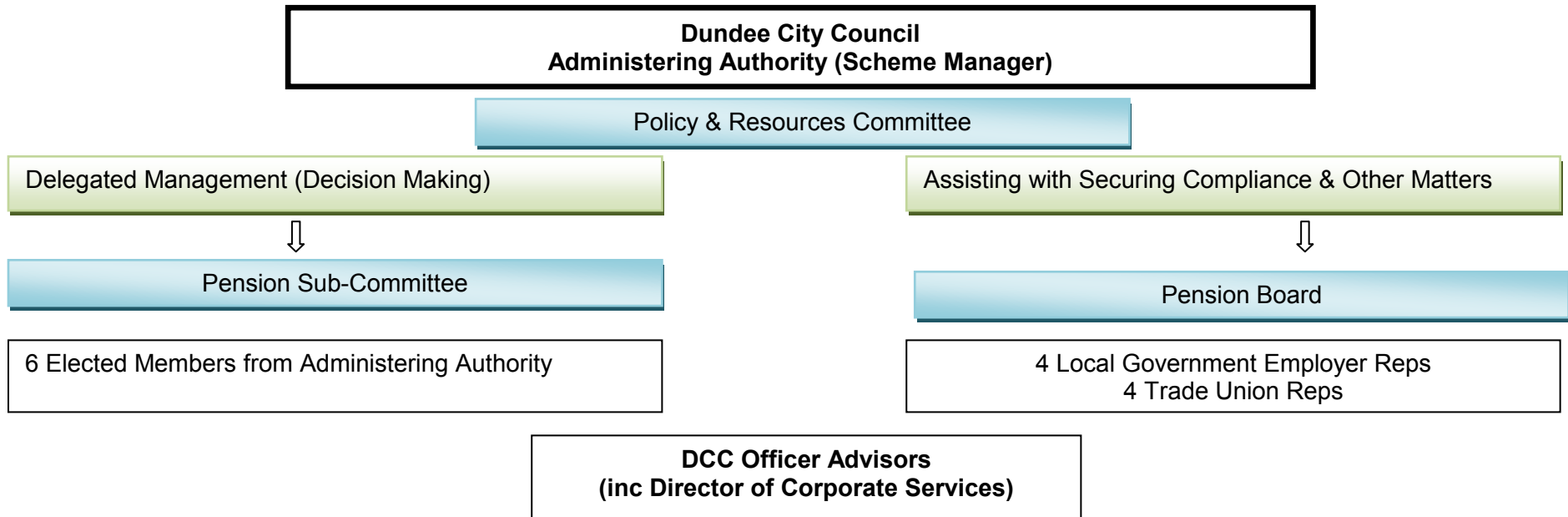
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Current Governance Structure

APPENDIX 1



Future Governance Structure



TAYSIDE PENSION BOARD CONSTITUTION

1. Introduction

- 1.1 Dundee City Council as Scheme Manager is required to establish a Pension Board separate from the Tayside Pension Fund Investment Sub-Committee that acts as the Scheme Manager.
- 1.2 Tayside Pension Board is established under the provisions of The Local Government Pension Scheme (Governance) (Scotland) Regulations 2014.

2. Objectives

- 2.1 The Pension Board is the body responsible for assisting the Scheme Manager in relation to securing compliance with the 2014 Regulations and other legislation relating to the governance and administration of the Scheme and the requirements of the Pensions Regulator.
- 2.2 The Pension Board may consider any matter concerning pensions it deems relevant to the activities of a Pensions Committee including the following (in relation to their remit and role defined in the 2014 regulations):
- Reports produced for the Pensions Sub-Committee
 - Requisition reports from the scheme managers on any aspect of the fund
 - Monitor investments and the investment principles/strategy/guidance
 - The fund annual report
 - External voting and engagement provisions
 - Fund administrative performance
 - Actuarial reports and valuations
 - Funding policy
 - Any other matters that the Pension Board deem appropriate

3. Membership

- 3.1 Membership of the Pension Board will consist of equal numbers of trade union representatives and employer representatives, drawn from councils and scheduled or admitted bodies in membership of the fund. Pension Board representatives must not also participate in or act as members of the Pensions Sub-Committee. Local Authority employer representatives will normally be Elected Members serving as part of the Council.
- 3.2 There will be 4 trade union representatives appointed from the following trade unions:
- | | | | |
|--------|---|-------|---|
| GMB | 1 | UCATT | 1 |
| UNISON | 1 | Unite | 1 |
- 3.3 There will be 4 employer representatives appointed by the respective employer organisations as follows:
- | | | |
|-----------------------------|---|--|
| Councils | 2 | (1 x Angus Council, 1 x Perth & Kinross Council) |
| Scheduled & Admitted bodies | 2 | |

- 3.4 Pension Board representatives will serve for a period of five years and may be reappointed to serve further terms. Employer bodies and organisations retain the right to withdraw representatives and identify replacements on occasion.
- 3.5 Appointing bodies can appoint a named substitute for their representative. Such substitutes must undertake the same training as set out in 6 below.
- 3.6 Advisors to the Pension Board may attend meetings of the Pension Board in a non-voting capacity.
- 3.7 No person may be appointed to the Pension Board who has a significant conflict of interest. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Pension Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme for which the Board is established. The Pension Board will adopt policies and protocols for handling any conflicts that were unanticipated and might arise during membership.

4. Meetings

- 4.1 The Chair of the Pension Board will be rotated on an annual basis between the trade union and employer sides of the Pension Board.
- 4.2 Pension Board meetings will be administered by Dundee City Council as the administering authority as agreed with Joint Secretaries appointed by the Pension Board. All reasonable administration costs shall be met by the fund.
- 4.3 The Pension Board will meet at least quarterly. A majority of either side may requisition a special meeting of the Pension Board in exceptional circumstances.
- 4.4 The Pension Board may establish sub-committees.
- 4.5 While the statutory roles and function of the Pensions Sub-Committee and Pension Board are separate, the normal practice will be that both bodies will meet at the same time to consider the same agenda, with the Chair of the Pensions Sub-Committee chairing the concurrent meeting. The aim is to engender a positive and proactive partnership culture where in practice the two bodies act as one.

5. Dispute resolution

- 5.1 If the Pensions Sub-Committee and Pension Board cannot reach joint agreement on any matter the process for resolving any differences between the two bodies will be as follows. During this process the decision of the Pensions Sub-Committee will stand.
- 5.2 In the first instance, if at least half of the members agree, then the Pension Board can refer back a decision of the Pensions Sub-Committee for further consideration if any of the following grounds are met:
- That there is evidence or information which it is considered needs re-evaluating or new evidence or data which the Pensions Sub-Committee did not access or was not aware of at the point of decision making and which is considered material to the decision taken;
 - That the decision of the Pensions Sub-Committee could be considered illegal or contrary to regulations;
 - That the decision of the Pensions Sub-Committee is contrary to a relevant Code of Practice published by the Pensions Regulator; or
 - That the decision is not in the interest of the continued financial viability of the Scheme or is against the principles of proper and responsible administration of the Scheme

- 5.3 If there is no agreement after the matter has been referred back to the Pensions Sub-Committee, then the difference in view between the Pension Board and the Pensions Sub-Committee will be published in the form of a joint secretarial report on the fund website and included in the fund annual report.
- 5.4 The Scottish LGPS Scheme Advisory Board may also consider and take a view on the matter and, if considered appropriate, provide advice to the Scheme Manager or the Pension Board in relation to the matter.

6. Training

- 6.1 All members (and named substitutes) of the Pension Board must undertake a training programme in accordance with any guidance issued by the Pensions Regulator and complying with best practice training requirements of the Pensions Sub-Committee.
- 6.2 The Pensions Board shall agree policies and arrangements for the acquisition and retention of knowledge and understanding for Pension Board members in agreement with the Scheme Manager.
- 6.3 The Scheme Manager will retain and maintain a list of the documents with which they consider Pension Board members need to be conversant to effectively carry out their role and make sure that both the list and the documents are accessible.
- 6.4 Training costs will be agreed with the Scheme Manager and only reasonable costs associated with training provided by the Scheme Manager will be met by the Scheme.

7. Access to Information

- 7.1 The Scheme Manager and Pension Board will together ensure that information is published about the activities of the board including:
- the full terms of reference for the Pension Board, including details of how they will operate
 - the Pension Board appointment process
 - who each individual Pension Board member represents and
 - any specific roles and responsibilities of individual Pension Board members.
- 7.2 The minutes of the Pension Board will be published on the fund website. The Pension Board may undertake such communications and stakeholder engagement as it deems appropriate to perform its functions.

Pension Board of Tayside Pension Fund
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Terms of Reference

Terms of Reference and Delegated Authorities

1. Introduction

The purpose of this document is to set out the terms of reference for the local Pension Board of the Tayside Pension Fund. It is the responsibility of Dundee City Council as the administering authority for Tayside Pension Fund to form a Local Pension Board.

2. Role & Remit of the Local Pension Board

The role of the local Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is to assist Dundee City Council (Administering Authority) as Scheme Manager;

- to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS
- to secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator
- in such other matters as the LGPS regulations may specify
- to secure the effective and efficient governance and administration of the LGPS for the Tayside Pension Fund
- to provide the Scheme Manager with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest.

The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pensions Regulator.

The Pension Board will also help ensure that the Tayside Pension Fund is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pensions Regulator.

The Pension Board shall meet quarterly to discharge its duties and responsibilities effectively.

3. Appointment of members of the Pension Board

The process for selecting members of the Pension Board is set out below.

3.1 Eligibility

Eligibility to become a Pension Board member (or substitute) will be in accordance with The Pension Regulator's requirements for Trustees, in so being that anyone over the age of 18 and legally capable of holding property with the following exceptions:

- they are convicted of an offence involving dishonesty or deception (unless the conviction is spent);
- they are an undischarged bankrupt, or have entered into certain other voluntary agreements with creditors;
- they have been disqualified from acting as a company director;
- they have property in Scotland which is covered by a sequestration order;
- they are not prohibited by The Pensions Regulator from being a trustee of a scheme as being deemed as not 'fit and proper' to act as a trustee.

Pension Board Members must also formally confirm their willingness to undertake the relevant training to provide them with the knowledge to perform the role as well as commit to attending the scheduled Pension Board Meetings, serving for a period of five years. Pension Board members may be reappointed to serve further terms at the discretion of the Scheme Manager. Employer bodies and organisations will however retain the right to withdraw representatives and identify replacements on occasion.

3.2 Nomination and Selection Process of Employer and Trade Union Representatives

Nomination of Pension Board Employer Representatives (and substitutes) will be by written response from their respective employers.

Once satisfied that the nominated person is eligible to be a Pension Board Member, the selection process will be undertaken by the Scheme Manager with appropriate documentation on decision making retained to provide transparency.

The nomination and selection process of Trade Union Representatives of the Pension Board will be undertaken by their respective Trade Unions. The Trade Unions will provide confirmation that their selected representatives are eligible prior to appointment by Scheme Manager.

3.3 Confidentiality and Code of Conduct

All appointed members of the Pension Board (including named substitutes) will be required to sign an agreement prepared by the Scheme Manager relating to confidentiality and code of conduct (including disclosure of conflicts of interest) prior to final appointment.

4. Constitution and Operation of Pension Board

The Pension Board shall consist of 8 members and be constituted with equal membership as follows:

- 4 employer representatives;
- 4 trade union representatives;

The Chair of the local Pension Board will be appointed by the Scheme Manager. It will be the role of the Chair to ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been reached. The term of office for the Chair will be determined by the Scheme Manager.

Each employer representative and trade union representative so appointed shall serve for a fixed 5 year period which can be extended for further period(s) subject to re-nomination.

Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least 2 meetings each year. Named substitutes may be nominated to attend on behalf of absent Board members; however these named persons must have undergone the relevant training programme set by Scheme Managers. In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the Scheme Manager in liaison with the other Board members.

Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by agreement of all of the other members and in agreement with the Scheme Manager.

The Board may, with the approval of the Scheme Manager, request attendance of advisors at meetings where particular skills and experience are required.

5. Quorum of the Pension Board

The Board will have a formal quorum of 3. Advisors do not count towards the quorum although substitute members will. The quorum of this body will have no impact on the ability of the Pensions Sub-Committee to proceed with their meeting.

6. Conflicts of Interest

This is defined in the Public Sector Pension Act 2013 as “a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme)”. The policy for identifying conflicts of interest is set out in a separate policy document.

In order to be satisfied that all appointees to the Pension Board do not have a conflict of interest, there will be a requirement to provide written confirmation on appointment and they will be required to confirm that status at the commencement of each Pension Board Meeting.

The Scheme Manager retains the decision as to whether a member of the Pension Board will be allowed to remain in the event of a conflict of interest being identified. The Scheme Manager will take advice as required from the Scheme Advisory Board.

7. Advisors to the Board

The Board may be supported from time to time in its role and responsibilities by advisors and shall, subject to any applicable regulation and legislation in force, consult with such advisors to the Board. Appointment and recompense of advisors are subject to prior agreement with the Scheme Manager.

8. Knowledge and Skills

A member of the Pension Board must be conversant with –

1. The legislation and associated guidance of the Local Government Pension Scheme (LGPS).
2. Any document recording policy about the administration of the LGPS which is for the time being adopted by the Tayside Pension Fund.

A member of the Local Pension Board must have knowledge and understanding of the law relating to pensions, and other matters which are prescribed in pension regulations.

It is the responsibility of individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board in accordance with guidance on appropriate knowledge from the Pensions Regulator. In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development. Pension Board members must comply with the Scheme Manager’s training policy.

9. Board Meetings – Notice and Minutes

The Scheme Manager shall give notice to all Pension Board members of every meeting of the Pension Board. The Scheme Manager shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board, they shall be circulated to all members.

There will be 4 Pension Board meetings a year to be held quarterly.

10. Standards of Conduct

The role of Pension Board members requires the highest standards of conduct and therefore the “seven principles of public life” will be applied to all Pension Board members and embodied in their code of conduct.

11. Decision making

Each member of the Pension Board will have an individual voting right but it is expected the Pension Board will as far as possible reach a consensus. The Chair of the Pension Board will have the final casting vote which will be reported to the Scheme Manager.

12. Publication of Pension Board information

Scheme members and other interested parties will want to know that the Tayside Pension Fund is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, the governance and administration of the scheme and requirements of the Pension Regulator. Up to date information will be posted on the Tayside Pension Fund website showing

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

Pension Board papers, agendas and minutes of meetings will be published on the Tayside Pension Fund website. These may at the discretion of the Scheme Manager be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Schedule 7A to the Local Government (Scotland) Act 1973 or it being confidential in terms of that Act and/or they represent data covered by the Data Protection Act 1998.

The Scheme Manager will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

13. Accountability

The Pension Board will be collectively and individually accountable to the Scheme Manager.

14. Expense Reimbursement

All expenses relating to the Pension Board shall be agreed by the Scheme Manager.

15. Reporting Breaches

Any breaches of controls or operations found not to be in accordance with the legislation and guidance by Pensions Regulator that are brought to the attention of the Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in a separate policy document.

16. Definitions

The undernoted terms shall have the following meaning when used in this document: *“Pension Board”* or *“Board”*

“Scheme Manager”

“Chair”

“LGPS”

“Scheme”

Means the local Pension Board for the Dundee City Council administering authority for the Tayside Pension Fund as required under the Public Service Pensions Act 2013

Means Dundee City Council as administering authority of the Tayside Pension Fund.

Reference to duties to be performed, or authorities exercised, by the Chair

The Local Government Pension Scheme as constituted by the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008, the Local Government Pension Scheme Administration) (Scotland) Regulations 2008, The Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 and the

The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulations 2010 Means the Local Government Pension Scheme as defined under “LGPS”

SUGGESTED TIMETABLE FOR PENSION BOARD ESTABLISHMENT
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The time periods within this document are suggestions only and indicative of existing mechanisms. Local decision making remains key to the success of the establishment of Pension Boards for the LGPS and Pension Fund Managers should exercise discretion in confirming their own timetable whilst maintaining a constructive dialogue with employer and employee representatives.

<i>Activity</i>	<i>Responsibility</i>	<i>Timescale</i>	<i>Dependencies</i>
Communication to Pension Fund Managers and Scottish Council*	COSLA	30/09/2014	
Trade Union Side have Pensions Champions meeting on 30/09/14.*	Trade Unions	30/09/2014	
Draft Pension Board appointments process *	Administering Authority	30/11/2014	Letter of Comfort from Cab Secretary.
Begin discussions on local negotiations using LGPS New Governance Arrangements Report to Pension Investment Sub-Committee (Report 387-2014)	To Be Determined by Administering Authority and Trade Union Representatives	December 2014	Trade Union Regional organisers to have consulted with branches re views of employee side.
Consultation on Draft Report to Policy & Resources Committee		Jan 2015	
Report on Review of Governance Arrangements – Tayside Pension Fund Submitted to P&R 09/02/15	Administering Authority	29/01/15	Agreement of report on 20/1
Identification of Trade Union Representatives *	Trade Union Regional organisers	17/02/15	Via the process agreed for each Trade Union.
Identification of Employer Representatives *	Scheme Manager and LA Employers	28/02/2015	Nomination and Selection Process undertaken by Scheme Manager
Training of Employee Side nominees*	Trade Union Regional organisers	28/02/2015	Training delivered by each Trade Union to their reps.
Agree Pension Board membership from Employers through Appointment Process and Committee*	Scheme Manager	31/03/2015	Committee cycle and completion of selection process
Mandatory Online Modules of Training Programme for ALL Pension Board & Pension Committee Members completed	Scheme Manager & members	29/05/15	Training Programme developed by Scheme Manager

- **Item supplied by COSLA.**