

COUNCIL MEETING:

25 NOVEMBER 2021

REPORT OF CORPORATE DIRECTOR RESOURCES

AMENDMENTS TO THE INTER AUTHORITY AGREEMENT OF THE WALES PENSION PARTNERSHIP

Reason for this Report

1. To ask Council to approve the proposed amendments to the Inter Authority Agreement (IAA) of the Wales Pension Partnership (WPP). .

Background

2. Cardiff Council is the administering authority for the Cardiff & Vale of Glamorgan Pension Fund ('the Fund') which is part of the Local Government Pension Scheme (LGPS) for England and Wales. Following a report to Full Council on the 30th June 2016, the Council established a Pensions Committee and strategic functions relating to Pensions were delegated to the Committee. Operational and administrative functions are delegated to the Corporate Director Resources.
3. In February 2017 the Corporate Director Resources presented a report to Council which outlined how the eight LGPS funds in Wales had responded to the MHCLG recommendations for LGPS investment pooling. The report recommendations included that the Council approve the establishment of a Joint Committee, which is known as the Joint Governance Committee (JGC), to become the decision making body of the Wales Pension Partnership (WPP) and oversee its activities.
4. The February 2017 report also asked Council to note the draft Inter Authority Agreement (IAA) between the eight Constituent Authorities in the WPP with delegated authority to sign the final version of the IAA being passed to the Corporate Director Resources. The IAA sets out the governance arrangements for the WPP, the rights and obligations of the eight participating authorities and the powers and responsibilities delegated to the JGC. The IAA can only be amended or terminated with the agreement of all eight constituent authorities.

Amendments to the Inter Authority Agreement (IAA)

5. The WPP is now well established and has made good progress with the establishment of eight investment sub-funds in listed assets covering both Equity (4 sub-funds) and Fixed Income (5 sub-funds). The WPP's attention will now turn to providing investment opportunities for the WPP Constituent Authorities Funds to cover the less liquid, "Private Market" assets. In addition, the JGC is seeking to enhance its governance arrangements in accordance with developing best practice. Both these developments require changes to the IAA with the proposed amendments to the IAA included as Appendix 1 and these are summarised below.
 - Private Markets Assets include Property, Infrastructure, Private Equity and Private Credit which have different characteristics to listed assets. As a consequence, the route to market to establish Funds in which the Constituent Authorities can invest for these assets is more bespoke and specialist than those that the WPP has successfully adopted for listed equity and fixed income. The JGC, after taking appropriate professional advice, has agreed that specialist "Allocator(s)" with extensive experience and specialist knowledge of Private Markets are appointed to develop these sub-funds for the WPP. The proposed amendment to the IAA will pass the responsibility for future appointments and terminations of the Allocator role to the JGC.
 - The JGC has for some time been considering how a Scheme Member representative could be appointed to the JGC. It is proposed that a Scheme member representative would be able to join the JGC but only as a non-voting member. They would however be able to receive JGC papers as well as attending and speaking at meetings, including exempt items. The IAA as currently drafted does not make provision for the inclusion of Scheme Member representatives which is now included in the revised version.
6. In addition to the two amendments outlined above the opportunity has also been taken to undertake a full review of the IAA and as a consequence a number of minor changes will also be made. These changes reflect the practical experience gained since the WPP has been operational and refer to more clearly defining the role of the Officer Working Group (OWG) and the terms of reference of sub-groups that report to it.
7. The Pension Committee at its meeting on the 2nd November 2021 considered the proposed amendments to the IAA and agreed to recommend to Council that the IAA amendments are approved

Equalities Impact Assessment

8. No Equalities Impact Assessment has been undertaken. No equalities impact issues are anticipated to arise directly from the proposed amendments to the WPP IAA. .

Legal Implications

10. The body of the report notes that the IAA adopted in 2017 requires amendment. The proposed amendments as identified in the body of this report were considered by the Pension Committee where it was agreed to recommend to Council that the IAA amendments are approved
11. It should be noted that if the amendments are approved by the eight Constituent Authorities in the WPP the content and form of the IAA as amended is intended to create a legally binding agreement between the authorities.
12. In considering this matter Council should have regard to the general legal advice set out below:

General Legal Advice

Any decision must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its tax payers; and (h) be reasonable and proper in all the circumstances and comply with any equalities legislation.

The Council also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief.

The Well-Being of Future Generations (Wales) Act 2015 ("the Act") places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.

In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2021-24.

The well-being duty also requires the Council to act in accordance with 'sustainable development principle'. This principle requires the Council to act in a way, which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrates approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language, the report and Equality Impact Assessment deals with all these obligations. The Council has to consider the Well-being of Future Guidance (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.

Financial Implications

13. All costs associated with the management and administration of an LGPS pension fund are chargeable to the fund's accounts. No change is proposed to the current principle included in the IAA that the running costs of the Joint Governance Committee will be divided equally between the eight participating authorities. Expenditure incurred in the management of specific WPP pooled investments funds will be charged to the relevant Pension Funds in proportion to the amounts they have invested in those funds.

RECOMENDATIONS

It is recommended that Council

Approve the proposed amendments to the Inter Authority Agreement (IAA) as outlined in this report and attached at Appendix 1.

CHRISTOPHER LEE
CORPORATE DIRECTOR RESOURCES

Appendices:

Appendix 1 – Proposed amendments to Inter Authority Agreement

The following background papers have been taken into account

Pension Committee Report 2 November 2021 – Item 4: IAA Amendments