

Non-Executive Report of the: Pensions Committee 9 March 2016	 TOWER HAMLETS
Report of: Zena Cooke, Corporate Director of Resources	Classification: Unrestricted
The Pensions Regulator Code of Practice for Public Sector Pensions Compliance Checklist For Tower Hamlets Pension Fund	

Originating Officer(s)	Bola Tobun, Investment and Treasury Manager
Wards affected	All wards

Summary

In the past the Pensions Regulator (TPR) had very little responsibility in relation to oversight of public service pension schemes. Recently he has been provided with a range of oversight powers as well as a requirement to put in place codes of practice for public service pension schemes covering a number of areas relating to the management of schemes. The new Code of Practice for Public Service Pension Schemes comes into force from 1st April 2015 and all schemes must now consider whether they comply with the Code.

The Pensions Regulator also issued a policy to cover compliance and enforcement for public sector pension schemes which sets out their approach to compliance with the Code and how they will support, monitor and enforce compliance where appropriate.

Recommendations:

The Pensions Committee is recommended to:

- Note Tower Hamlets Compliance Checklist and where further work is required and being undertaken.

1. REASONS FOR THE DECISIONS

- 1.1 There has been much greater focus on whether the governance of LGPS pension funds is appropriate. The introduction of Local Pension Boards and focus on increased training are just two areas which we have seen. TPR's greater legal powers of oversight extend this further and the Code of Practice is a useful means to understand what good practice looks like in these areas.
- 1.2 A good standard of governance is crucial in minimising the key risks involved in managing the Pension Fund. Although there are clear benefits for many schemes of the greater oversight powers that have been given to TPR, ensuring compliance with these areas and the much greater focus on governance results in additional work for officers and advisers of the Fund. Any costs associated with delivering the requirements of this Code and the related legal changes are immaterial in the context of the Pension Fund and any such costs are recharged to the Pension Fund.

2. ALTERNATIVE OPTIONS

- 2.1 There are no alternative options.

3. DETAILS OF REPORT

- 3.1 The Pension Regulator (TPR) finalised its 14th Code of Practice in January 2015 following a consultation with interested parties on the original draft and the Regulator's new powers under the Public Services Pensions Act 2013 (the 2013 Act). The new Code of Practice for Public Service Pension Schemes come into force in April 2015 and is attached as Appendix 3.
- 3.2 Although following the code itself is not a regulatory requirement, should TPR identify a situation where the legal requirements are being breached, he will use the code as a core reference document when deciding appropriate action.
- 3.3 In recent years there has been much greater focus on whether the governance of LGPS pension funds is appropriate. The introduction of local Pension Boards and focus on increased training are just two areas which we have seen. TPR's greater legal powers of oversight extend this further and the Code of Practice is a useful means to understand what good practice looks like in these areas.
- 3.4 The Pensions Regulator's Policy on compliance and enforcement sets out his powers and the consequences of not meeting the requirements under the Code which could have financial consequences and could in extreme cases lead to financial penalties.
- 3.5 The matters covered by Code 14 are:
- knowledge and understanding for members of pension boards;
 - conflicts of interest;
 - publication of information about pension boards, governance and administration;
 - internal controls;
 - record-keeping;
 - late payment of employer and employee contributions;

- information about member benefits and disclosure of information to members;
 - internal dispute resolution, and
 - reporting breaches of the law.
- 3.6 In light of the legal powers that have now been placed on TPR and the increasing focus on the governance of public service pension schemes, it is appropriate to consider whether the management of the London Borough of Tower Hamlets Pension Fund meets the overriding legal requirements and the recommended ways of working outlined in TPR's Code of Practice. The Committee were provided with the details of the Code at its meeting in November 2015.
- 3.7 The compliance checklist has now been completed with reference to the London Borough of Tower Hamlets and Members are able to identify from the checklist where the Administering Authority and the Pension Fund are able to demonstrate compliance with the Code. There are areas which are currently under development or where further improvements are required.
- 3.8 The full checklist is attached as appendix 1 for review by the Committee. As can be seen in most areas, the Fund is able to demonstrate high levels of compliance with the Code and these are highlighted in green. There are a number of areas where the Fund is in the process of being able to demonstrate compliance and in particular this relates largely to the Pensions Board, these are highlighted in grey. There are a few areas which are showing as amber meaning that there remains some further work to do to reach compliance.
- 3.9 There are other areas where the Fund is failing to meet the Code and are shown as red on the checklist. For example are risk management policy, risk register, reporting breaches and conflict of interest policy.
- 3.10 The introduction of the new LGPS 2014 led to some significant issues in terms of additional complexity both for employers and for the pension administrators and this has led to additional problems. We are aware that this is not an issue specific to the London Borough of Tower Hamlets Pension Fund and that the introduction of the new Scheme has led to significant backlogs in other funds. We continue to work hard with employers to resolve issues and ensure that scheme membership data is accurate and up to date.
- 3.11 Also attached as appendix 2 to this report is TPR's compliance and enforcement policy for public sector pension schemes issued at the start of June, which takes immediate effect and applies to the LGPS and underlines the fact that TPR is now a full time scrutiniser of the LGPS Funds. In terms of ensuring compliance this regime sets out the areas covered by the Code as being areas that the Regulator wants to ensure that funds are compliant with. The Regulator is now able to investigate any issues and is likely to conduct surveys and will also pick up on other sources to review including fund data, scheme returns, media analysis and reports. The policy makes clear that the Regulator now has real powers to investigate and intervene in funds where standards are seen as not complying with the regulations.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The comments of the Corporate Director of Resources have been incorporated into the report.

5. LEGAL COMMENTS

- 5.1 The Pensions Regulator Code of Practice for Public Sector Pensions came into force on the 1st April 2015. The Code introduces the framework for the governance and administration of public service pension schemes and provides an extended regulatory oversight by the regulator. Codes of practice provide practical guidance in relation to the exercise of functions under relevant pensions legislation and set out the standards of conduct and practice expected of those who exercise the functions. It is essential the the Pensions Committee undertakes regular monitoring of the management and performance of the fund and use of the compliance checklist will assist with this.

- 5.2 The regulator is required under section 90(2) of the Pensions Act 2004, to issue one or more codes of practice covering specific matters relating to public service pension scheme. The Code is not a statement of the law and there are no penalties for failure to comply with its provisions. However the Authority must ensure that it complies with the underlying legal duties in respect of those matters specified in section 90(2). It is possible to adopt an alternative approach to that set out in the Code, however any such approach must meet any underlying legal duties of the scheme manager. Failure to do so may result in a penalty being imposed and the regulator also has the power to issue an improvement notice under section 13 of the Pensions Act 2004. The notice may be drafted with reference to the code of practice

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The Pension Fund Accounts demonstrate financial stewardship of the fund's assets. A financially viable and stable pension fund is a valuable recruitment and retention incentive for the Council.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Any costs associated with delivering the requirements of this Code and the related legal changes are immaterial in the context of the Pension Fund and any such costs are recharged to the Pension Fund.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

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

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 A good standard of governance is crucial in minimising the key risks involved in managing the Pension Fund. Although there are clear benefits for many schemes of the greater oversight powers that have been given to TPR,

ensuring compliance with these areas and the much greater focus on governance results in additional work for officers and advisers of the Fund.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no any Crime and Disorder Reduction implications arising from this report.
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Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix 1 – LBTH Compliance Checklist as at 31st December 2015
- Appendix 2 – Compliance and enforcement policy for public service pension schemes
- Appendix 3 – Code of practice no. 14 Governance and administration of public service pension schemes

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- NONE

Officer contact details for documents:

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