

## **Committee: Standards and General Purpose Committee**

**Date: 12 March 2020**

Agenda items:

Wards:

### **Subject: Changes to the Merton Pension Board- Terms of Reference**

Lead officer: Caroline Holland , Director of Corporate Resources.

Lead member: Cllr Mark Allison , Cabinet Member for Finance.

Contact officer: Roger Kershaw Assistant Director, Corporate Resources.

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#### **Recommendations:**

- A. That the Standards and General Purpose Committee recommends that Council approves the amended Terms of Reference for the Merton Pension Board as set out in Appendix 2;
- B. That the Standards and General Purpose Committee recommends that Council approves the appointment of the Independent chair to manage and lead the Pension board

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report presents proposed changes to the Merton Pension Board Terms of Reference in light of the following;
  - the increase in the board's responsibilities as a result of the TPR overseeing the LGPS Pension funds.
  - the LGPS good governance guidance expects the Board to deliver its responsibilities more effectively and to have the relevant training required.
- 1.2. This report seeks Committee's approval to the amended Terms of Reference for the Merton Pension Board as set out in Appendix 2

## **2**

- 2.1. The Merton Pension board was established by Full Council to commence April 2015 together with the existing terms of reference and membership following the Local Government Pension Act 2013. It is not a decision- making body and therefore not subject to proportionality rules. No key decisions are taken by the Merton Pension board but its role is to scrutinize the Pension Fund Advisory Panel (PFAP) together with the management and administration of the Merton Pension Fund.
- 2.2. The current pension board meets every quarter to carry out its function. The new terms of reference will cover how the recommendations of the board get communicated to the PFAP.

### **Current governance arrangements**

- 2.3. The current Terms of Reference, as set out in Merton's Constitution, are provided in Appendix 1. The purpose of the Merton Pension Board is to review and scrutinize the pension fund advisory panel, advisors, pension administration activities and ensure the correct process in following in all decision making.
- 2.4 It is also there to ensure the pension administration, delegated to Wandsworth Pension shared services, delivers the service to the council and the Pension fund members as agreed on the delegation agreement.
- 2.5. **The current members of the body are:**
- Two employer Representatives –Head of Human Resources- Merton Council and Chief Executive of Wimbledon Putney Common.
  - Two member representatives- One pensioner representative and one staff (active member) representative.
- 2.6. The responsibilities of the Merton Pension Board are;
- to note reports presented to the Pension Fund Advisory Panel
  - review the pension administration services (delivered by Wandsworth Pension shared services) performance against benchmarks and policies.

### **3. PROPOSAL FOR AN INDEPENDENT CHAIR**

- 3.1 Effective Pension Boards are seen as a sign of good governance by the pension regulator and our external auditors. Since the Merton Pension Board was formed we have experienced difficulties in attracting suitable volunteers despite numerous attempts to recruit (including the chair). These challenges were raised by our external auditors in the pension Fund audit opinion for 2017/18, by KPMG in their governance review carried out in summer 2019, and by the Scheme Advisory Board and Hymans Robertson in the Good Governance Review carried out in summer 2019.
- 3.2 Following a review we found that many Pension Boards have an independent chair and that this has significantly improved the performance of the Board in carrying out its many functions as required by the Pension Act and the Pensions Regulator.
- 3.3 Given our experience we have concluded that the Merton Pension Fund also needs to appoint an independent chair, preferably one with good Local Government Pension scheme experience elsewhere. This will help us comply with best practice.

## **4 ALTERNATIVE OPTIONS**

4.1. n/a

## **5 CONSULTATION UNDERTAKEN OR PROPOSED**

5.1. The fund carried out a governance review in summer 2019 and it was identified the local pension board's responsibilities need to be more clearly defined.

5.2. Also there is a need for training and knowledge development. In addition to this the LGPS good governance review out come and the pension regulator expectation from the pension board made the fund to review the Pension Board's current terms and conditions and to update it to meet the above meets.

## **6 TIMETABLE**

6.1. The current Pension board was created in April 2015 in accordance with Section 5 of the 2013 Pension. Since then its responsibilities were not review in accordance with the current demand. Following the approval of this report the new independent chair will work with the current board and the officers to ensure we have a fully functioning board going forward. .

## **7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

7.1. The appointment of independent chair will have cost and the total cost will be re changed to the Pension Fund. It is expected to cost the fund will be between £15-20K per annum. This is still in negotiation.

## **8 LEGAL AND STATUTORY IMPLICATIONS**

8.1. The proposed amendments in respect of the Terms of Reference contained in this report are compliant with legal and statutory requirements.

## **9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

9.1. None for the purposes of this report.

## **10 CRIME AND DISORDER IMPLICATIONS**

10.1. None for the purposes of this report.

## **11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

11.1. None for the purposes of this report.

## **12 APPENDICES**

12.1. Appendix 1: Current Terms of Reference for the Merton Pension Fund

12.2. Appendix 2: Proposed Terms of Reference for the Merton Pension Board.

## **13 BACKGROUND PAPERS**

None

## Appendix 1 - Current Terms and Condition

### LONDON BOROUGH OF MERTON PENSIONS BOARD

#### TERMS OF REFERENCE

The Local Pension Board (hereafter referred to as 'the Board') is established in accordance with Section 5 of the Public Service Pensions Act 2013 and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended). The Board is not a committee constituted under Section 101 of the Local Government Act 1972.

#### Functions of the Local Pension Board

The purpose of the Board is to assist the Council in its role as a scheme manager of the Scheme. Such assistance is to:

1. *(a) To secure compliance with:*
  - *Regulations made under the Public Service Pensions Act 2013 that apply to the matters referred to in sections 5 and 6 of that Act.*
  - *Any other legislation relating to the governance and administration of the Scheme and any connected scheme.*
  - *Any requirements imposed by the Pensions Regulator in relation to the Scheme. These areas include but are not restricted to:*
2. *Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations.*
3. *Review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code.*
4. *Assist with the development of and continually review such documentation as is required by the Regulations including Governance Compliance Statement, Funding Strategy Investment strategy statement.*
5. *Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.*
6. *Review the implementation of revised policies and procedures following changes to the Scheme.*
  - *Review the compliance of particular cases, projects or process on request of the Committee.*
  - *Any other area within the statement of purpose (i.e. assisting the Administering Authority) the Board deems appropriate.**(b) To ensure the effective and efficient and effective governance and administration of the Scheme. Including but not restricted to:*
  - *Assist with the development of improved customer services.*
  - *Assist with the development of improved management, administration and governance structures and policies.*
  - *Assist in the development and monitoring of process improvements on request of Committee.*
  - *Assist in the development of asset valuing and engagement processes and compliance with the UK Stewardship Code.*

- *Any other area within the statement of purpose (i.e. ensuring effective and efficient governance of the scheme) the Board deems appropriate.*

In support of its functions the Board may make recommendations to the General Purpose Committee and a response made to the Board on the outcome within a reasonable period of time.

### **Membership**

The Board shall consist of 4 voting members made of:

- 2 Member Representatives,
- 2 Employer Representatives; and
- 1 Further representative without voting rights to be appointed at the discretion of the Council

A chair to be appointed by the employer and member representatives of the Board on a rotating basis with the term of office shared between an employer and a member representative on an equal basis. In the event of a tied vote, the Chair will have the casting vote.

The Director of Corporate Services will determine an appropriate selection and appointment process for Board Members

### **Termination of Membership**

Non-attendance at 2 consecutive meetings would result in a replacement representative being sought. The ability of members to seek re-appointment for further term will be considered to ensure continuity.

### **Voting Rights**

Voting rights only apply to members of a Board who are either an employer or a member representative. In the even to of a tied vote, the Chair will have the casting vote.

### **Terms of Office**

The term of office for Board members shall be co-terminus with Council's term of office. i.e. to the date of the next Council election. Extensions may be made by the Council with the agreement of the Board.

### **Conflicts of interest**

The Administering Authority must be satisfied that any person appointed to the Board and from time to time that, any member of the Board does not have a conflict of interest, as defined under Section 5(5) of the Public Service Pensions Act 2013. All members of the Board must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.

### **Knowledge and understanding (including Training)**

Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework.

## **Meetings**

The Board shall four times a year (at a minimum meet twice each year) and will be set in conjunction with Democratic Services.

Substitutes will not be allowed where members are unable to attend meetings. Meetings will be services by Democratic Services and subject to the same publication rules as with a Scrutiny Committee.

## **Attendance requirements**

Non-attendance at 2 consecutive meetings would result in a replacement representative being sought

## **Quorum**

The quorum for any meeting shall be 2 members comprising at least one employer and one member representative.

A meeting that becomes inquorate may continue but any decisions will be nonbinding.

## **Reporting**

- The Board in the first instance report its requests, recommendations or concerns to PFAC.
- On receipt of a report PFAC should, within a reasonable period, consider and respond to the Board.
- The appropriate internal route for escalation is to the Section 151 Officer.
- The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.
- Board members are also subject to the requirements to report breaches of law under the Act and the Code [and the whistleblowing provisions set out in the Council's whistle blowing policy].
- The Board will produce an annual report of its work, findings and recommendations.

## **Payment of Board Members**

An allowance will be paid to the non London Borough of Merton employees. The Council will set an allowance for these members based upon a sum of £100 per meeting, multiplied by the total number of meetings expected in each year.

## **Code of Conduct**

Members of the Board will be subject to the same Code of Conduct as members of the Council's Scrutiny Committee

## **LONDON BOROUGH OF MERTON PENSIONS BOARD –**

### **TERMS OF REFERENCE**

#### **1. Introduction**

- 1.1 This document sets out the terms of reference of the Local Pension Board of London Borough of Merton (the 'Administering Authority') as Scheme Manager, as defined under Section 4 of the Public Service Act 2013.
- 1.2 The Local Pension Board is established in accordance with Section 5 of that Act and under Regulation 106 of the Local Government Pension Scheme (LGPS) regulations 2013 (as amended).

#### **2. Role of the Local Pension Board**

- 2.1 The role of the local Pension Board, as defined by Regulation 106 of the Local Government Pension Scheme Regulations 2013 is to assist the County Council as Administering Authority:
- (a) to secure compliance with:
- (i) the scheme regulations;
  - (ii) any other legislation relating to the governance and administration of the LGPS Scheme.
  - (iii) any requirements imposed by the Pensions Regulator in relation to the LGPS Scheme.
- (b) to ensure the effective and efficient governance and administration of the LGPS Scheme
- 2.2 The Local Pension Board will ensure it effectively and efficiently complies with the Code of Practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- 2.3 The Local Pension Board will also help ensure that the Merton Pension Fund is managed and administered effectively and efficiently and complies with the Code of Practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- 2.4 The Local Pension Board has power to do anything that is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.
- 2.5 The Local Pension Board should always act within its terms of reference.
- 2.6 In support of its core functions the Local Pension Board may request information from the Merton Pension Fund Advisory Panel with regard to any aspect of the Scheme Manager function. Any such request should be reasonably complied with.
- 2.7 The Local Pension Board may make recommendations to the Merton Pension Fund advisory Panel Committee. This recommendations should be given due consideration.

2.8 In support of its functions the Board may make recommendations to the General Purpose Committee and a response made to the Board on the outcome within a reasonable period of time.

### 3. **Membership**

3.1 The Board shall consist of 5 members w made of:

1 Independent chair

2 Member Representatives,

2 Employer Representatives; and

1 Further representative without voting rights to be appointed at the discretion of the Council

3.2 The independent chair will have the same terms as the other board members. Normally the chair will not vote on any decision. In the event of a tied vote, the Chair will have the casting vote.

3.3 The Director of Corporate Services will determine an appropriate selection and appointment process for Board Members

### 4. **Termination of Membership**

4.1 Non-attendance at 2 consecutive meetings would result in a replacement representative being sought. The ability of members to seek re-appointment for further term will be considered to ensure continuity.

### 5. **Voting Rights**

5.1 Voting rights only apply to members of a Board who are either an employer or a member representative. In the event of a tied vote, the Chair will have the casting vote.

### 6 **Terms of Office**

6.1 The term of office for Board members shall be co-terminus with Council's term of office. i.e. to the date of the next Council election. Extensions may be made by the Council with the agreement of the Board.

### 7. **Conflicts of interest**

7.1 The Administering Authority must be satisfied that any person appointed to the Board and from time to time that any member of the Board does not have a conflict of interest, as defined under Section 5(5) of the Public Service Pensions Act 2013.

7.2 All members of the Board must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.

### 8. **Knowledge and understanding (including Training)**

8.1 Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework.

The Local Pension Board shall address the knowledge and skill requirements that apply to Local Pension Board members under the 2004 Act.

8.2 It is for individual Local Pension Board members to ensure they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Local Pension Board.

8.3 In line with this requirement, Local Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date.

## **9. Meetings**

9.1 The Board shall meet four times a year (at a minimum meet twice each year) and will be set in conjunction with Democratic Services.

9.2 Substitutes will not be allowed where members are unable to attend meetings. Meetings will be services by Democratic Services and subject to the same publication rules as with a Scrutiny Committee.

## **10. Attendance requirements**

10.1 Non-attendance at 2 consecutive meetings would result in a replacement representative being sought.

## **11. Quorum**

11.1 The quorum for any meeting shall be 3 members comprising at least one employer and one member representative. A meeting that becomes inquorate may continue but any decisions will be non binding.

## **12. Reporting**

- The Board in the first instance report its requests, recommendations or concerns to PFAP.
- On receipt of a report PFAP should, within a reasonable period, consider and respond to the Board.
- The appropriate internal route for escalation is to the Section 151 Officer.
- The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.
- Board members are also subject to the requirements to report breaches of law under the Act and the Code [and the whistleblowing provisions set out in the Council's whistle blowing policy].
- The Board will produce an annual report of its work, findings and recommendations.

## **13. Code of Conduct**

Members of the Board will be subject to the same Code of Conduct as members of the Council's Scrutiny Committee

## **14 Data Protection and Freedom of Information**

The Local Pension Board and its members will need to comply with the Scheme Manager's Data Protection and Freedom of Information Policy.

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