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PENSION BOARD THURSDAY, 18TH JUNE, 2015

A MEETING of the PENSION BOARD will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS on THURSDAY, 18 JUNE 2015 at 9.15 am.

J. J. WILKINSON,
Clerk to the Council,

11 June 2015

BUSINESS		
1.	Welcome and Introductions	
2.	Apologies for Absence	
3.	Appointment of Chairman	2 mins
4.	Appointment of Vice Chairman	2 mins
5.	Pension Board Constitution (Pages 1 - 14) Consider report by Chief Financial Officer. (Copy attached).	15 mins
6.	Date of next meeting The next meeting of the Pension Board is scheduled to take place on 3 September 2015 at 9.15 am in the Council Chamber.	

NOTES

- Timings given above are only indicative and not intended to inhibit Members' discussions.**
- Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

Membership of Committee:- Councillors S Aitchison, Mr E Barclay, Ms R Black, Mr M Drysdale, Ms L Ross, Mr P Smith, Ms C Stewart and Mr J Terras.

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PENSION BOARD CONSTITUTION

Report by Chief Financial Officer

PENSION BOARD

18 June 2015

1 PURPOSE AND SUMMARY

1.1 This report sets out the constitution for the Pension Board and identifies specific actions required by the Pension Board.

1.2 During 2014/15, officers in conjunction with the Pension Fund Committee members and national guidance developed a constitution for the new Pension Board. This was approved by Full Council on 2 April 2015.

1.3 This report formalises the Pension Board's adoption of the constitution as set out in **Appendix 1**.

2 STATUS OF REPORT

2.1 This report has not been circulated to consultees within the recommended timeframe and as a result their comments have not been able to be included in the report, but will be presented to the Joint Committee and Board meeting where applicable. The late preparation of the report is related to the significant work involved in producing all the final year end reports and securing the membership of the new Board.

3 RECOMMENDATIONS

3.1 It is recommended that the Pension Board:

(a) Adopt the constitution as set out in Appendix 1;

(b) Identify and approve nominated officers for the role of Joint Secretary to the Board;

(c) Agree that the meeting dates of the Pension Board will be aligned to those of the Joint Meeting of the Pension Fund Committee and Pension Board, and that they will commence immediately following the end of the Joint Meeting; and

(d) Identify and approve 2 nominated representatives from the Pension Board to sit on the Pension Fund Investment and Performance Sub Committee.

4 BACKGROUND

- 4.1 The Public Services Pensions Act 2013 introduced the requirement for Pensions Boards, and the Council approved the constitution for the Fund's Pension Board on 2 April 2015, which followed the model constitution agreed by the Scottish Local Government Pensions Advisory Group (SLOGPAG).
- 4.2 The Pension Board is the body responsible for assisting the Council as Administering Authority for the Pension Fund, in relation to:
- a) securing compliance with the regulations and other legislation relating to the governance and administration of the Scheme and any statutory pension scheme that is connected with it;
 - b) securing compliance with requirements imposed in relation to the Scheme and any connected scheme by the Pensions Regulator; and,
 - c) such other matters as the regulations may specify.

5 PENSION BOARD CONSTITUTION

- 5.1 It is proposed that the Pension Board adopt the Constitution as set out in **Appendix 1**.
- 5.2 As a result of this adoption there are several administrative aspects that need to be agreed.

Joint Secretaries

- 5.3 The Constitution provides for the role of Joint Secretary to the Pension Board to be undertaken by two officers who are appointed by the Scheme Employers and the Trade Unions.
- 5.4 As set out in the Constitution:

"The Joint Secretaries' role is to liaise with Pension Board members and other colleagues to support the smooth operation of Pension Board meetings and to assist in the resolution of any issues arising within normal Pension Board meetings or processes."

- 5.5 It is proposed that the Scheme Employers Representatives and the Trade Union Representatives identify their nominated officer for the role of Joint Secretary to the Board.

Meetings

- 5.6 The Constitution states:

"In order to meet the responsibilities of the objectives of the Pension Board, it will be normal practice for the Pension Board to meet immediately after the joint meeting with the Pension Fund Committee. One of the purposes of this meeting will be to identify any matters that the Pension Board wishes to raise under the Dispute Resolution process"

5.7 It is therefore anticipated that the normal meeting pattern of the Pension Board will be to have a short meeting (unlikely to be longer than ½ hour) immediately following the Pension Fund Committee to identify any issues that need to be raised under the Dispute Resolution process.

5.8 It is hoped that if the operation of the concurrent meetings with the Pension Fund Committee works effectively and in the manner intended, that any disputes will be minimal.

5.9 It is therefore proposed that the meeting dates for the Pension Board are as follows:

18 June 2015
3 September 2015
10 December 2015
3 March 2016
16 June 2016.

These meetings will commence immediately following the end of the joint meeting of the Pension Fund Committee and Pension Fund Board.

6 PENSIONS FUND INVESTMENT AND PERFORMANCE SUB-COMMITTEE

6.1 **Appendix 2** contains an extract from the Council's Scheme of Administration which sets out the remits of the Pension Fund Committee, the operation of the concurrent meeting and the Pension Fund Investment and Performance Sub-Committee.

6.2 There is provision within the Pension Fund Investment and Performance Sub-Committee to have two non-voting members nominated by the Pension Board. It is recommended that the Pension Board identify their two nominated members to sit on this Sub-Committee.

6.3 The dates for the two meetings for 2015/16 that have been agreed for the Sub-Committee are:

24 August 2015
4 February 2016

These meetings will be the meetings to which the Fund Managers bring their investment update presentations.

7 IMPLICATIONS

7.1 Financial

There are no financial implications relating to this proposal.

7.2 Risk and Mitigations

(a) This report is part of the governance framework to manage the operation of the Pension Fund and reflects the compliance with the best practice recommendations.

7.3 Equalities

(a) It is anticipated that there are no adverse equality implications of the proposals within this report.

7 CONSULTATION

7.1 The Constitution of the Pension Board was developed in consultation with the Pension Fund Committee and approved by full Council on 2 April 2015.

Approved by

**David Robertson
Chief Financial Officer**

Signature

Author(s)

Name	Designation and Contact Number
Lynn Mirley	Corporate Finance Manager, 01835 825016

Background Papers:

Previous Minute Reference: Council, 2 April 2015

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Capital & Investments Team can also give information on other language translations as well as providing additional copies.

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SCOTTISH BORDERS COUNCIL PENSION FUND

APPENDIX 1

PENSION BOARD

CONSTITUTION

1. Introduction

- 1.1 Scottish Borders Council is the Administering Authority for the Local Government Pension Scheme (LGPS) set up for the Scottish Borders geographic area, known as the Scottish Borders Council Pension Fund (the Fund).
- 1.2 The Council has delegated its responsibilities of Scheme Manager to the **Pension Fund Committee**.
- 1.3 The Council is required to establish a Pension Board separate from the Pension Fund Committee which acts as the Scheme Manager for the Fund.
- 1.4 The **Scottish Borders Council Pension Board** (the Pension Board) is established under the provisions of the Local Government Pension Scheme (Governance) (Scotland) Regulations 2015.
- 1.5 This constitution was approved by Scottish Borders Council on 2 April 2015.

2. Objectives

- 2.1 The Pension Board is the body responsible for assisting the Scheme Manager in relation:
 - a) securing compliance with the regulations and other legislation relating to the governance and administration of the Scheme and any statutory pension scheme that is connected with it;
 - b) securing compliance with requirements imposed in relation to the Scheme and any connected scheme by the Pensions Regulator; and
 - c) such other matters as the regulations may specify .
- 2.2 The Pension Board will have the remit to determine the areas they wish to consider including, amongst others:
 - a) Reports produced for the Pension Fund Committee;
 - b) Seek reports from the Scheme Manager on any aspect of the Fund;
 - c) Monitor investments and the investment principles/strategy/guidance;
 - d) The Annual Report and Accounts for the Fund;
 - e) External voting and engagement provisions in relation to investments;
 - f) Pension Fund Administrative Strategy and associated performance;
 - g) Actuarial reports and valuations;
 - h) Funding Strategy Statement and associated policy; and
 - i) Any other matters that the Pension Board deems appropriate within the responsibilities set out in 2.1 above.

3. Membership

- 3.1 The Pension Board will consist of eight members.
- 3.2 Membership of the Pension Board will consist of equal numbers of trade union representatives and employer representatives, the latter being drawn from the Council and scheduled or admitted bodies in membership of the Fund.
- 3.3 Pension Board representatives cannot be members of the Pension Fund Committee.
- 3.4 Pension Board representatives are required to adhere to the Model Code of Conduct as specified by Scottish Government (details can be found at the link <http://www.scotland.gov.uk/Topics/Government/local-government/governance/ethical-standards/codes>)

Scheme Employer Representatives

- 3.5 There will be four Scheme Employer Representatives appointed by the respective employer organisations as follows:

Scottish Borders Council	1 member
Scheduled bodies – Borders College	1 member
Admitted bodies –	2 members

- 3.6 Scottish Borders Council employer representative will be an Elected Member who is not a member of the Pension Fund Committee.
- 3.7 Borders College will appoint their representative and communicate this as per the procedure set out in 3.10 below.
- 3.8 Each Admitted Body within the Pension Fund will be contacted and offered the opportunity to put forward a representative for the Pension Board. In the event that more than two representatives are put forward, then the representatives from the Admitted Bodies with the largest membership in the Pension Fund will be nominated.

Trade Union Representatives

- 3.9 There will be four Trade Union Representatives appointed by the Trade Unions as follows:

GMB	1 member
UNISON	1 member
Unite	1 member

The fourth trade union representative will be agreed by the Council’s Trade Union Consultative Group.

Term of Appointment

- 3.10 Representatives of the Board will serve for a period of four years, or to the next local government election, whichever is earlier and may be reappointed to serve further terms.

Withdrawal and Replacement of Representatives

- 3.11 Scheme Employers and Trade Union bodies retain the right to withdraw their representatives and identify replacements as they deem appropriate, and they will be responsible for advising the Council's Democratic Services Team, normally at least two months prior to a Pension Board meeting.

Substitutes

- 3.12 Scheme Employers and Trade Union bodies can appoint a named substitute for their representative and will serve for the same period of appointment as the other Board representatives as set out in 3.9 above. Such substitutes must undertake and completed the same training as set out in 6 below. An individual substituting for the Chair or Vice-Chair will not assume that role on the Board, only the role of representing the specified Scheme Employer or Trade Union.

Advisors and Officers

- 3.13 Advisors to the Board and/or Officers of the Scottish Borders Council may attend meetings of the Pension Board in a non-voting capacity at the request of the Chair of the Pension Board. There is no requirement to remunerate the advisors.

4. Conflict of Interest

- 4.1 No person may be appointed to the Pension Board that has a significant conflict of interest.
- 4.2 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.
- 4.3 The Pension Board shall adopt appropriate policies and protocols for handling any conflicts that were unanticipated and might arise during membership.

5. Joint Secretaries

- 5.1 The role of Joint Secretary for the Pension Board should be undertaken by two officers who are appointed by the Scheme Employers and the relevant Trade Unions. These officers should be identified from within existing resources.
- 5.2 There is no expectation that the Joint Secretary to the Pension Board will undertake secretariat tasks or functions in relation to the Pension Board, as these will be undertaken by the Council's Democratic Services Team.
- 5.3 The Joint Secretaries' role is to liaise with Pension Board members and other colleagues to support the smooth operation of Pension Board meetings and to assist in the resolution of any issues arising within normal Pension Board meetings or processes.

6. Meetings

- 6.1 The Chair of the Pension Board will be rotated on an annual basis between the Trade Union and Scheme Employer Representatives on the Pension Board. The duties of the Chair will be the same as those set out in the Scottish Borders Council Procedural Standing Orders.

- 6.2 The Vice-Chair of the Pension Board will also be rotated on an annual basis on the opposite rotation to the Chair so that at all times there is a Trade Union Representative and Scheme Employer Representative in these two positions. The duties of the Vice-Chair will be to deputise for the Chair in the event of their absence.
- 6.3 It will be up to the Scheme Employer Representatives and the Trade Union Representatives to nominate one of their number for appointment to the Chair/Vice-Chair role. This nomination should be communicated to the Council's Democratic Services Team and will stand for a period of four years, or to the next local government election, whichever is earlier.
- 6.4 Pension Board meetings will be administered by the Council's Democratic Services Team as agreed with Joint Secretaries. All reasonable administration costs shall be met by the Pension Fund.
- 6.5 While the statutory roles and function of the Pension Fund 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 Pension Fund 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. As a result the Pension Board will meet on average quarterly.
- 6.6 In order to meet the responsibilities of the objectives of the Pension Board, it will be normal practice for the Pension Board to meet immediately after the joint meeting with the Pension Fund Committee. One of the purposes of this meeting will be to identify any matters that the Pension Board wishes to raise under the Dispute Resolution process set out in 7 below.
- 6.7 It will require at least 3 members (each from different representative body) of the Pension Board to requisition an additional special meeting of the Pension Board separate from the Pension Fund Committee in exceptional circumstances. The Joint Secretaries of the Board should notify the members of the Pension Fund Committee of the meeting and its purpose.
- 6.8 The Pension Board may establish sub-committees to take forward aspects of work relating to its Objectives as set out in Section 2 above.
- 6.9 For meetings of the Pension Board that are not held concurrently with the Pension Fund Committee, the Chair of the Pension Board will have the casting vote in the event of a tied vote situation. In the absence of the Chair, the Vice-Chair will Chair the meeting and have the casting vote in the event of a tied vote situation.

7. Quorum

- 7.1 For the purposes of the Pension Board when meeting independently of the Pension Fund Committee, no business can be transacted at a meeting unless there are four members of the Pension Board present. Of these four members there must be at least one Trade Union Representative and one Employer Representative present and either the Chair or Vice Chair.

8. Dispute Resolution between Pension Fund Committee and Pension Board

- 8.1 At the joint meeting referred to in 5.7 above, if the Pension Fund Committee and Pension Board cannot reach joint agreement on any matter the process for resolving any differences between the two bodies is set out in 7.3 below.
- 8.2 Whilst this process is undertaken the decision of the Pension Fund Committee is still competent.
- 8.3 In the first instance, if at least half of the members of the Pension Board agree, then the Pension Board can refer back a decision of the Pension Fund 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 Pension Fund 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 Pension Fund Committee could be considered illegal or contrary to regulations;
 - That the decision of the Pension Fund 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 Scottish Borders Council Pension Fund or is against the principles of proper and responsible administration of the Scottish Borders Council Pension Fund.
- 8.4 This referral must be communicated to the Clerk to the Council within 10 working days of the joint meeting with the Pension Fund Committee which made the decision being required to be reconsidered.
- 8.5 If there is no agreement after the matter has been referred back to the Pensions Fund Committee, then the difference in view between the Pension Board and the Pension Fund Committee will be published in the form of a joint secretarial report from the Pension Board on the Pension Fund website and included in the Pension Fund's Annual Report.
- 8.6 The Scottish LGPS Scheme Advisory Board may also consider and take a view on the matter and, if considered appropriate, provide advice to Scottish Borders Council as the Scheme Manager or the Pension Board in relation to the matter.

9. Training

- 9.1 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 the Pension Fund Training Policy and complying with best practice training requirements of the Pension Fund Committee.
- 9.2 The Pension Fund Committee will include the members of the Pension Board within the Annual Training Programme for the Pension Fund, and members of the Pension Board will be required to participate in the Programme.
- 9.3 The Pension Board shall agree policies and arrangements for the acquisition and retention of knowledge and understanding for Pension Board members.
- 9.4 Scottish Borders Council as the Scheme Manager will keep an updated 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.

10. Access to Information

- 10.1 Scottish Borders Council as 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.
- 10.2 The minutes of the Pension Board will be published on the Pension Fund website. The Pension Board may undertake such communications and stakeholder engagement as it deems appropriate to perform its functions.

PENSION FUND COMMITTEE

Constitution

Seven Members of the Council comprising –

- (a) the Depute Leader (Finance)
- (b) the Executive Member for HR and Corporate Improvement
- (c) three other Members of the Administration
- (d) two members from the Opposition

Quorum

Four members of the Committee shall constitute a Quorum.

Functions Referred

The following functions of the Council shall stand referred to the Committee -

1. All matters relating the Council's role as the Administering Authority for the Scottish Borders Council Pension Fund, within the terms of all relevant Local Government Pension Scheme legislation and the requirements of the Pension Regulator.

Functions Delegated

All of the functions delegated to the Committee.

Meeting Frequency

It is anticipated that the Pension Fund Committee will meet at least quarterly.

Joint Meeting with the Pension Board

While the statutory roles and function of the Pension Fund 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 Pension Fund 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.

Dispute Resolution between Pension Board and Pension Fund Committee

Within the regulations there is a prescribed approach to dispute resolution between the Pension Board and the Pension Fund Committee.

- 1) At the joint meeting referred to above, if the Pension Fund Committee and Pension Board cannot reach joint agreement on any matter the process for resolving any differences between the two bodies is set out in 3) below.

- 2) Whilst this process is undertaken the decision of the Pension Fund Committee is still competent.
- 3) In the first instance, if at least half of the members of the Pension Board agree, then the Pension Board can refer back a decision of the Pension Fund Committee for further consideration if any of the following grounds are met:
 - That there is evidence or information which the Pension Board considers needs re-evaluating or new evidence or data which the Pension Fund 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 Pension Fund Committee could be considered illegal or contrary to regulations;
 - That the decision of the Pension Fund 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 Scottish Borders Council Pension Fund or is against the principles of proper and responsible administration of the Scottish Borders Council Pension Fund.
- 4) This referral must be communicated to the Clerk to the Council within 10 working days of the joint meeting with the Pension Fund Committee which made the decision being required to be reconsidered.
- 5) If there is no agreement after the matter has been referred back to the Pensions Fund Committee, then the difference in view between the Pension Board and the Pension Fund Committee will be published in the form of a joint secretarial report from the Pension Board on the Pension Fund website and included in the Pension Fund's Annual Report.
- 6) The Scottish LGPS Scheme Advisory Board may also consider and take a view on the matter and, if considered appropriate, provide advice to Scottish Borders Council as the Scheme Manager or the Pension Board in relation to the matter.

**(PENSION FUND COMMITTEE)
PENSION FUND INVESTMENT AND PERFORMANCE SUB-COMMITTEE**

Constitution

Nine members, being the seven members of the Pension Fund Committee and two non-voting members nominated by Pension Board.

Chairman

The Chairman shall be the Chairman of the Pension Fund Committee.

Functions Referred

The following functions of the Council shall stand referred to the Sub-Committee

1. Reviewing the Pension Fund's Statement of Investment Principles.
- #2. Where appropriate, recommending changes to the Pension Fund Committee in relation to the Statement of Investment Principles.
3. Ensuring appropriate investment management arrangements are in place for monies of the Pension Fund and to review investment manager performance.
4. Overseeing the contractual review of the fund managers and investment adviser(s) and custodian.
- #5. Where appropriate, making recommendations to the Pension Fund Committee in relation to the appointment or removal of a fund manager, investment adviser or custodian.
- #6. Overseeing the overall approach to investment risk management and where appropriate recommending changes to the Pension Fund's Risk Register.

Functions Delegated

All functions above NOT marked #. Those functions marked # are referred to the Sub-Committee for consideration and recommendation only and must receive approval of the Pension Fund Committee.

Meeting Frequency

It is anticipated that the Pension Fund Investment and Performance Sub-Committee will meet at least every six months.

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