
**LOCAL GOVERNMENT PENSION SCHEME REFORM
GOVERNANCE**

Report by Chief Financial Officer

SCOTTISH BORDERS COUNCIL

2 April 2015

1 PURPOSE AND SUMMARY

- 1.1 **This report proposes the amended governance arrangements for the Scottish Borders Council Pension Fund Committee following changes in the legislation including the requirement to create a Pension Board.**
- 1.2 This report details the background to the requirement to create a Pension Board with Employer and Trade Union Representatives, with a constitution based on a model set out nationally and its function set out in new Local Government Pension Scheme (Governance) (Scotland) Regulations 2015.
- 1.3 The report presents the proposed constitution for the Pension Board in Appendix 1, the amendment to the Scheme of Administration (Appendices 2 and 3) for the resulting changes required to the Pension Fund Committee and the requirement to create a new Pension Fund Investment and Performance Sub-Committee.
- 1.4 The report seeks the identification of an Elected Member to sit as the Council's representative on the Pension Board.

2 RECOMMENDATIONS

2.1 It is recommended that the Council:

- (a) **agrees the creation of a Pension Board for the Scottish Borders Council Pension Fund with a constitution as set out in Appendix 1;**
- (b) **agrees the amendment of the Council's Scheme of Administration to incorporate the changes to the Executive's functions to include the following under "Staffing":**
Employer discretions under Local Government Pension Scheme, within the terms of the relevant legislation;
- (c) **agrees the amendment of the Council's Scheme of Administration to incorporate the changes to the Pension Fund Committee's functions as set out in Appendix 2;**
- (d) **agrees the amendment of the Council's Scheme of Administration to incorporate the creation of a Pension Fund Investment and Performance Sub-Committee as set out in Appendix 3 and the addition of 24 August 2015 and 4 February 2016 to the Council's Meeting Calendar for this Sub-Committee; and**
- (e) **appoint an Elected Member to represent the Council on the Pension Board.**

3 BACKGROUND

- 3.1 The Public Service Pensions Act 2013 included several key provisions relating to the public service pension schemes established under Section 1 of the Act. One of these provisions related to the establishment of Pension Boards for every Fund and a Scheme Advisory Board for each Public Service Pension Scheme.
- 3.2 The Scottish Local Government Pensions Advisory Group (SLOGPAG) was tasked to support the Scottish Public Pensions Authority (SPPA) to develop the regulations for these new provisions in relation to the Local Government Pension Scheme (LGPS) in Scotland.
- 3.3 As a result of bilateral meetings between COSLA and the Trade Unions, a Heads of Agreement was reached in relation to the agreed principles for the governance of the Scottish LGPS. This Agreement was reported to the Pension Fund Committee at its meeting on 4 September 2014.
- 3.4 A workshop was held with the Elected Members who sit on the Pension Fund Committee on 12 November 2014 to discuss the implications of the legislation and the draft regulations. This informed a potential way forward as to how to implement the requirements of the draft Regulations and inform the proposals presented to Trade Unions and other Employers in the Scottish Borders Council Pension Fund (the Pension Fund).
- 3.5 A presentation was made to the Trade Union Joint Group on 27 November 2014 with the outcome of the Elected Member workshop and the associated proposals for the new Committee Structure and the Pension Board.
- 3.6 During December 2014 and January 2015 the Corporate Finance Manager met with the Finance Director of Scottish Borders Housing Association (SBHA), the Business Manager for Borders Sport & Leisure Trust (BSLT) and the Director - Finance and Resources of Borders College to brief them on the proposals for the changes in the governance arrangements.
- 3.7 The Pension Fund membership for SBHA, BSLT and Borders College represents 89% of the non-Scottish Borders Council membership of the Fund. When the Council is then taken into account these four scheme employers represent 99% of the total membership of the Pension Fund.
- 3.8 The Local Government Pension Scheme (Governance) (Scotland) Regulations 2015 (the Regulations) were laid before the Scottish Parliament in late February 2015 and apply from 1 April 2015. It is these Regulations that set out the legislative requirements for the Pension Board.
- 3.9 The finalised model constitution for Pension Boards was issued by SLOGPAG and agreed by COSLA at the end of January 2015.

4 PENSION BOARD

4.1 Under the Regulations the Pension Board has responsibility for assisting the scheme manager (i.e. Scottish Borders Council) in relation to:

- a) securing compliance with relevant legislation relating to the governance and administration of the Pension Fund; and
- b) securing compliance with the requirements imposed in relation to the Scheme by the Pension Regulator.

4.2 The Pension Board is required to comprise of:

4 representatives appointed by Scheme Employers, and
4 representatives appointed by relevant Trade Unions.

4.3 The Regulations state that in order to fulfil this responsibility, the Pension Board and the Pension Fund Committee will meet at the same place and time to consider the same agenda. This will be referred to as the Joint Meeting and the Chairman of this will be the Chairman of the Pension Fund Committee.

5 PENSION BOARD CONSTITUTION

5.1 The Regulations state that Pensions Boards "may adopt or tailor to their circumstances" the model constitution issued by Scottish Government, which is in effect the document issued by SLOGPAG.

5.2 **Appendix 1** contains the proposed constitution, based on the principles of the model constitution provided by SLOGPAG on behalf of Scottish Ministers with some amendments to meet local requirements. The key points of note in the constitution are highlighted below.

5.3 **Scheme Employer Representatives** (Appendix 1 Paras 3.5 – 3.8)
It is proposed that the four Scheme Employer Representatives are made up of an Elected Member from Scottish Borders Council, a representative from Borders College and two representatives from Admitted Bodies.

5.4 **Trade Union Representatives** (Appendix 1 Para 3.9)
The national model proposes four Trade Union Representatives each from a different Trade Union. However, in the Scottish Borders there is no real presence from UCAT and therefore there are only three Trade Union bodies to represent the members of the Pension Fund. It is proposed to allocate each Trade Union a place on the Pension Board and then to have the Council's Trade Union Joint Consultative Group to agree how the fourth member is appointed.

5.5 **Term of Appointment** (Appendix 1 Para 3.10)
In order to align the membership of the representatives on the Pension Board with the Local Government election cycle, the term of appointment provision allows for a term of four years or to the next local government election whichever is the earlier.

5.6 **Joint Secretaries** (Appendix 1 Section 5)
The Scheme Employers and the Trade Unions will each nominate a Joint Secretary to liaise with the Pension Board members and other colleagues to support the smooth operation of the Pension Board and assist in the resolution of any issues.

- 5.7 **Chair and Vice-Chair** (Appendix 1 Para 6.1 and 6.2)
The constitution contains provision for a Vice-Chair of the Pension Board as well as a Chair. The Vice-Chair is intended to come from the opposite group of representatives to the Chair. For example, if an Employer Representative is the Chair of the Pension Board, a Trade Union Representative will be the Vice-Chair.
- 5.8 **Meetings** (Appendix 1 Para 6.6- 6.9)
The constitution provides for the Pension Board to meet on its own immediately after the joint meeting with the Pension Fund Committee in order that they can raise any concerns about decisions under the Dispute Resolution Process promptly. In addition, the constitution provides for the Chair or, where appropriate, the Vice-Chair to have a casting vote on the Pension Board.
- 5.9 **Quorum** (Appendix 1 Section 7)
The constitution defines that for business to be transacted by the Pension Board, it requires four representatives to be present with a minimum of one Trade Union and one Employer Representative present and either the Chair or the Vice-Chair.
- 5.10 **Dispute Resolution** (Appendix 1 Section 7)
The Dispute Resolution process is set out in the Regulations and the model constitution and the proposed approach for the Pension Board reflects this. Additional clarification has been given as to how long the Pension Board has to raise a referral on a decision by the Pension Fund Committee in order to avoid decisions being placed under query for overly lengthy periods.
- 5.11 **Training** (Appendix 1 Para 8.1)
It is proposed that the Pension Board's training requirements are incorporated into the Pension Fund's Training Policy for completeness and to ensure that the members of the Pension Board and the Pension Fund Committee have access to the same training. The Training Policy will be updated and presented to the joint meeting of the Pension Fund Committee and Pension Board in June 2015.
- 5.12 It should be recognised that once the Pension Board is formed it has the ability to amend its constitution as it sees fit within the parameters of the Regulations.

6 PENSION FUND COMMITTEE

- 6.1 As a result of the engagement process detailed in Section 3 above, it is proposed to amend the Council's Scheme of Administration.
- 6.2 The first requirement is to remove the reference to Employer discretions from the Pension Fund Committee's functions and add this to the Executive's. The amendment required is therefore to add the following to the Executive's Functions within the Scheme of Administration:
"Staffing
Employer discretions under Local Government Pension Scheme, within the terms of the relevant legislation."
- 6.3 As a result of the requirement to create a Pension Board that meets jointly with the Pension Fund Committee, it is proposed that the Pension Fund Committee creates a formal sub-committee for the investment and performance aspect of the Committee's remit. This is to avoid the joint meetings becoming too long and unwieldy. In addition, as employers and Trade Unions will be represented on the Pension Board, it is proposed to

- remove the five non-voting members from the Pension Fund Committee.
- 6.4 The proposed amendment to the Scheme of Administration for the Pension Fund Committee is contained in **Appendix 2**.
- 6.5 The creation of a Pension Fund Investment and Performance Sub-Committee through an addition to the Scheme of Administration is contained in **Appendix 3**. There is provision for two members of the Pension Board to have non-voting membership of the Sub-Committee. It is proposed that this Sub-Committee will only meet twice a year and it will be the intention to invite all fund managers to present on this day.
- 6.6 It will be the intention for these new arrangements to be implemented immediately following approval by the Council in order to meet with the requirements of the new Regulations.
- 6.7 The changes proposed do not change the decision making role for the Pension Fund and that remains with the Pension Fund Committee.

7 IMPLEMENTATION

- 7.1 Letters have been sent to the Trade Unions and the Scheme Employers to request nominations for the Pension Board. The deadline for this has been set at 1 April 2015. This will enable the officers to assess the training needs of the members of the Pension Board and develop the appropriate training plan.
- 7.2 The Council's Trade Unions have indicated that they will be allocating the fourth representative to Unison based on the national agreement between trade unions to allocate "spare seats" on the basis of proportionality.
- 7.3 The Council will be required to nominate a Scheme Employer representative to the Pension Board, and this cannot be an existing member of the Pension Fund Committee due to the role of the Pension Board.
- 7.4 It is proposed to use the existing Pension Fund Committee dates in the Committee calendar for the joint meetings with the Pension Board. In addition two additional dates will be required to be added for the meeting of the new Pension Fund Investment and Performance Sub-Committee.
- 7.5 The dates identified for the various meetings are:

Joint Pension Fund Committee/Pension Board

18 June 2015

3 September 2015

10 December 2015

3 March 2016

Pension Fund Investment and Performance Sub-Committee

24 August 2015

4 February 2016

8 IMPLICATIONS

8.1 Financial

Any costs associated with the implementation of the new governance arrangements will be met by the Pension Fund; however, these are not expected to be significant.

8.2 Risk and Mitigations

The introduction of the Pension Board into the Pension Fund governance arrangements is intended to be an additional support for the Council as Scheme Manager to meet its compliance requirements in relation to relevant regulations and the requirements of the Pensions Regulator.

8.3 Equalities

An Equalities Impact Scoping Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

8.4 Acting Sustainably

There are no significant impacts on the economy, community or environment arising from the proposals contained in this report.

8.5 Carbon Management

There are no significant effects on carbon emissions arising from the proposals contained in this report.

8.6 Rural Proofing

This report does not relate to new or amended policy or strategy and as a result rural proofing is not an applicable consideration.

8.7 Changes to Scheme of Administration or Scheme of Delegation

The changes to the Scheme of Administration are set out in sections 5 and 6 of this report.

9 CONSULTATION

- 9.1 The Monitoring Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, the Chief Officer HR, and the Clerk to the Council have been consulted as part of the development of the report to the Pension Fund Committee and their comments have been incorporated into the final report.
- 9.2 SBHA, BSLT and Borders College officers have been contacted and given an overview of the proposals and implications for their organisations.
- 9.3 The Trade Union Joint Consultative Group at the Council has had a presentation on the outline proposals.
- 9.4 The Pension Fund Committee supported the model constitution at their meeting on 29 January 2015, subject to any changes arising from the issue of the final Regulations in February.

Approved by

David Robertson
Chief Financial Officer

Signature

Author(s)

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Background Papers:

Local Government Pension Scheme (Governance) Scotland Regulations 2015
Pension Board Model Constitution issued by SLOGPAG January 2015

Previous Minute Reference: Pension Fund Committee, 29 January 2015

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

Contact us at Lynn Mirley, Corporate Finance Manager, Scottish Borders Council
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SCOTTISH BORDERS COUNCIL PENSION FUND

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 [TBC].

2. Objectives

- 2.1 The Pension Board is the body responsible for assisting the Scheme Manager 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 .
- 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 complete 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 8 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 6.7 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 8.3 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.

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.