

## **Committee: Council**

**Date: 15 April 2015**

Wards: All

## **Subject: Local Pension Board**

Lead officer: Caroline Holland, Director of Corporate Services

Lead members: Councillor Peter McCabe Chair of General Purposes and Councillor Imran Uddin Chair of the Pension Fund Advisory Committee

Contact office: Paul Dale, Assistant Director of Resources

### **RECOMMENDATIONS:**

- A.) To agree the establishment of a Local Pension Board and the Terms of Reference as attached at Appendix A;
  - B.) To delegate to the Director of Corporate Services the authority finalise all matters relating to the set-up of the Board including the power to make changes to the Terms of Reference in order to ensure compliance with relevant legislation and guidance; and
  - C.) To agree that the Pension Board submit an annual report to Committee summarising its work.
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## **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The Public Service Pensions Act 2013 (“the Act”) requires each Administering Authority (“the Council) within the Local Government Pension Scheme to establish a Local Pensions Board (the Board”) by 1<sup>st</sup> April 2015.
- 1.2 This Report proposes the establishment of the Board as required by the Act and related Regulations and seeks approval to the terms of reference attached at Appendix A.
- 1.3 The responsibilities with regard to the Pension Fund which the Council has delegated to the Director of Corporate Services and Pensions Advisory Committee (PFAC) are not affected by these new regulations or guidance. The role of the Board is understood to be one of assisting the Council with scrutiny and compliance.
- 1.4 The matter was considered by the General Purposes Committee on 12 March 2015 and this report brings the recommendations from that meeting to the Full council meeting for approval.

## **2. DETAILS**

- 2.1. The Act requires each Administering Authority to establish a Local Pension Board by 1st April 2015. “Established” in this context means that the Council,

as the Administering Authority, must have approved the establishment of the Board, its composition and also the terms of reference, in accordance with its constitution.

Statutory Guidance provides that a Board should be operational within a reasonably practicable period after 1 April 2015 (suggested by the guidance as being no longer than 4 months), which is to be fully operational by 1 August 2015.

- 2.2. The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 (“the Regulations”) provide that the Board shall be responsible for assisting the Administering Authority to
  - (a) secure compliance with:
    - (i) the regulations concerning Local Pension Boards,
    - (ii) any other legislation relating to the governance and administration of the Pension Scheme and any connected scheme, and
    - (iii) any requirements imposed by the Pensions Regulator in relation to the Scheme; and
  - (b) to ensure the effective and efficient governance and administration of the Scheme.
- 2.3. The responsibility for establishing a Board rests with the Administering Authority of each Fund. It is not optional. The Council under the Regulations is given the power to determine the procedures applicable to the Board set up in accordance with usual local government principles, acting reasonably and within the powers set out in the Regulations. This includes voting rights, the establishment of sub-committees, formation of joint committees and payment of expenses.
- 2.4. The expenses of a Board are to be regarded as part of the costs of administration of the pension fund held by the Council. Accordingly, any costs would be met from the Pension Fund as part of the costs of administration of the Fund.

The Council must have regard to the Statutory guidance issued by the Secretary of State in relation to Local Pension Boards.

### **3. THE ROLE OF THE LOCAL PENSION BOARD**

- 3.1. The Statutory Guidance interprets “assisting the Administering Authority (the Council)” as covering all aspects of governance and administration of the LGPS, including funding and investments.
- 3.2. The Statutory guidance provides suggested work areas that Local Boards would become involved in. These are included in Appendix A to this report.

#### **4. MEMBERSHIP OF LOCAL PENSION BOARDS**

- 4.1. The Council is required to determine the membership of the Board (subject to statutory rules); the manner in which members of the Board may be appointed and removed and the terms of appointment of members of the Board.
- 4.2. The Regulations specify that a Board must include an equal number, which is no less than 4 in total, of employer and member representatives. For these purposes the Council as the Administering Authority must be satisfied that appropriate persons (as required by regulations) are appointed.
- 4.3. The guidance notes that since each employer or member representative will potentially represent a significant range of employers or members, it is important that the methodology for appointment ensures that representative Board members are truly representative of the Fund's membership. The Council has considered the number of members or employers that each member of the Board will be representing.
- 4.4. The Regulations also require that the Council must ensure that any person it wishes to appoint has the capacity to represent the members or employers of the Fund as appropriate. For Merton this is much less of an issue as there are very few employers other than the Council.
- 4.5. No officer or elected member of an administering authority who is responsible for the discharge of any function under the Regulations (apart from any function relating to Local Pension Boards or the Scheme Advisory Board) may be a member of a Board (effectively disbaring members PFAC and officers that undertake Pension Fund work).
- 4.6. Where an elected member of the Administering Authority is appointed as a member of the Board this can only be as either an employer or member representative
- 4.7. An individual's ability to properly represent the interests of employers or members (as appropriate) and channel information back to those persons effectively should also be a key factor in selecting members of the Board.
- 4.8. The Regulations also allow for the appointment of other members i.e. members who are not there to represent employers or scheme members, for example where an Administering Authority wishes to appoint an independent chairperson to the Board. In the initial selection process for the Board, the Council will not be appointing to this position but could do so in the future.

#### **5. APPOINTMENT OF BOARD MEMBERS**

- 5.1. The method of appointing employer and member representatives is not prescribed by the Regulations. It, therefore, falls to each Administering Authority to establish an appropriate process.

However when selecting members, proper regard must be given to the obligations of the Administering Authority in relation to equal opportunities in any recruitment process. In practice, this means having an open transparent process.

Consideration will be given to the term of office to ensure continuity, stability and experience is retained on the Board. The ability of members to seek re-appointment for further term will also be considered.

## **6. REQUIREMENT**

6.1 A Local Pension Board member should be aware that their legal responsibilities begin from the date they take up their role on the Board.

6.2. Every individual who is a member of a Board must be conversant with the rules of the LGPS, any document recording policy about the administration of the Fund and have knowledge and understanding of the law relating to pensions and such other matters as may be prescribed.

The issue of knowledge and understanding is dealt with in the Pensions Regulator's Code of Practice. The knowledge and understanding requirement applies to every individual member of a Board rather than to the members of a Board as a collective group.

6.3. Members of the Board must be aware that their knowledge and understanding responsibilities technically begin from the date they take up their post.

The Council is going to make appropriate training available to the board members to assist them in undertaking their role and where possible support all members of the Board in undertaking their role.

The Local Pension Board is going to keep appropriate records of the learning activities of individual members and the Local Pension Board as a whole. This will assist members in demonstrating their compliance, if necessary, with the legal requirement

6.4. The Board shall prepare a report on an annual basis which will detail:

- (a) a summary of the work of the Local Pension Board;
- (b) details of areas of work reported to the Board to be investigated and how they have been dealt with;
- (c) details of any conflicts of interest that have arisen in respect of individual Local Pension Board members and how these have been managed;
- (d) whether there are any risks or other areas of potential concern
- (e) details of training received and future training needs; The e-Learning program provided by the Pensions Regulator will be made available to members of the Board in addition to proposed CIPFA knowledge and skill framework for Local Pension Board members and other training materials.

- (f) the work plan for the previous year and a draft of the work plan for the following year; and
  - (g) details of any expenses and other costs incurred by the Local Pension Board and anticipated expenses for the forthcoming financial year. These costs will be met as part of the administration costs of the Fund.
- 6.5. Consideration should be given by the Administering Authority to whether or not members of the Local Pension Board are paid allowances or reimbursed expenses.

Allowances for the Merton Pensions Board will be in line with the Council's expenses for officers and elected members. Officers representing the Council will not be paid allowances for Board meeting attendance.

## **7. DECISIONS FOR THE COUNCIL**

- 7.1. The approach proposed for the setting up of the Pensions Board is aimed to minimise costs, meet statutory requirements and reflect the membership of the Fund.
- 7.2. it is proposed that the Committee agree to set up the Local Pension Board with the following form and structure:
- (a) two employer representatives and two scheme member representatives should sit on the Board. The Board would also have a vacancy for one independent member which the Council could appoint to in the future.
  - (b) All appointments to the Board will be made by the Chief Executive
  - (c) The Director of Corporate Services has considered the membership of the Fund. As the Council is the largest employer (92.37% of Fund) and schools (apart from Academies) are classed as part of the Council at least one employer and member seat should be taken by a Council representatives.
  - (d) To ensure adequate representation, the proposal for Board membership is therefore set out below;
    - 2 Employer Representatives
      - One from the Council
      - One from Merton Priory Homes.
    - 2 Member Representatives
      - From Merton Council staff side or pensioner representative
      - From Merton Priory Homes or CHAS (2013) Limited
- 7.3. The above ensures that all groups in the Fund will be represented (employers, active members and pensioner members). The membership above will constitute the minimum membership, however where more nominations are received from employers, it is proposed that the Director of Corporate Services interview the candidates to see who best meets the requirements of the statutory guidance.

- 7.4. It is not proposed at this point to increase membership to 3 employers and 3 members. The Director of Corporate Services will bring an update report to the Committee should this be required.

The Committee is required to consider and accept the following proposals:

- (i.) Regulations provide the Council with the right to appoint independent members. The Council will reserve the right to appoint one independent representative of the Council as the Administering Authority. The Council will not be appointing to this position but could do so in future.
  - (ii.) It is proposed that prospective members of the board will be interviewed in line with HR practice
  - (iii.) It is proposed that terms of office be co-terminus with the Council's term of office .i.e. to the date of the next Council election.
  - (iv.) It is proposed that the basis of termination of an appointed member of the Board be one month's notice. This means that an appointed member could resign their position or the Council could terminate an appointed members role on the Local Pension Board with up to one month's notice.
  - (v.) there should be two meetings per year and that the Local Board reports details of its meetings to PFAC.
  - (vi.) A proposed terms of reference is attached as Appendix 1 and it is proposed that other procedural aspects set out below be approved:
- 7.5. Voting rights – Regulations provide that voting rights only apply to members of the Board who are either an employer or a member representative. This means no other member of the Board has a vote. In the event of a tied vote, the Chair will have the casting vote.
- 7.6. Appointment of chair/vice chair would be from the four members.
- 7.7. Quorum will be two members.
- 7.8. Attendance requirements (non-attendance at 2 consecutive meetings would result in a replacement representative being sought).

## **8.0 ALTERNATIVE OPTIONS– JOINT PENSIONS BOARDS**

- 8.1. The Regulations provide for the establishment of a Joint Local Pension Board where the administration and management of a Scheme is wholly or mainly shared by two or more Administering Authorities. Approval for such a Board would have to be obtained from the Secretary of State. The Council will not be making an application at this time to establish a Joint Pension Board as it does not currently meet the criteria. However consideration may be given to this in future with the establishment of the London Collective Investment Vehicle (CIV).

## **ROLE OF ADVISORS**

- 9.1 The Board will primarily be supported in its role and responsibilities by officers of the Council. There may be occasions where additional advice may be required. The Board may with the approval of the Director of Corporate Services use the shared pool of existing advisors to the Council.

## **10. CONCLUSION**

- 10.1 The approaches proposed in this report aim to minimise cost, meet statutory requirements whilst assisting PFAC and Director of Corporate Services as officer with delegated pension function by providing oversight of the more technical aspects of Pension Fund governance

## **11. CONSULTATION UNDERTAKEN OR PROPOSED**

- 11.1 Both Legal and Democratic Services comments have been incorporated in this report.

## **12. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 12.1 Regulation 106(7) of the Regulations specifies that the expenses of a Local Pension Board shall be regarded as part of the costs of administration of the Fund but expected to be minimal.

## **13. LEGAL AND STATUTORY IMPLICATIONS**

- 13.1 The Council in its role as Administering Authority of the London Borough of Merton Pension Fund is required to comply with the requirements of the Public Service Pension Act 2013 and Local Government Pension Scheme (Amendment) (Governance) Regulations 2015.

## **14. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 14.1 The statutory guidance states that all employers and members within a Fund must have equal opportunity to be nominated for the role of employer or member representative through an open and transparent process. Regulation 107 of the Regulations also requires that the Administering Authority must ensure that any person it wishes to appoint as an employer or member representative has relevant experience and the capacity to represent the employers or members (as appropriate) of the Fund. An individual's ability to properly represent the interests of employers or members (as appropriate) and channel information back to those persons effectively should also be a key factor in selecting members of the Local Pension Board. This needs to take account of the wide range of membership of the Fund to ensure all employers and members are represented

**15. CRIME AND DISORDER IMPLICATIONS**

15.1 There are no crime and disorder implication to this report.

**16. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

16.1 The Council is required to set up the Local Pension Board by 1 April 2015. The Board is a requirement of the Public Service Pensions Act 2013.

**17. APPENDICES**

17.1 There are two appendices to this report. Appendix A – the Board terms of reference and appendix B – the Pension Fund membership at 31 December 2014.

**18. BACKGROUND PAPERS**

- a.) Local Government Scheme Shadow Advisory Board guidance on Scheme Advisory Board
- b.) Pension Regulator Draft Code of Practice



## Appendix A

### 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:
  - i.) Regulations made under the Public Service Pensions Act 2013 that apply to the matters referred to in sections 5 and 6 of that Act.
  - ii.) Any other legislation relating to the governance and administration of the Scheme and any connected scheme
  - iii.) Any requirements imposed by the Pensions Regulator in relation to the Scheme. These areas include but are not restricted to:
    - *Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations.*
    - *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*
    - *Assist with the development of and continually review such documentation as is required by the Regulations including Governance Compliance Statement, Funding Strategy Statement and Statement of Investment Principles.*
    - *Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.*
    - *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 voting 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 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 non-binding.

## **Reporting**

1. The Board in the first instance report its requests, recommendations or concerns to PFAC.
2. On receipt of a report PFAC should, within a reasonable period, consider and respond to the Board.

3. The appropriate internal route for escalation is to the Section 151 Officer.
4. 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.
5. 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].
6. 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

**FUND MEMBERSHIP AT 31 DECEMBER 2014**

## Appendix B

Employer	ACTIVES	PENSIONERS & DEPENDANTS	DEFERREDS	UNDECIDEDS	FROZENS	TOTALS
LB Merton	3426	3227	3098	357	462	<b>10570</b>
<b>Total Administering Bodies</b>	<b>3426</b>	<b>3227</b>	<b>3098</b>	<b>357</b>	<b>462</b>	
<b>Scheduled Bodies</b>						
Merton College	0	69	56	0	16	<b>141</b>
Merton Magistrates Courts	0	9	10	0	0	<b>19</b>
Wimbledon & Putney Commons Conservators	17	24	11	2	6	<b>60</b>
Wimbledon School of Art	0	17	9	0	7	<b>33</b>
Ursuline Convent	0	4	0	0	0	<b>4</b>
St Marks Academy	30	10	23	11	2	<b>76</b>
Harris Academy (Merton)	52	6	33	7	0	<b>98</b>
Harris Academy (Morden) (ex Bishopsford)	15	4	6	5	0	<b>30</b>
CHAS	9	0	1	2	0	<b>12</b>
Benedict Primary School	24	4	3	10	0	<b>41</b>
Harris Primary Academy (Merton)	53	0	0	5	0	<b>58</b>
<b>Total Scheduled Bodies</b>	<b>200</b>	<b>147</b>	<b>152</b>	<b>42</b>	<b>31</b>	
<b>Admitted Bodies</b>						
Great Southern Group (Dignity Funerals)	0	4	1	0	0	<b>5</b>
Greater London Employers Secretariat	0	3	0	0	0	<b>3</b>
Merton Civic Theatre	0	2	0	0	1	<b>3</b>
Merton Family Trust	0	1	0	0	1	<b>2</b>
Moat Housing	0	6	7	0	0	<b>13</b>
Merton Leisure IPS	0	18	25	0	3	<b>46</b>
Central & Cecil Housing Trust	0	26	15	5	0	<b>46</b>
Greenwich Leisure Limited	5	7	13	0	0	<b>25</b>
Connaught	0	4	5	0	0	<b>9</b>
Environmental Waste Controls	0	0	0	2	0	<b>2</b>
Merton Priory Homes	84	25	32	5	0	<b>146</b>
<b>Total Administering Bodies</b>	<b>89</b>	<b>96</b>	<b>98</b>	<b>12</b>	<b>5</b>	
<b>GRAND TOTAL MEMBERSHIP</b>	<b>3715</b>	<b>3470</b>	<b>3348</b>	<b>411</b>	<b>498</b>	<b>11442</b>

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