

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014 - 2015

COUNCIL

14TH JANUARY 2015

Agenda Item No. 8

**RHONDDA CYNON TAF PENSION FUND
GOVERNANCE – ESTABLISHMENT OF
PENSION BOARD**

**JOINT REPORT OF THE GROUP DIRECTOR, CORPORATE AND FRONTLINE SERVICES,
DIRECTOR, LEGAL AND DEMOCRATIC SERVICES AND DIRECTOR OF HUMAN
RESOURCES**

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1. PURPOSE OF REPORT

1.1 To seek Members agreement as to the establishment of a local Pension Board for the Rhondda Cynon Taf Pension Fund as is required by the Public Service Pension Act 2013.

2. RECOMMENDATIONS

It is recommended that Council: -

- 2.1 Note the requirements of the Public Service Pensions Act 2013 (the "PSPA") to establish a local pension board and the impact upon the current governance arrangements of the Rhondda Cynon Taf Pension Fund;
- 2.2 Note that the Local Government Pension Scheme Regulations 2013 made under the PSPA (the "Principal Regulations") are due to be amended by the Local Government Pension Scheme (Amendment) (Governance) Regulations 2014 (the "Amendment Regulations");
- 2.3 Establish a Pension Board in accordance with the requirements of the PSPA and the Principal Regulations (as amended by the Amendment Regulations) in order to assist Rhondda Cynon Taf C.B.C. as "Scheme Manager" with achieving effective and efficient governance and administration of the Rhondda Cynon Taf Pension Fund;
- 2.4 Subject to 2.3 above, approve the Terms of Reference (incorporating the Code of Conduct) of the Pension Board as set out in Appendix 1 to the report;
- 2.5 Subject to 2.3 above, delegate to the Director of Human Resources, in consultation with the Director of Legal and Democratic Services, authority to make appointments to the Pension Board;
- 2.6 Subject to 2.3 above, note the governance structure of the Rhondda Cynon Taf Pension Fund as set out in Appendix 2 to the report that would be in place following the establishment of the Pension Board;

- 2.7 Subject to 2.3 above, delegate to the Director of Legal and Democratic Services (in consultation with the Leader) authority to consider, approve and/or deal with as necessary any amendments which may be required to be made in respect of the establishment of the Pension Board and its Terms of Reference following publication of the final version of the Amendment Regulations which at the date of publication of this report are in draft form but due to come into force imminently; and
- 2.8 Delegate to the Director of Legal and Democratic Services authority to make all appropriate amendments and consequential changes to the Council's Constitution to reflect the establishment of the Pension Board.

3. BACKGROUND

- 3.1 The Rhondda Cynon Taf Pension Fund (the 'Fund') is administered by Rhondda Cynon Taf County Borough Council as the administering authority (the "Scheme Manager") and is set out in statute following Local Government Reorganisation in 1996. The Fund currently has forty-three participating Employers, which includes three Unitary Authorities. Council has delegated responsibility for the management of the Pension Fund to the Group Director, Corporate and Frontline Services (in his capacity as Section 151 officer). He is assisted in this role, in an advisory capacity, by the Rhondda Cynon Taf Pension Fund Investment & Administration Panel consisting of officers, independent advisors and elected Members.
- 3.2 The Public Service Pensions Act 2013 (the 'PSPA') introduces a number of changes to public service pension schemes, including some significant changes for the governance of such schemes. One key change is the requirement for each scheme manager in the Local Government Pension Scheme ('LGPS') to create a local Pension Board and for its establishment, composition and terms of reference to have been approved by the 1st April 2015. Meetings have been held with the Fund Actuary to discuss the consequential governance structure changes required and the Council's approach to the implementation of the new arrangements.
- 3.3 Further specific requirements relating to the establishment of a local Pension Board will be set out in the Local Government Pension Scheme Regulations 2013 made under the PSPA (the "Principal Regulations"). To allow for this the Principal Regulations are due to be amended imminently by the coming into force of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2014 (the "Amendment Regulations"). At the time of publication of this report the Amendment Regulations have been published in draft form.
- 3.4 The role of the Pension Board as defined by sections 5(1) and 5(2) of the Public Service Pensions Act 2013, is to assist Rhondda Cynon Taf County Borough Council Administering Authority as Scheme Manager to: -
- Secure compliance with the Principal Regulations and any other legislation relating to the governance and administration of the LGPS;
 - Secure compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and
 - Ensure the effective and efficient governance and administration of the LGPS by the Scheme Manager.
- 3.5 The Pension Board will provide oversight of the above matters and accordingly it is not a decision making body in relation to the management of the Fund itself. It will, however make recommendations to assist the Scheme Manager. The creation of the Pension Board does not change the core role of the Scheme Manager nor the way it delegates its pension fund responsibilities.

- 3.6 The key elements of the Principal Regulations (as amended by the Amendment Regulations) relating to local pension boards are stated below: -

Establishment

- Administering Authorities may delegate any functions under the Principal Regulations.
- The Administering Authority may determine the procedures applicable to a local pension board, including as to voting rights, the establishment of sub-committees, formation of joint committees and payment of expenses (which shall be regarded as part of the costs of administration of the Fund held by the Administering Authority).
- A local pension 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.
- Each LGPS Administering Authority is required to establish a local pension board no later than 1 April 2015.
- Where a pension committee already exists as a committee of a local authority there is an option to create one combined pension committee and pension board. However, this will be subject to the Secretary of State's approval because the practical and legal hurdles for doing so are considered extremely challenging. Accordingly, it is expected all local authority Administering Authorities will be required to create a separate pension board (i.e. in addition to any existing Pension Committee).
- The role of the pension board is to assist the Administering Authority with securing compliance with regulations and requirements imposed by the Pensions Regulator and assisting in ensuring effective and efficient governance and administration of the Scheme. As noted above this has generally been interpreted as the pension board having an oversight role but not a decision making role.

Membership

- Each Administering Authority must determine the membership of the local pension board; the manner in which such members may be appointed and removed and the terms of their appointment.
- There must be equal numbers of Member representatives and Employer representatives. A 'Member representative' is defined as a person appointed to the board for the purpose of representing members of the Scheme. An "Employer representative" is defined as a person appointed to the board for the purpose of representing employers of the Scheme.
- It is expected that Member and Employer representatives cannot be elected members of an Administering Authority responsible for the discharge of any function under the Principal Regulations i.e. such as those elected members who may sit on a Pension Committee/Advisory Panel or officers involved with responsibility for the discharge of any function relating to the Pension Fund.
- There must be at least two of each of these representatives (so a pension board must comprise of at least four individuals).
- However, these representatives must have "relevant experience and capacity" to represent the employers or members as well as meeting an ongoing legal requirement in relation to knowledge of pension matters.
- Other (non-representative) members may also be appointed to the pension board in addition to the Member and Employer representatives but this is not a requirement under the Principal Regulations (as amended by the Amendment Regulations).

Conflicts of Interest

- Each Administering Authority must be satisfied that appointees to a pension board do not have a conflict of interest (initially and on an ongoing basis).
- This is defined in the PSPA 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)".

Procedures

- Each Administering Authority will be required to determine its own procedures relating to the establishment and operation of the pension board.

4. ESTABLISHMENT OF THE FUND PENSION BOARD AND TERMS OF REFERENCE

- 4.1 The proposed Terms of Reference, (which includes the required Code of Conduct), for the Pension Board are attached at Appendix 1 to this report.
- 4.2 These have been created based on the content of the draft version of the Amendment Regulations. As outlined at paragraph 3.3 above the final version of these regulations are due to be published and come into force imminently but potentially after the Council meeting. It is proposed that if this is the case the Director of Legal and Democratic Services, in consultation with the Director of Human Resources, be provided with delegated authority to consider, approve and/or deal with as necessary any amendments which may be introduced in the final version of the Amendment Regulations and which may also require amendments to the Terms of Reference as set out in Appendix 1 to this report.
- 4.3 Some of the key components of the Terms of Reference are: -
- There will be two each of Member and Employer Representatives with the appointments being made by the Director of Human Resources, in consultation with the Director of Legal and Democratic Services, in accordance with developed selection/eligibility criteria. They shall be appointed to an initial two year term of office with an option to extend.
 - The role of Chair of the Pension Board shall be appointed by the Director of Human Resources, in consultation with the Director of Legal and Democratic Services, based on selection criteria and will be reviewed annually.
 - All other appointments will be made by the Director of Human Resources, in consultation with the Director of Legal and Democratic Services, based on selection criteria and will be reviewed annually.
 - The Pension Board will meet at least twice a year.
 - Pension Board meetings will not ordinarily be open to the general public although attendance at meetings, and addressing the Pension Board, may both be permitted at the discretion of the Chair (with such permission to be obtained from the Chair prior to the meeting).
- 4.4 Subject to the approval of Council, the appointment processes can be commenced and appropriate arrangements put in place for training of Pension Board members.

5. FINANCIAL IMPLICATIONS

- 5.1 It is proposed that Member representatives only of the Pension Board be entitled to an allowance. The allowance would be as follows: - Chair - £256 per day (£128 per half-day), ordinary Member representative - £198 per day (£99 per half-day). The allowance would be paid in accordance with the rules set out in the Council's Schedule of Member Remuneration that relate to Chair / ordinary co-opted members. It is proposed Employer Representatives (including an Employer Representative who may be elected as Chair) would not be entitled to an allowance.
- 5.2 In accordance with the Principal Regulations (as amended by the Amendment Regulations) these costs, together with any additional administration costs associated with the Pension Board would be met from the Fund.

6. PROPOSED GOVERNANCE STRUCTURE

- 6.1 In light of the requirements outlined above Members are asked to note that should they resolve to establish the Pension Board (as detailed in this report) that the governance structure would be as set out in Appendix 2 to this report.

7. CONCLUSION

- 7.1 The PSPA has introduced a number of changes to public service pension schemes including, notably, the requirement for Local Government Pension Schemes to create a Pension Board as part of its overall governance arrangements.
- 7.2 This report enables the Council, as administering authority to the Rhondda Cynon Taf Pension Fund, to discharge this responsibility.
- 7.3 In order to reflect the requirements set out in the report to establish the Pension Board Members should note that consequential changes and amendments will be required to the Council's Constitution. It is proposed the Director, Legal and Democratic Services be given delegated authority to make such changes.

Terms of Reference for the Pension Board of the Rhondda Cynon Taf Pension Fund

Introduction

The purpose of this document is to set out the terms of reference for the Pension Board of the Rhondda Cynon Taf Pension Fund. It represents the rules setting out how the Pension Board will be constituted and how it will operate on a day to day basis.

The Function of the Local Pension Board

The function of the local Pension Board as defined by sections 5(1) and 5(2) of the Public Service Pensions Act 2013, is to assist Rhondda Cynon Taf County Borough Council Administering Authority as 'Scheme Manager' in: -

- Securing compliance with the Principal Regulations and any other legislation relating to the governance and administration of the LGPS;
- Securing compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator; and
- Ensuring the effective and efficient governance and administration of the LGPS by the Scheme Manager.

It is worth noting that under regulation 106(6) of the Local Government Pension Scheme Regulations 2013 a Local Pension Board shall have the general power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

Membership of the Pension Board

The Pension Board shall consist of 4 members and be constituted as follows:

- i) Two Employer representatives;
- ii) Two Member representatives;

Member and Employer representatives shall be appointed in equal number and shall together form the Pension Board's membership.

Appointment of Members to the Pension Board

The Scheme Manager has delegated appointment decisions to the Director of Human Resources in consultation with the Director of Legal and Democratic Services.

Pension Board members need to be able to demonstrate their effectiveness in representing employers and members and have the relevant experience and capacity for the role.

The Chair of the local Pension Board will be determined via the initial appointment process. The role of Chair will be reviewed annually by the Director of Human Resources in consultation with the Director of Legal and Democratic Services.

The term of office for all Pension Board members, including Chair, will be for 2 years. This can be extended subject to agreement by the Director of Human Resources in consultation with the Director of Legal and Democratic Services on behalf of the Scheme Manager.

Pension Board Remuneration

Payment to Pension Board 'Member representatives' will be in accordance with the rates / expenses agreed by the Scheme Manager. An appropriate claim must be submitted to the Administering Authority for reimbursement following each Pension Board meeting.

Termination of Membership

Other than expiry of term of office, membership can be terminated by unanimous agreement of the other Pension Board members in consultation with the Director of Human Resources. Reasons for termination could include:

- a member having a conflict of interest which cannot be managed in accordance with the Pension Board's conflicts policy;
- a member dies or becomes incapable of acting;
- a member is appointed to the role of an officer of the Administering Authority with responsibility for the discharge of functions under the Regulations;
- a member wishes to resign;
- a member ceases to represent his/her representative group, for example if an employer representative leaves the employment of his employer and therefore ceases to have the capacity to represent the Fund's employers; or
- a member fails to attend meetings or otherwise comply with the requirements of being a Pension Board member.

Quorum

The Pension Board shall have a formal quorum of three. Substitutions are not permitted. Any advisors or officers present at the meetings do not count towards the quorum. In the event of the Chair being absent then a substitute Chair can be appointed from the Pension Board members in attendance for the meeting (subject to it being quorate).

Administration and Frequency of meetings

The Scheme Manager shall give a minimum 1 (One) month notice to all Pension Board members of a meeting of the Pension Board. Agendas and background papers shall be circulated electronically (wherever possible, and unless requested otherwise) a minimum of 5 working days prior the meeting date. The Scheme Manager shall ensure that a formal record of Pension Board proceedings is maintained via the taking of minutes. Following the approval of the minutes by the Chair of the Pension Board, they shall be circulated to all Pension Board members and subsequently published on the Rhondda Cynon Taf Pension Fund website (<http://www.rctpensions.org.uk/Home.aspx>).

Meetings shall occur at least twice in each financial year.

Pension Board meetings will not ordinarily be open to the general public although attendance at meetings, and addressing the Pension Board, may both be permitted at the discretion of the Chair (with such permission to be obtained from the Chair prior to the meeting).

Code of Conduct

Pension Board Members are expected to understand the importance of and comply with the “Seven Principles of Public Life” being:

1. Selflessness – Holders of public office should act solely in terms of public interest. They should not do so in order to gain financial or other benefits for themselves, their family or friends.
2. Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
3. Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
4. Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
5. Openness – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.
6. Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
7. Leadership – Holders of public office should promote and support these principles by leadership and example.

Appropriate training in respect of ‘conduct’ and ‘conflicts’ will be provided to any new Pension Board Member prior to their first scheduled meeting.

Conflict of Interest

A conflict of interest is defined by the Public Service Pensions Act 2013 as “a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the Pension Board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme)”.

Pension Board members have a legal duty to provide information to the Scheme Manager regarding conflicts of interest and if necessary seek legal advice.

In the interests of openness and transparency, members of the Pension Board should maintain a register of interests.

Should a conflict arise, options for managing the conflict could be that the member withdraws from that particular discussion or even resign from the Pension Board if the conflict is so fundamental that it cannot be managed any other way.

It is deemed that the members of the Rhondda Cynon Taf Pension Fund Investment & Administration Panel are not eligible for membership of the Pension Board as it would conflict with their role as advisors on Pension Fund matters to the S151 Officer. However, Panel Members are eligible to attend Pension Board meetings in order to facilitate the provision of information from the Panel and its sub-groups and to relay relevant matters back.

A Conflict of Interest Policy for Pension Board members is separately available.

Voting Rights

Local Pension Boards assist the Scheme Manager in securing compliance and ensuring efficiency and effectiveness. The Pension Board does not have decision making powers which are delegated to the Section 151 Officer under S101 of the Local Government Act 1972.

The Pension Board may vote on matters that are consistent with its role as defined by sections 5(1) and 5(2) of the Public Service Pensions Act 2013.

All Pension Board members are deemed to have equal voting rights with the Chair having the casting vote if a majority decision cannot be reached.

Role of Advisors

Professional advisors may advise the Pension Board following agreement of Pension Board members with regards to the scope of their appointment and level of fees, within the agreed budget.

Role of Officers

Rhondda Cynon Taf County Borough Council officers shall provide secretariat services and provide information for the Pension Board when required.

A representative of the Pension Fund Investment & Administration Panel shall attend Pension Board meetings to facilitate the provision of information and to feed back any relevant issues to the Panel.

Knowledge and Skills

In accordance with S248A of the Pensions Act 2004, each member of the Pension Board must be conversant with; -

- legislation and regulations governing the LGPS,
- any document recording policies regarding the administration of the fund,

and have knowledge and understanding of;

- the law relating to pensions, and
- any other matters which are prescribed in regulations

A Pension Board member should be aware that their legal responsibilities begin from the date they take up their role on the Board and so should immediately start to familiarise themselves with the documents as referred to above.

It is acknowledged however that the Administering Authority recognise newly appointed members will need additional support and training in the first few months, to help them reach the appropriate level of knowledge and understanding.

Data Protection

Rhondda Cynon Taf County Borough Council as Scheme Manager is deemed to be "Data Controller" under data protection legislation.

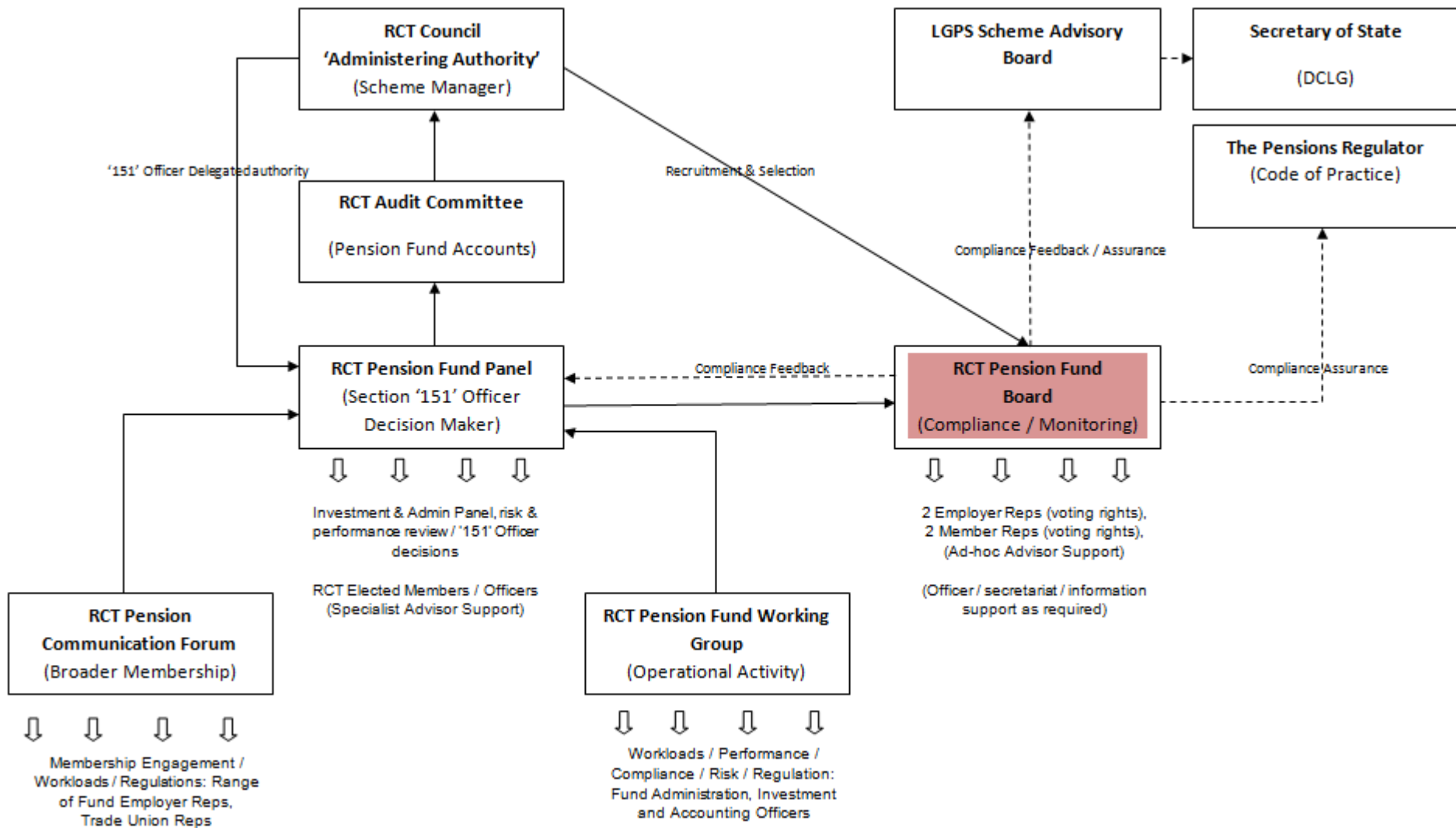
Budget

The Scheme Manager shall set an appropriate budget to enable training for Pension Board members, payment of remunerated Pension Board 'Member representatives' and to enable advisors services to be acquired.

Accountability

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

Rhondda Cynon Taf Pension Fund Governance Structure
including the New Pension Board from 01st April 2015



AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

COUNCIL

14 JANUARY 2015

**JOINT REPORT OF THE GROUP DIRECTOR, CORPORATE AND FRONTLINE SERVICES,
DIRECTOR, LEGAL AND DEMOCRATIC SERVICES AND DIRECTOR OF HUMAN
RESOURCES**

Officers to Contact

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Background Papers

Public Service Pensions Act 2013

Local Government Pension Scheme Regulations 2013

Draft Local Government Pension Scheme (Amendment) (Governance) Regulations 2014

Local Government Pension Scheme - Draft Guidance on the creation and operation of Local Pension Boards in England and Wales