

## **Item 6 LOCAL PENSION BOARD OF LBE - TOR**

### **Introduction**

Members will recall the discussion at CRG around the Legislative requirement to have a Local Pension Board. It was agreed that the Whips would sign off the final TOR and this is attached in **appendix 1**.

Bridget Uku will attend to answer any questions.

## Appendix 1

### LOCAL PENSION BOARD OF LONDON BOROUGH OF EALING TERMS OF REFERENCE

#### Introduction

1. This document sets out the terms of reference of the Local Pension Board of London Borough of Ealing (the 'Administering Authority') a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Local Pension Board (hereafter referred to as 'the Board') is established in accordance with Section 5 of that Act and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).
2. The Board is established by the Administering Authority and operates independently of the Pension Fund Panel. Relevant information about its creation and operation are contained in these Terms of Reference.
3. The Board is not a committee constituted under Section 101 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly included in this document.
4. The Board shall be constituted separately from any committee or sub-committee constituted under Section 101 of the Local Government Act 1972 with delegated authority to execute the function of the Administering Authority.

#### Interpretation

5. The following terms have the meanings as outlined below:

**'the Act'** The Public Service Pensions Act 2013.

**'the Code'** means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes.

**'the Committee'** means the committee who has delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972, namely the Pension Fund Panel.

**'the Fund'** means the Fund managed and administered by the Administering Authority

**'the Guidance'** means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board.

**'the Regulations'** means the Local Government Pension Scheme Regulations 2013 (as amended from time to time), the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time) including any earlier regulations as defined in these regulations to the extent they remain applicable and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time).

**'Relevant legislation'** means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to the Administering Authority and the Board notwithstanding that the Codes of Practice are not legislation.

**'the Scheme'** means the Local Government Pension Scheme in England and Wales.

### **Statement of purpose**

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

(a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and 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.

### **Duties of the Board**

7. The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of this duty Board members should be subject to and abide by the code of conduct for Board members.



### **Establishment**

8. The Board is established on 1 April 2015 subsequent to approval by Full Council. Subsequent to its establishment, the Board may establish sub-committees.

## Membership

9. The Board shall consist of either 4 or 6 voting members, as follows:

Either 2 or 3 Member Representatives; and  
Either 2 or 3 Employer Representatives.

<b>Selected From</b> 	<b>Employer Representatives 2 or 3</b>	<b>Members Representatives 2 or 3</b>	<b>Selected From *</b> 
<b>Representing</b>	<b>The Council Contractors Educational Establishments</b>	<b>Pensioner Deferreds Employees</b>	<b>Representing</b>
<ul style="list-style-type: none"> <li>• Council Officer</li> <li>• Elected Member</li> <li>• Independent</li> </ul>	<b>Member 1</b>	<b>Member 1</b>	<ul style="list-style-type: none"> <li>• Pensioner</li> <li>• Officer of the Council</li> <li>• Independent</li> </ul>
<ul style="list-style-type: none"> <li>• Contractor Nominee/ Other Nominee if no contractor Nominee</li> <li>• Elected Member</li> <li>• Council Officer</li> <li>• Independent</li> </ul>	<b>Member 2</b>	<b>Member 2</b>	<ul style="list-style-type: none"> <li>• Pensioner</li> <li>• Council Officer</li> <li>• Independent</li> <li>• Union Representation</li> </ul>
<ul style="list-style-type: none"> <li>• Educational Establishment Nominee/ Or other nominee if no educational establish</li> <li>• Elected Member</li> <li>• Council Officer</li> <li>• Independent</li> </ul>	<b>Member 3</b>	<b>Member 3</b>	<ul style="list-style-type: none"> <li>• Council Officer</li> <li>• Independent</li> <li>• Union Representative</li> </ul>

<b>Optional 1 Independent Chair</b>
<b>Total On Board 7 (if all appointments made)</b>

***\*Regulations do not permit Elected Members to be scheme member representatives***

10. There shall, at all times, be an equal number of Member and Employer Representatives.

11. There may also be a maximum of one other representative who is not entitled to vote.

12. In line with regulations other individual may be appointed to the Board, but they will not have voting rights.

### **Member representatives**

12. Member representatives shall either be scheme members or have capacity to represent scheme members of the Fund. At all times, at least one member representative shall be a member of the London Borough of Ealing Pension Fund (whether active, deferred or pensioner).

13. Member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.

14. Substitutes shall not be appointed.

15. Member representatives shall be appointed following a transparent recruitment process. The decision making panel will consist of: Portfolio Holder for Finance; Section 151 Officer; Deputy Section 151 Officer.

### **Employer representatives**

16. Employer representatives shall be office holders or senior employees of employers of the Fund or have experience of representing scheme employers in a similar capacity. No officer or elected member of the Administering Authority who is responsible for or participates in the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board and vice versa.

17. Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.

18. Substitutes shall not be appointed.

19. Employer representatives shall be appointed by the Administering Authority after all employers have been asked to submit their interest in undertaking the role of employer representative on the Board. The decision making panel will consist of: Portfolio Holder for Finance; Section 151 Officer; Deputy Section 151 Officer.

### **Other members**

20. Up to a maximum of one other member may be appointed to the Board by a decision making panel of: Portfolio Holder for Finance; Section 151 Officer; Deputy Section 151 Officer.

21. Other members do not have voting rights on the Board.

### **Appointment of chair**

22. Subject to the meeting arrangements in paragraphs 35 to 37 below a chair shall be appointed for the Board using one of the processes listed below:

- a) A decision making panel of Portfolio Holder for Finance, Section 151 Officer, Deputy Section 151 Officer may appoint an independent chair. This would count as the 'other' member under paragraphs 20-21 above. In this respect the term

independent means having no pre-existing employment, financial or other material interest in either the Administering Authority or any scheme employer in the Fund or not being a member of the Fund. The appointment of the chair shall be subject to the passing of a motion to confirm by a majority of the employer and member representatives of the Board.

Or

- b) In the absence of an appointment under paragraph (a), a chair to be appointed by the employer and member representatives of the Board from amongst their own number or on a rotating basis with the term of office shared between an employer and a member representative on an equal basis.

## **Duties of the chair**

### **23. The chair of the Board:**

- (a) Shall ensure the Board delivers its purpose as set out in these Terms of Reference.
- (b) Shall uphold and promote the purpose of the Board and interpret its Terms of Reference when necessary.
- (c) Shall ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered.
- (d) Shall seek to ensure that all members of the Board show due respect for process, that all views are fully heard and considered to seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published.
- (e) Shall seek to ensure that members have the capacity to act as required by guidance or legislation and maintain a training record.
- (f) Shall (with the Board Secretary) agree the agenda for each Pension Board meeting.
- (g) Shall approve minutes for Pension Board meetings.
- (h) Shall (with the Board Secretary) ensure an attendance record is maintained along with advising Ealing Council on remuneration and expenses to be paid.
- (i) Shall advise Ealing Council on an appropriate budget (e.g. for the use of advisers, training, accommodation, remuneration and expenses) for the Board, which should be formally approved by the Committee with the Pension Fund Annual Budget.
- (j) Shall produce reports required by Ealing Council on the work of the Board.
- (k) Shall (with the Board Secretary) liaise with the Treasury & Investments Manager on the requirements of the Board, including advanced notice for Ealing Council officers to attend and arranging dates and times of Board meetings.
- (l) Shall carry out other tasks which may be deemed appropriate by the Administering Authority for the Chair of the Pension Board.
- (m) Shall carry out other tasks that may be requested by the members of the Pension Board, within the remit of these Terms of Reference and subject to agreement with the Section 151 Officer.
- (n) Shall produce an annual review and report on the performance of the Board.

Where the Independent Member is the Chair, the role includes acting as professional adviser for the Board or arranging such advice as required subject to agreement by the Section 151 Officer.

The decision of the Chair on all points of procedure and order shall be final.

### **Notification of appointments**

24. When appointments to the Board have been made the Administering Authority shall publish the name of Board members, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

25. The term of office for member representatives and employee representatives is 4 years. The term of office for other members (if any) shall be determined and published by the Section 151 Officer at the time of appointment but shall not exceed 2 years.

26. Extensions to terms of office may be made by the Administering Authority with the agreement of the Board, such extension not to exceed a maximum of 2 years at a time and the maximum term on the board shall not exceed 10 years.

27. A Board member may be appointed for further terms of office using the methods set out in paragraphs 15 and 19.

28. Board membership may be terminated prior to the end of the term of office due to:

(a) A member representative appointed on the basis of their membership of the scheme no longer being a scheme member in the Fund, or else no longer able to demonstrate the capacity to represent members.

(b) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied, or else no longer able to demonstrate the capacity to represent employers.

(c) A Board member no longer being able to demonstrate to the Administering Authority their capacity to attend and prepare for meetings or to participate in required training.

(d) A Board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.

(e) A Board member who is an elected member becomes a member of the Committee.

(f) A Board member who is an officer of the Administering Authority becomes responsible for the discharge of any function of the Administering Authority under the Regulations.

### **Conflicts of interest**

29. 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.

30. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.

31. On appointment to the Board and following any subsequent declaration of potential conflict by a Board member, the Administering Authority shall ensure that any potential

conflict is effectively managed in line with both the internal procedures of the Board's conflicts policy and the requirements of the Code.

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

32. Knowledge and understanding must be considered in light of the role of the Board to assist the Administering Authority in line with the requirements outlined in paragraph 6 above. The Board shall establish and maintain a Knowledge and Understanding Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.

33. 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.

34. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Meetings**

35. The Board shall as a minimum meet twice each year.

36. Meetings shall normally take place at an appointed hour on a weekday, at Perceval House, or Ealing Town Hall, or some other suitable premises belonging to the Administering Authority. Meetings will usually be scheduled to precede meetings of the Committee.

37. The chair of the Board with the consent of the Board membership may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails.

### **Quorum**

38. A meeting is only quorate when at least 50% of both member and employer representatives are present and provided that the other member (if any) is also present.

39. A meeting that becomes inquorate will cease immediately.

### **Board administration**



40. The Chair shall agree with The Treasury and Investments Manager (the 'Board Secretary') an agenda prior to each Board meeting.

41. The agenda and supporting papers will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency.

42. Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board members as soon as practicable after the meeting. These draft minutes will be subject to formal agreement by the Board (either at their next meeting, or else electronically between meetings). Any decisions made by the Board should be noted in the minutes and in addition where the Board was unable to reach a decision such occasions should also be noted in the minutes.

43. The minutes may with the agreement of the Board, 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.

44. The Board Secretary (with the Chair) shall ensure that Board members meet and maintain the knowledge and understanding as determined in the Board's Knowledge and Understanding Policy and Framework and other guidance or legislation.

45. The Board Secretary shall arrange such advice as is required by the Board subject to such conditions as are listed in these Terms of Reference for the use of the budget set for the Board.

46. The Board Secretary (with the Chair) shall ensure an attendance record is maintained along with advising the Administering Authority on allowances and expenses to be paid under these terms.

47. The Board Secretary (with the Chair) shall liaise with the Administering Authority on the requirements of the Board, including advanced notice for officers to attend and arranging dates and times of Board meetings.

### **Public access to Board meetings and information**

48. The Board meetings can be open to the general public (unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public).

49. The following will be entitled to attend Board meetings in an observer capacity:

- (a) Members of the Committee,
- (b) Any person requested to attend by the Board.
- (c) The Section 151 Officer, the Deputy Section 151 Officer, the Monitoring Officer, the Treasury and Investments Manager

Any such attendees will be permitted to speak at the discretion of the Chair.

50. In accordance with the Act the Administering Authority shall publish information about the Board to include:

- (a) The names of Board members and their contact details.
- (b) The representation of employers and members on the Board.
- (c) The role of the Board.
- (d) These Terms of Reference.

51. The Administering Authority shall also publish other information about the Board including:

- (a) Agendas and minutes
- (b) Training and attendance logs
- (c) An annual report on the work of the Board to be included in the Fund's own annual report.

52. All or some of this information may be published using the following means or other means as considered appropriate from time to time:

- (a) On the Fund's website.
- (b) As part of the Fund's Annual Report.
- (c) As part of the Governance Compliance Statement.

53. Information may be excluded on the grounds that it 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. All members of the Board, and all the information published, must comply with the Administering Authority's data protection policy, and any controls and policies for ensuring Freedom of Information Act compliance.

## **Expenses and allowances**

54. The Administering Authority shall meet the expenses of Board members up to in line with the Administering Authority's policy on expenses as set out in the Members' Allowances Scheme in Ealing Council's Constitution for independent members and co-opted members of an Ealing Council Committee. Claims must be submitted within 4 weeks of the meeting.

55. The Administering Authority may pay allowances for Board members subject to the following:

- a) no payment will be made where a member attends a meeting or training session within their working hours and are paid by their employer;
- b) the Section 151 Officer may set a cap on the maximum to be paid per meeting;
- c) the allowance to employer representatives and member representatives who are not the chair will be in line with the Administering Authority's policy on expenses as set out in the Members' Allowances Scheme in Ealing Council's Constitution for independent members and co-opted members of an Ealing Council Committee.
- d) the allowance to an employer representative or member representative who is the chair will be set by the Section 151 Officer having consulted the Chair of the Council's Independent Remuneration Panel.
- e) allowances to any other member will be determined by Section 151 Officer at the time of that member's appointment

## **Budget**

56. The Board is to be provided with adequate resources to fulfil its role. In doing so the budget for the Board will be met from the Fund and determined by the Board who will to seek approval from the Administering Authority for its budget on an annual basis. The budget will be managed by and at the discretion of the Board.

The Board will seek approval from the Section 151 officer for any expenditure it wishes to make over the its allocated budget.

## **Core functions**

57. The first core function of the Board is to assist the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- a) 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.
- b) Review the compliance of scheme employers with their duties under the Regulations and relevant legislation.
- c) 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.
- d) Monitor complaints and performance on the administration and governance of the scheme.
- e) Review the complete and proper exercise of Pensions Ombudsman cases.
- f) Review the implementation of revised policies and procedures following changes to the Scheme.
- g) Review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme.
- h) Review the outcome of internal and external audit reports.
- i) Any other area within the statement of purpose (i.e. assisting the Administering Authority) the Board deems appropriate.

58. The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- a) Assist with the development of improved customer services.
- b) Monitor performance of administration, governance and investments against key performance targets and indicators.
- c) Review the effectiveness of processes for the appointment of advisors and suppliers to the Administering Authority.
- d) Monitor investment costs including custodian and transaction costs.
- e) Monitor internal and external audit reports.
- f) Review the risk register as it relates to the scheme manager function of the authority.
- g) Assist with the development of improved management, administration and governance structures and policies.

- h) Review the outcome of actuarial reporting and valuations.
- i) Assist in the development and monitoring of process improvements on request of Committee.
- j) Assist in the development of asset voting and engagement processes and compliance with the UK Stewardship Code.
- k) Any other area within the statement of purpose (i.e. ensuring effective and efficient governance of the scheme) the Board deems appropriate.

59. In support of its core functions the Board may make a request for information to the Committee with regard to any aspect of the Administering Authority's function. Any such request should be reasonably complied with in both scope and timing.

60. In support of its core functions the Board may make recommendations to the Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

## **Reporting**

61. The Board should in the first instance report its requests, recommendations or concerns to the Committee. In support of this any member of the Board may attend a Committee meeting as an observer.

62. Requests and recommendations should be reported under the provisions of paragraphs 59 and 60 above.

63. The Board should report any concerns over a decision made by the Committee to the Committee subject to the agreement of at least 50% of voting Board members provided that all voting members are present. If not all voting members are present then the agreement should be of all voting members who are present, where the meeting remains quorate.

64. On receipt of a report under paragraph 63 above the Committee should, within a reasonable period, consider and respond to the Board.

65. Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.

66. Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee under paragraph 63 and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.

67. The appropriate internal route for escalation is to the Monitoring Officer and/or the Section 151 Officer (as appropriate).

68. 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.

69. Board members are also subject to the requirements to report breaches of law under the Act and the Code.

### **Review of terms of reference**

70. These Terms of Reference shall be reviewed on each material change to those part of the Regulations covering local pension boards and at least every 5 years.

71. These Terms of Reference were [adopted/ last reviewed on [INSERT DATE]].

.....  
**Signed on behalf of the Administering Authority**

.....  
**Signed on behalf of the Board**