

<b>COMMITTEE:</b>  Pensions Committee	<b>DATE:</b>  <u>24 February 2015</u>	<b>CLASSIFICATION:</b>  <u>Unrestricted</u>	<b>REPORT NO.</b>	<b>AGENDA NO.</b>
<b>REPORT OF:</b>  Acting Corporate Director of Resources  <b>ORIGINATING OFFICER(S):</b>  Bola Tobun – Investment & Treasury Manager		<b>TITLE:</b> <b>LGPS Governance Regulations and the Local Pension Board Establishment</b>  <b>Ward(s) affected: N/A</b>		

## 1. SUMMARY

- 1.1 The report explains the planned changes to the governance of the Local Government Pension Scheme (LGPS) as a result of the public Service Pensions Act 2013 AND Regulations issued on 28 January 2015. The main requirement is for a proposed new Local Pension Board to assist the Administering Authority in the running of the Pension Fund and to monitor compliance with rules and standards.

## 2. DECISIONS REQUIRED

The Pensions Committee is recommended to:

- 2.1 note the report;
- 2.2 note that the monitoring officer will make the necessary changes to the constitution that the Pensions Committee has the delegated authority and power to create the Local Pension Board in accordance with the decision made by Full Council on 26th November 2014; and
- 2.2 to approve the Local Pension Board Terms of Reference as set out at Appendix A of this report.

## 3. REASONS FOR DECISIONS

- 3.1 The Public Service Pensions Act 2013 gave powers to the Secretary of State to introduce a number of changes to the administration of the LGPS. One of the changes introduced is the creation of the Local Pension Board.

- 3.2 Under Regulation 2(2) of the LGPS Regulations 2013, the Scheme Manager responsible for the local administration of pensions and other benefits payable under those Regulations is referred to as the “administering authority”, this function has been delegated by Full Council to the Pensions Committee.
- 3.3 Therefore the Pension Committee has the delegated authority to approve the delegation of the functions of the Scheme Manager under Section 101 of the Local government Act 1972.
- 3.4 The Pensions Committee must be aware of all governance Regulations for the administration of the Fund.

#### **4. BACKGROUND**

- 4.1 The Public Service Pensions Act (PSPA) 2013 provides the platform for a more coherent and consistent system to establish assurance that benefits are paid, contributions are received and the Code of Practice is followed in accordance with the law.
- 4.2 The Department of Communities and Local government (DCLG) issued final LGPS Governance regulations on 28 January 2015. These Regulations set out the requirements to establish a Local Pension Board and include its establishment, function and role.
- 4.3 In the final Regulations, there are further changes to the initial draft regulations circulated at the last meeting. The changes are as follows:
  - Removal of the requirement for ‘relevant experience’ for those individuals to be appointed to a local pension board as a member or employer representative: There is now no requirement in the regulations (either regulation 107(2)(a) or 107(2)(b)) for a person who is appointed to a Board to have relevant experience. The requirement for capacity is retained.
  - Voting rights: New Regulation 106(7) provides that voting rights only apply to members of a Board who are either an employer or a member representative. In effect this means that ‘other members’ of a Board do not have voting rights.
  - Clarification that only officers or elected members of the administering authority relating to the local pension board are precluded from being members of that local pension board: Regulations now confirm that officers or elected members of one Administering Authority could be members of the Local Pension Board of a second Administering Authority.
  - Joint Pension Boards: New Regulation 106(3) provides 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.
  - Inclusion of new regulation 107(3)(b): Regulations now state that any elected member of the Administering Authority may only be appointed to the Board as either an employer or member representative. This additional regulation dovetails with the new regulation 106(7) which restricts voting rights to employer and member representatives.

- Inclusion of new regulation 107(4): This regulation provides further clarification on the constitution of a combined board and committee as provided for through regulation 106(2).
- 4.4 The current published Regulations are shown as an Appendix B to this report.
  - 4.5 **Consultation** - A working group was established to create a feasible LBTH Local Pension Board. This group consists of two members of the Pensions Committee, officers of the Acting Corporate Director of Resources and the Monitoring Officer to established membership of the Local pension Board, frequency of meetings, delegations, roles and responsibilities of member's in-line with the new Governance Regulations and Shadow scheme Advisory Board Guidelines.
  - 4.6 The terms of reference produced, is thus attached as an Appendix A to this report.

## **5. LOCAL PENSION BOARD**

- 5.1 The Local Pension Board is established by London Borough of Tower Hamlets (LBTH) under regulation 106 of the Local Government Pension Scheme Regulations 2013.
- 5.2 Pension Board: Under regulation 106 of the Local Government Pension Scheme Regulations 2013, the Local Pension Board is responsible for assisting the administering authority to secure compliance with the rules of the scheme, and relevant legislation, and with any requirements imposed by the Pensions Regulator, and to ensure the effective and efficient governance and administration of the scheme.
- 5.3 All persons appointed to the Board will adhere to the Committee's Code of Conduct. The Board's role, members, and working arrangements are in the Terms of Reference included as an Appendix to this report.
- 5.4 Powers of the Pension Board: The Pension Board will exercise all its powers and duties in accordance with the law and its Terms of Reference.
- 5.5 The role of the Pension Board is defined by regulation 106 (1) of the LGPS Regulations as being to assist London Borough of Tower Hamlets as Scheme Manager of the LBTH Pension Fund:
  - a) to secure compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the Scheme, and requirements imposed in relation to the LGPS by the Pensions Regulator
  - b) to ensure the effective and efficient governance and administration of the London Borough of Tower Hamlets Pension Fund
- 5.6 The Pension Board is to provide oversight of these matters and, accordingly, the Pension Board is not a decision making body in relation to the management of the Pension Fund. The Pension Fund's management powers and responsibilities which have been, and may be, delegated by the Council to committees, sub-committees and officers of

the Council, remain solely the powers and responsibilities of those committees, sub-committees and officers.

- 5.7 In relation to ensuring the effective and efficient governance and administration of the Pension Fund, this means having oversight of whether the aims and objectives outlined within the Fund's Governance and Administration strategies are being achieved, having regard to any overriding requirements included within guidance from DCLG, the Scheme Advisory Board or the Pensions Regulator.
- 5.8 The Pension Board will ensure that in performing its role it:
- secures 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;
  - ensures the effective and efficient governance and administration of the Scheme.
- 5.9 The Board must provide minutes of each meeting to the following:
- Pensions Committee, copied to the Corporate Director Resources, and may make reports and recommendations to the Pensions Committee insofar as they relate to the role of the Pension Board.
- 5.10 In addition, an annual report of the Pension Board (as prepared by the Chair of the Pension Board), should be provided to the Lead Member for Resources and Corporate Director of Resources,
- 5.11 In the exceptional circumstances that the Board considers that a matter brought to the attention of the Pensions Committee and Corporate Director of Resources has not been acted upon or resolved to their satisfaction by the Pensions Committee and/or Corporate Director of Resources, the Pension Board will provide a report to Full Council.
- 5.12 **Membership:** The Pensions Board consists of 7 persons made up of three employer and three member representatives in equal proportion and include an additional expert individual to assist in facilitating proceedings. The quorum is 3.
- 5.13 A substitution for any persons appointed to the Pensions Board shall follow the administering authority's procedure. The term of office for a person appointed to the Pensions Board shall be for a period of four years. Nomination to the board shall take a four-year rotation with member nominations received in year one and employer nominations received in year three. This is to ensure a consistency of knowledge within the Board and to assist with the development of knowledge and experience.
- 5.14 The Pensions Board are expected to meet for a minimum of four times a year. People appointed to the Pensions Board are expected to make themselves available to attend board meetings. Persons appointed who fail to attend three or more meetings will be asked to leave the Board and a replacement sought from their nominating body unless there are exceptional reasons for their failure to attend.

- 5.13 The Pension Board's role is to carry out the duties imposed on it under the scheme regulations and associated legislation, to assist the Pensions Committee as Scheme Manager in its management and administrative role. The Pension Board is not a decision-making body. The Pension Board is not a scrutiny function

## **6. FINANACIAL IMPLICATIONS**

- 6.1 The Fund will be required to facilitate the operation of the new board and this will require additional resources. The cost will be met from the Fund's own resources and it is not proposed at this time to increase the staffing of the Fund but for the work to be absorbed within available resources.

## **7. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 7.1. The comments of the Acting Corporate Director of Resources are incorporated in the report.

## **8. LEGAL COMMENTS**

- 8.1 As stated in the body of the report, the government has introduced wide-ranging changes to the administration and governance of the Local Government Pension Scheme. The changes were introduced by the Public Service Pensions Act 2013 and the Local Government Pension Scheme Regulations 2013. Amendments to the 2013 Regulations were introduced by the Local Government Pensions Scheme (Amendment) (Governance) Regulations 2015 which are due to come into force on the 20<sup>th</sup> February 2015. The intention of the Act and the Regulations is to ensure that the Local Government Pension Scheme is well managed at both national and local levels.
- 8.2 Regulations 106 makes provision for each administering authority to establish a local pension board to assist it to comply with its legal obligations relating to its pension scheme. A local authority that discharges its pension functions through a committee, can with the approval of the Secretary of State appoint the existing committee to be the local pension board. The regulations require the local pension board to be established by the 1st April 2015. Thereafter the Board should be operational within four months of the above date. The membership of the Board must consist of an equal number of employer and member representatives who must not be officers or councillors of the administering authority responsible for the discharge of local government pension functions .i.e. the Pensions Committee.
- 8.3 The report describes the functions and role of the Pension Board and sets out proposed terms of reference. The Board will be responsible for assisting the Council (Administering Authority) to secure compliance with the rules of the pensions scheme, relevant legislation, and with any requirements imposed by the Pensions Regulator, and to ensure the effective and efficient governance and administration of the scheme.

- 8.4 When carrying out its functions and in its decision making process, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector duty).

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

- 9.1 The employer's contribution is a significant element of the Council's budget and consequently any improvement in investment performance will reduce the contribution and increase the funds available for other corporate priorities.
- 9.2 A viable pension scheme also represents an asset for the recruitment and retention of staff to deliver services to the residents.

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 10.1 There is no Sustainable Action for A Greener Environment implication arising from this report.

## **11. RISK MANAGEMENT IMPLICATIONS**

- 11.1 There are no major risks foreseen from the implementation of these regulations. The main challenges would be sourcing and training individuals to sit on the new Pension Board.
- 11.2 The rigorous robust management of LBTH Pension Fund results in better quicker and more effective decision making which can lead to better Fund performance and reduction in the contribution required from the Council towards the Fund.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 12.1 There are no crime and disorder reduction implications arising from this report.

## **13. EFFICIENCY STATEMENT**

- 13.1 The monitoring arrangement for the Pension Fund and the work of the Pension Committee should ensure that the Fund optimises the use of its resources in achieving the best returns for the Council and members of the Fund.

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### **LOCAL GOVERNMENT ACT 1972 (AS AMENDED) SECTION 100D**

#### **LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT**

***Brief description of "background papers"***

***Name and telephone number of holder  
And address where open to inspection***

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