

Report to: Pension Board

Date of meeting: 4 August 2016

By: Chief Finance Officer

Title: Legal position of Pension Boards

Purpose: This report provides the Board with the legal status of Pension Board.

RECOMMENDATION

The Board is recommended to note the content of this report.

1. Background

1.1 A number of stakeholders have raised questions regarding the legal status of local pension boards in particular their legal relationship with the authority acting as scheme manager.

2. Legal position of local pension boards - Opinion of James Goudie QC.

2.1 The Local Government Authority (LGA) approached James Goudie QC for a view against the following questions:

- The legal status of an LGPS Pension Board.
- The legal relationship between the Pension Board and the Local Government Pension Scheme (LGPS) Administering Authority (i.e. Scheme Manager).
- Whether there is a conflict between the requirements of the Superannuation Act 1972 (the 1972 Act) and the Public Sector Pensions Act 2013 (the 2013 Act) with regard to membership of Section 5(7) Combined Committee Boards?
- Generally on any other issues relevant to this matter

2.2 Mr James Goudie QC concluded (Appendix 1) that:

- Local pension boards are constituted entirely under the Public Service Pensions Act 2013 and are not local authority committees. He goes on to point out some of the practical difficulties that arise from this view such as access to council officers and indemnity insurance cover.
- In his view the relationship is entirely that set out in the Public Service Pensions Act 2013.
- There are conflicts between 1972 Act and the 2013 Act but they are not mutually exclusive and it is possible for a combined committee/board to exist however in his view 'An administering authority should think long and hard before choosing to go down the combined role route'.

2.3 The advice then goes on to point out the difficulties in this area in particular his view that a pensions committee with investment decision making powers is a finance committee and is therefore restricted in its membership.

3. Conclusion and recommendations

3.1 The QC opinion was adopted by the Shadow Scheme Advisory Board, and will review its guidance on pension boards. However, there is no concern for the scheme manager (ESCC), as

the East Sussex Pension Board fully complies with the Public Sector Pensions Act 2013 (the 2013 Act) with regard to membership of Boards.

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Background documents:
None