



General Purposes Committee
25 February 2015

Report from Chief Finance Officer

For Action

Establishment of a Pension Board

1.0 Summary

- 1.1 This report explains the requirement for the Council to establish a Pension Board, under new regulations which were made on 26th January 2015. There are some elements of discretion for the Council and a proposed way forward is set out for consideration by the Committee.

2.0 Recommendations

- 2.1 The Committee is asked to consider the report and agree the constitution of the Pension Board as set out in Appendix 2.

3.0 Detail

- 3.1 The implementation of Pension Boards is required as part of a wider change in governance of pension nationally. Given the existing arrangements within the LGPS there has been considerable debate as to whether the additional layer of governance provides value for money. However there is no choice but to comply.
- 3.2 In effect the Board can be considered to provide a scrutiny function of the work of the Pension Fund Sub-Committee. It does not have decision making powers but its purpose is to assist the Sub-Committee in carrying out its functions. Its remit therefore covers both pension administration and investment.
- 3.3 A more detailed explanation of the context is set out in Appendix 1.
- 3.4 The Board is required to:
- a) be established by 1 April 2015
 - b) be operational by 30 July 2015
 - c) have at least four members

- d) have an equal number of employer and scheme member representatives

3.5 There are a number of areas for local discretion and a proposed approach is set out in the draft terms of reference in Appendix 2. The main areas to consider are highlighted below.

Composition and Selection of the Board

3.6 It is proposed that the Board has seven members – three employer representatives, three scheme member representatives and an independent chair. This recognises the number of employers (and employee groups) represented within the scheme and, as with the Audit Committee, provides an external insight into the activities undertaken.

3.7 The proposed composition and selection process for the Board is as follows:

- a) Two employer representatives and two trade union representatives from Brent Council (Unison has presented its views on the Board and these are attached as a separate document)
- b) One employer representative from another employer within the Pension Fund (open to nomination by all employers with selection process if more than one nominated)
- c) A pension scheme member (request nominations, with a selection process if more than one nominated)
- d) The independent chair be openly advertised (as is the case with the Audit Committee)

Allowances and Expenses

3.8 It is proposed that the chair of the Committee receive an allowance equivalent to the Audit Committee at £415 pa and that the other members are reimbursed expenses.

Frequency of Meetings

3.9 It is recommended that the Board meet twice per year as a minimum. Additional meetings can be called by the Chair if required or in response to a request from the Pension Fund Sub-Committee.

Reporting

3.10 It is proposed that the minutes of the Board meetings are reported to the Pension Fund Sub-Committee along with any specific matters the Board wishes to bring to the Sub-Committee's attention.

3.11 An annual report on the work of the Board should also be sent to the General Purposes Committee.

Next Steps

3.12 The detail of the Local Pension Board will be included in Part 2 Article 11 of the Constitution ('Other Bodies and Panels) in the next report to Full Council on Constitutional changes.

4.0 Financial Implications

- 4.1 The cost of the Pension Board is met from the Pension Fund. It is important that this cost is kept at a proportionate level and it is proposed that a budget of £10k is established for the operation and servicing of the Board.

5.0 Legal Implications

- 5.1 The Local Government Pension Scheme Regulations 2013 are amended by Local Government Pension Scheme (Amendment) (Governance) Regulations 2015. The regulations require that the Council establish a Pension Board by no later than 1st April 2015.
- 5.2 The functions of the Board are prescribed by the regulations namely to
- (a) to secure compliance with—
 - (i) these Regulations,
 - (ii) any other legislation relating to the governance and administration of the Scheme and any connected scheme, and
 - (iii) any requirements imposed by the Pension Regulator in relation to the Scheme; and
 - (b) to ensure the effective and efficient governance and administration of the Scheme
- 5.3 The expenses of the Pension Board (including allowances, training, professional advice and administrative support) are to be regarded as part of the costs of administration of the fund held by the Council.
- 5.4 In some areas the arrangements are a matter of local choice for the Council:
- i. The Pension Board may be part of the Pension Fund Sub Committee *if* the Secretary of State consents. It is recommended that a Board separate from that committee be established.
 - ii. The Council can choose the procedures applicable to the Pension Board, including the establishment of sub-committees, and formation of joint committees. It is recommended that a Brent Board be established by the General Purposes Committee and that the arrangements for the Board broadly follow the same arrangements as used for Council committees
 - iii. Payment of expenses. It is recommended that the Chair be independent and that he/she receive a nominal sum (£415p/a - the same as the Independent Chair of Audit) and that others receive out of pockets expenses for attendance at meetings.
 - iv. With regards membership of the Board, the membership, terms of appointment and manner in which people may be appointed and removed are for the Council to decide. However, there must be no less than 4 members on the Board and there must be an equal number of employer representatives and member representatives. The Council must also be satisfied that the representatives have the capacity to represent the employer/ employees as the case may be. Furthermore, no officer or elected member of the Council who is responsible for the discharge of any function under these regulations may be a member of a local pension board, such that members of the Pension Sub

Committee or officers responsible for pensions cannot be on the Board. Lastly, the Board members must not have a conflict of interest and information to that end has to be provided.

- 5.5 In setting up the Board and the operation thereof the Council must also have regard to any guidance issued by the Secretary of State. The Shadow Scheme Advisory Board has developed guidance on the creation and operation of Pension Boards, and once the Scheme Advisory Board is formally appointed the guidance is likely to be adopted by it and it will then be statutory guidance. That draft guidance has been taken into account in the preparation of these documents.
- 5.6 The General Purposes Committee has delegated to it the following functions and powers under its Terms of Reference *To determine matters referred to it by the Chief Finance Officer or the Pension Fund Sub-Committee concerning the Council's functions under the Local Government Pension Scheme* (Para 7). In this instance the referral is by the Chief Finance Officer. Alternatively paragraph 10 provides that the Committee *carry out any non-executive functions which are not the responsibility of any other person or Council committee or sub-committee, except where prevented by law from doing so or by any other provision in this Constitution*, thus providing general delegated authority to the General Purposes Committee to undertake any non executive functions. The appointment of the Pension Board is a non executive function.

6.0 Diversity Implications

There are no equality implications directly arising from this report

Contact Officers

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Appendix 1 – Background and Context

1. The Government commissioned Lord Hutton to chair the Independent Public Service Pension Commission to review public service pension and to make recommendations on how such schemes can be made more sustainable and affordable in the long term, and fair to both public sector workers and the taxpayer. Lord Hutton's final report was published on 10 March 2011. In that report he made clear that change is needed to "make public service pension schemes simpler and more transparent, fairer to those on low moderate earnings".
2. The recommendations made by Lord Hutton were accepted by the Government and were carried forward into the Public Service Pension Act 2013. The Act included a requirement for DCLG as the responsible authority of the Scheme to make regulations establishing a national scheme advisory board and enabling each LGPS scheme manager (in effect the administering authority) to establish a Local Pension Board.
3. In June 2014, the Department for Communities and Local Government (DCLG) issued draft governance regulations for consultation with interested parties. Subsequent draft guidance was issued in Autumn 2014 by the LGPS Shadow Scheme Advisory Board and the final regulations and guidance were issued at the end of January 2015..

LGPS Governance Structure Prior to April 2015

4. Prior to 1 April 2015, the LGPS has had a relatively straightforward governance structure which includes the Secretary of State and the administering authority. Each administering authority is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The administering authority is responsible for maintaining and investing its own Fund within the LGPS.
5. Brent Council acts as administering authority for the Brent Pension Fund, which includes a number of larger bodies (such as the College of North West London and BHP) and smaller entities (those providing contracted out services and some local charities).

Establishing a Pension Board

6. It is important to note that the establishment of the Board does not alter the role of the Council's Pension Fund Sub-Committee in taking decisions on pension matters. Instead the regulations specifies that each administering authority shall establish its own Local Pension Board with responsibility for assisting the administering authority:
 - to secure compliance with:
 - the regulations
 - other legislation relating to the governance and administration of the LGPS
 - the requirements imposed by the Regulator in relation to the LGPS

- to ensure the effective and efficient governance and administration of the LGPS.
7. The remit of the Local Pension Board covers all aspects of governance and administration of the LGPS, including funding and investments.
 8. Local Pension Boards must be established no later than 1 April 2015. Established in this context means that the administering authority must have approved the establishment of the Local Pension Board and its composition and also the terms of reference, in accordance with its constitution. It does not necessarily mean that the Local Pension Board has to be fully operational by this date. However, it is anticipated that a Local Pension Board should be operational within a reasonably practicable period after 1 April 2015 (within 4 months).
 9. A Local Pension Board must include an equal number of employer and pension scheme member representatives with a minimum requirement of no less than four in total. The Guidance provides that the factors to be considered in deciding the size of the Board include the size of any existing bodies, the number of scheme members, cost, and the existence of any other advisory groups. No officer or councillor of an administering authority who is responsible for the discharge of any function under the regulations may be a member of a Local Pension Board. The regulations also require that the administering authority must ensure that any person it wishes to appoint as an employer or member representative has 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. 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 Local Pension Board.
 10. There is no appointment process stipulated in the regulations and it is left and the discretion of the Local Authority.
 11. The importance of training, including high quality pre appointment training is also highlighted in the guidance. Addressing conflict of interest issues also feature prominently in the guidance.
 12. The mechanisms and frequency for reports from the Board also need to be considered. An annual report of its work to General Purposes Committee is recommended. In relation to general in year feedback this may be best achieved by the Board minutes being made available to the Pension Fund Sub Committee and CFO. The guidance also suggests that there be included in the terms of reference arrangements for serious concerns to be reported or escalated. There are also legal responsibilities placed upon the individual members of the Board to refer breaches of the law to the Pension Regulator. Accordingly it is proposed that a separate document for reporting arrangements be prepared.

13. Other matters to be considered include:
 - the terms of office (to balance refreshing membership with the need to build up experience)
 - arrangements for termination
 - whether to pay an allowance

14. The Guidance requires updating of the governance compliance statement, preparation of a conflict of interest policy, training provisions, and the arrangements for reporting concerns and breaches.

Appendix 2

Constitution of the Pension Board of the London Borough of Brent Pension Scheme

Terms of Reference

1. To assist the London Borough of Brent as scheme manager in securing compliance with:
 - a. the Local Government Pension Scheme Regulations 2013;
 - b. any other legislation relating to the governance and administration of the Local Government Pension Fund Scheme (LGPS);
 - c. requirements imposed by the Pension Regulator in respect of the LGPS;
 - d. such other matters as the LGPS regulations may specify
2. To assist the London Borough of Brent in securing the effective and efficient governance and administration of the scheme;
3. To consider cases that have been referred to the Pension Regulator and/or the Pension Ombudsman; recommending changes to processes, training and/or guidance where necessary;
4. To produce an annual report outlining the work of the Board throughout the financial year to the General Purposes Committee

Composition

The membership of the Board shall consist of:

- 3 Brent Council Pension Fund employer representatives
- 3 Brent Council Pension Fund member representatives
- 1 independent member (chair)

No substitutes are permitted.

All members of the Board shall be appointed by the General Purposes Committee.

Any person who is applying for or appointed as a member of the Pension Board must provide the Scheme Manager with such information as and when the Scheme Manager requires to ensure that any member of the Board or person to be appointed to the Board does not have a conflict of interest.

No officer or elected member of the Council who is responsible for the discharge of any function in relation to the LGPS shall be a member of the Board.

Tenure

Board members shall be appointed for three to four years. The period of appointment shall be determined on appointment by the Council's General Purposes Committee to ensure continuation of membership in equal numbers for the employer and member representatives and to achieve rolling reappointment to maintain knowledge and experience on the Board.

Board members may be re-appointed to the Board.

At least 3 months' notice of resignation from the Board must be given by a Board member, to enable a replacement member to be found and the required balance of members maintained.

Quorum

The quorum of the Board shall be 3 including at least one employer representative and one member representative.

Voting

It is expected that the Board will function as far as possible by consensus, however each employer and employee Board member shall have one vote.

Frequency of meetings and notice and record requirements

Meetings shall be held bi-annually and normally in public unless confidential or exempt information is to be discussed..

Additional meetings may be called at the request of the Chair of the Board or of the Brent Council Pension Fund Sub-committee.

Normally meetings shall be called on 5 clear days' notice to members of the Board published on the Brent council website but if in the reasonable opinion of the Chair the holding of a meeting is urgent shorter notice of such length as the Chair shall determine may be given.

A formal record of the proceedings of the Board shall be maintained by the council's Democratic Services and circulated to members of the Board after approval by the Chair.

Procedure at meetings of the Board

The Council's committee procedure rules in Part 4 of its Constitution shall apply except that where there is a conflict between the committee rules and these terms of reference the latter shall apply.

The Board shall normally meet on the same date as the Pension Fund sub-committee in order that its deliberations may be taken into account in relation to relevant items on the agenda of the Pension Fund sub-committee.

Remuneration of Members

Remuneration for Board members will be limited to a refund of actual expenses incurred in attending Board meetings. The Independent Member shall be entitled to an allowance.

Standards of Conduct

The role of Pension Board members requires the highest standards of conduct and therefore the "seven principles of public life" will be applied to all Pension Board members and embodied in their code of conduct.

These are –

- **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- **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.
- **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.
- **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.
- **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.
- **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.
- **Leadership** - Holders of public office should promote and support these principles by leadership and example.

As members of a publicly-funded body involved in the discharge of public business, all members of a Board should comply with these principles in the exercise of their functions. They require the highest standards of conduct.

Members of the Board will also be expected to adhere to the Council's Code of Conduct which will be issued to them upon appointment

Conflicts of Interest

The Chief Finance Officer shall be responsible for maintaining a conflicts of interest policy for the Board.

The Public Service Pension Act 2013 and the Local Government Pension Scheme Regulations 2013 require that members of the Board do not have conflicts of interests. All members of the Board will be required to declare any interests and any potential conflicts of interest in accordance with these requirements on appointment and at regular intervals thereafter so they can be included in the Board's register of interests.

An appointed member of the Board is under a duty to provide the Scheme Manager with such information as the Scheme Manager reasonably requires to satisfy itself that such person has no conflicts of interest.

Conflicts of interest will be included as an open agenda item at Board meetings and revisited during the meeting where necessary and in accordance with the policy may impact on a member's ability to participate in that item.

Members of the Board should review conflicts of interest at least annually and maintain their entry in the Board's register of interests.

Knowledge of Members and Training

All employer and member representatives on the Board are required to have relevant experience and capacity to represent scheme employers or scheme members (as appropriate).

All members of the Pension Board must be conversant with –

- The legislation and associated guidance of the Local Government Pension Scheme (LGPS).
- Any document recording policy about the administration of the LGPS which is for the time being adopted by the Brent Pension Fund.

A member of the Pension Board must have knowledge and understanding of –

- The law relating to pension, and
- Any other matters which are prescribed in regulations.

It is for individual Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Board.

Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses. Board members should draw to the attention of the Chief Finance Officer any areas in which they consider they need training or information.

Board members will comply with the Scheme Manager's training policy and are required to promptly complete any training designated by the Board as mandatory.

The Board should prepare and keep updated a list of the core documents recording policy about the administration of the Fund and make sure that the list and documents (as well as the rules of the LGPS) are accessible to its members (see publication of Pension Board information below).

Termination of Board Membership

Appointments will terminate at the expiry of a member's term of office.

Membership of the Board shall automatically terminate in the event that:

- a member who is a councillor is appointed to the Pension Fund Sub-Committee as a member or a substitute member;
- a member is appointed to the role of an officer of the Scheme Manager with responsibility for the discharge of functions under the Regulations;
- a representative member ceases to represent his constituency, 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;

Any appointment to the Pension Board may be terminated by the General Purposes Committee if any of the following situations arise:

- a member has a conflict of interest which cannot be managed in accordance with the Board's conflicts policy;
- a member fails to attend meetings or otherwise comply with the requirements of being a Board member, for example fails to attend the necessary knowledge and understanding training;
- a member is not adequately meeting their duties in some other respect after this having been drawn to their attention and an adequate time being given for improvement;
- continued membership of a member is likely to cause damage to the reputation of the Board and/or of the council.

Where issues of this nature arise, the chair of the Board will have lead responsibility for an initial informal discussion with the member about the concerns. The Chair of the Board will be advised by the Chief Finance Officer. If the issue cannot be satisfactorily resolved, the Board may recommend to the General Purposes Committee that the Board Member be removed from the Board.

Undertaking

Board members will be required to sign a written undertaking that they understand the requirements of the role and commit to those requirements. This will include without limitation:

- disclosing all dual interests and responsibilities which have the potential to become conflicts of interest and providing the Scheme Manager with such information as and when the Scheme Manager requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest
- committing to attend meetings as required;
- committing to undertake and attend the necessary knowledge and understanding training;
- undertaking to abide by the Board's terms of reference and wider constitutional documents.
- Complying with the Council's code of conduct
- Complying with the Council's obligations and policies on data protection, information security and acceptable use.
- Agreeing that they have read and understood a knowledge and policy document including a list of the core documents recording policy about the administration of the fund as set out by the Chief Finance Officer on behalf of the Scheme Manager

Advisers to the Board

The Board will primarily be supported in its role and responsibilities by officers of the Council. Subject to any applicable regulation and legislation from time to time in force and to their use and any fees being agreed by the Chief Finance Officer on behalf of the Scheme Manager in advance, the Board may consult with other advisors to help it better perform its duties including:

- The Fund's Actuary;
- The Fund's Administrator;
- The Fund's Investment Adviser(s);
- The Scheme Manager
- Other advisers, as approved by the Scheme Manager.

Reporting Serious Concerns or Breaches

Any breach brought to the attention of the Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in a separate policy document.

Publication of Pension Board information

Up to date information will be posted on the Brent website showing

- The names and information of the Pension Board members
- How the scheme members are represented on the Pension Board
- The responsibilities of the Pension Board as a whole
- The full terms of reference and policies of the Pension Board and how they operate
- The Pension Board appointment process
- Who each individual Pension Board member represents
- Any specific roles and responsibilities of individual Pension Board members.

Pension Board papers, agendas and minutes of meetings will be published on the Council's website. These may at the discretion of the Scheme Manager be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

The Scheme Manager will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

Definitions

The undernoted terms shall have the following meaning when used in this document:

"Pension Board" or "Board"

Means the Pension Board for the administering authority for the LB Brent Pension Fund as required under the Public Service Pension Act 2013

"Scheme Manager"

Means LB Brent as administering authority of the Brent Pension Fund.

"LGPS"

The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

and the
The Local Government Pension
Scheme (Management and
Investment of Funds) Regulations
2009

“Scheme”

Means the Local Government
Pension Scheme as defined under
“LGPS”