

## **OXFORDSHIRE LOCAL PENSION BOARD – 26 OCTOBER 2018**

### **INDEMNITY INSURANCE FOR BOARD MEMBERS**

#### **Report by the Director of Finance**

##### **Introduction**

1. This report has been provided to the Board at the request of one of its Members at the July meeting. The request follows the receipt of guidance from James Goudie Q.C. issued in December 2015. This guidance stated that as the Pension Board was established under the Public Services Pension Act 2013 it was not a Council committee and as such the Council's indemnity insurance arrangements would not automatically apply.
2. The guidance continued to state that there may be circumstances where the Pension Board Members may be liable, although no examples were given of such circumstances, nor what that liability would cover.
3. The guidance concluded with the view that the council should extend its insurance to cover the members of the pension board, or that the Board should procure its own insurance cover.

##### **Issues to be Considered**

4. The question of insurance cover for Board Members has been discussed on previous occasions, both in Oxfordshire and more widely across the Country. There does not appear to be any clear consensus on the matter, with Local Pension Boards split on whether procuring insurance arrangements is indeed appropriate.
5. The key issue in these discussions is in respect of the duties and responsibilities of the Pension Board vis-a-vis the Pension Fund Committee. Under the relevant Regulations, it is the Pension Fund Committee which is responsible for the delivery of all pension services. The role of the Pension Board is to provide support and challenge to the Committee, but does not take on any responsibility for decision making under the regulations.
6. Given the statutory split of responsibilities between the Pension Fund Committee and Pension Board it is difficult to identify any circumstances where members of the Pension Board would be liable for any losses or damages. Such claims would be properly directed at the Pension Fund Committee.
7. The issue has been raised that under the Constitution of the Pension Board, they are responsible for reporting any breaches of the pensions regulations to the Pension Regulations. As such it is argued that a knowing failure to report a breach of regulations to the Pension Regulator would open the members of

the Pension Board to complaint. Whilst it is accepted that in such circumstances, members of the Pension Board could face action from the Pension Regulator, it would still be expected that any claim for loss or damages would be made against the Pension Fund Committee as the body responsible for the actual breach of regulations.

8. Advice from the County Council's Insurance Team has stated that it is not possible to procure insurance cover against any fines imposed for breach of statutory responsibilities. The Council's current insurance arrangements provide cover against any subsequent loss or damage resulting from the breach. It is therefore felt that there is no insurable loss or damage for which the Pension Board carries the responsibility.
9. In the event that the Pension Regulator was to fine the Pension Board, legal advice is that the fine would be issued to the Pension Board as a corporate body and not the individual members. Responsibility for meeting the cost of the fine would therefore fall to the County Council.
10. **The Board is invited to note the latest position and to offer any further comments to the Pension Fund Committee.**

Lorna Baxter

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