

Report for: ACTION
Item Number: 5



Contains Confidential or Exempt Information	NO – Part I
Title	Pensions Board
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For Consideration By	Berkshire Pension Fund and Pension Fund Advisory Panels
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Affected Wards	None
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Report Summary

1. This report deals with the requirements laid down by the Public Service Pensions Act 2013 for all public service pension schemes (of which the LGPS is one) to establish local Pension Boards.
2. It advises members of the timescales, terms of reference, proposed composition and other requirements as set out in the 'Act' and in the LGPS regulations 2013 (as amended).

1. Details of Recommendations

RECOMMENDATION 1 (see section 2): That panel note the regulatory requirements of setting up a Pension Board for the Royal County of Berkshire Pension Fund and consider the proposals set out in this report concerning the terms of reference relating to membership of the Board and associated matters

RECOMMENDATION 2 (see section 3): Panel members are invited to agree that membership of the Pension Board be comprised of 1 Independent Chairman/advisor, 3 Scheme member representatives (from any of the current, deferred or retired membership) and 3 Scheme employer representatives. That the employer representatives should be drawn from the 6 Berkshire Unitary

Authorities (3 appointed members and 3 nominated proxy members so that all 6 Authorities have the potential to attend Pension Board meetings).

RECOMMENDATION 3 (see section 4): Members of the panel are invited to accept the proposals for appointment and termination of Pension Board members.

RECOMMENDATION 4 (see section 5): That panel members agree the draft code of conduct as being appropriate for members of the Pension Board.

RECOMMENDATION 5 (see section 6): That panel members agree the draft terms of reference as being appropriate for members of the Pension Board.

RECOMMENDATION 6 (see section 7): That panel members agree the draft conflict of interest policy as being appropriate for members of the Pension Board.

2. Reason for Recommendations

In 2010 the Government commissioned Lord Hutton to chair the Independent Public Service Pensions Commission to review public service pensions and to make recommendations on how they can be made sustainable and affordable in the long term and fair to both public sector workers and the taxpayer.

In March 2011 Lord Hutton published his report and the recommendations made were accepted by Government and carried forward into The Public Service Pensions Act 2013 part of which is to require public service pension schemes to establish local Pension Boards.

As a public service pension scheme the Local Government Pension Scheme Regulations 2013, introduced from 1 April 2014, include a requirement for all LGPS Funds in England and Wales to establish their own local Pension Board by 1 April 2015.

Members should note that the draft Local Government Pension Scheme (Amendment) (Governance) Regulations 2014 were issued for consultation by Government in October 2014 and whilst the consultation period ended on 21 November 2014 the final statutory instrument has yet to be promulgated. However, it is clear from draft regulations 106 to 109 that amendments will be made to the primary LGPS Regulations 2013 with greater detail being provided as to the establishment and membership of Pension Boards, conflicts of interest and the funding of the Pension Boards.

For convenience the relevant part of the draft regulations is replicated at Appendix 1 to this report.

It is important to note that whilst the Pension Board must be established by 1 April 2015 the first meeting of the Board does not have to take place until after that date giving Members and officers a 'period of grace' in which to appoint members of the Board and to have the proper processes in place to ensure the appropriate operation of the Pension Board. It is, however, recommended that the first meeting of the Pension Board is set for July 2015.

The main role of the Pension Board is to provide an overview and scrutiny of the administering authority's role as 'Scheme Manager' and so secure compliance of the scheme regulations and other legislation relating to the governance and administration of the Scheme and of any requirements imposed by The Pensions Regulator. The Royal Borough has delegated the function of the administering authority to the Pension Fund Panel which is the de-facto scheme manager for the Fund.

The Scheme Manager is required:

- To determine membership of the Pension Board;
- To establish the manner in which members of the Pension Board may be appointed or removed;
- To establish a code of conduct for members of the Pension Board;
- To establish terms of reference for members of the Pension Board; and
- To satisfy itself that no member of the Pension Board has a conflict of interest.

Each of these issues is considered below.

3. Membership of the Pension Board

The Pension Board must include an equal number of Scheme employer and Scheme member representatives and consist of no less than 4 members in total.

Any person appointed as either a Scheme member or a Scheme employer representative must have the relevant experience and capacity to represent all Scheme members and Scheme employers. All Pension Board members will be required by law to have sufficient knowledge and understanding of relevant pension law and to have a working knowledge of LGPS regulations and associated documentation.

Members appointed to the Pension Board will be required to find the time to gain this knowledge and undertake considerable training so that they can detect breaches of duty and consider reporting those breaches to the Scheme Manager or the Pensions Regulator.

The Pensions Regulator will be providing (although this is not currently available) a free online learning programme on public service pensions that will provide information and key legal requirements for the Pension Boards of public service pension schemes. The Pensions Regulator will also be issuing a code of practice to assist Pension Board members in fulfilling their role (this is currently available in draft).

In addition, officers are producing a Pension Board member's handbook in an effort to assist Board members in fulfilling their duties.

It should be noted that elected members can be appointed to the Pension Board. However, no elected member or officer of the administering authority who is responsible for the discharge of any function under the Scheme regulations may be a member of the Pension Board.

Pension Board members must commit to attending all scheduled meetings and will observe the highest standards of propriety.

4. Draft Terms of Pension Board Appointments and Terminations

The appointment of Pension Board members should be an open and transparent process.

The initial appointment of Scheme member representatives should be via the completion of an approved self-nomination form via the Berkshire Pension Fund website requiring each applicant to give reasons as to why he/she believes he/she would be a suitable candidate.

The initial appointment of Scheme employer representatives should be via employer nomination.

Each shortlisted candidate will be required to attend an interview undertaken by the Chairman of the Pension Fund Panel, Pension Fund Manager and Deputy Pension Fund Manager. This interview panel will make the initial appointments to the Pensions Board..

Initial appointments will be for a term of one year. The Board will be required to affirm, by majority vote, appointments annually, commencing in July 2016. Should a member not be re-appointed the Board will establish its own appointment process to appoint replacement Board members.

The Chairman with the support of a majority of Pension Board members may remove any Board member who in their opinion is not acting appropriately within the code of conduct and terms of reference set out for members of the Pension Board.

Board members may by majority consensus exercise a vote of no confidence to remove the Chairman and appoint a substitute.

5. Draft Code of Conduct for Pension Board Members

Introduction

The Pension Board for the Royal County of Berkshire Pension Fund is established under Section 5 of the Public Service Pensions Act 2013 and in accordance with Regulation 53(4) of the Local Government Pension Scheme Regulations 2013 (*subject to amendment by the issue of the LGPS (Amendment) (Governance) Regulations 2014 as currently in draft*).

This document sets out a code of conduct for members of the Pension Board and applies to all members and any other invited regular attendees at Board meetings from all organisations.

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1 *Public Service Values*

Members of the Pension Board will at all times:

- Observe the highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds as held by the Pension Fund and the management of these funds with regard to all of the stakeholders that the Pension Board represents;
- Maximise value for money through ensuring that services are delivered in the most economical, efficient and effective way, within available resources, and with independent validation of performance achieved wherever practicable;
- Be accountable to the administering authority, to all Pension Fund stakeholders and to all Pension Fund staff for the activities undertaken by the Pension Board in its stewardship of public funds and the extent to which its performance and objectives have been met;
- Ensure that the Pension Board is at all times compliant with statutory pension legislation and requirements imposed by the Pensions Regulator in relation to the Local Government Pension Scheme.

2 *The Role of the Chairman*

The Chairman has particular responsibility for providing effective strategic leadership where appropriate including:

- Formulating the Board's strategy for discharging its statutory duties;
- Encouraging high standards of propriety and promoting efficient and effective use of resources;
- Ensuring that the Board, in reaching decisions, takes proper account of statutory legislation, guidance issued by the Pensions Regulator and guidance provided by relevant officers for the administering authority;
- Representing the views of the Board to all relevant stakeholders and the wider general public;
- Providing an assessment of the performance of individual Board members, on request, or when they are considered for re-appointment to the Board.
- The appointment of new Board members.

The Chairman will ensure that the Board meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Board members.

The Chair will ensure that all members of the Board are at all times compliant with the responsibilities and duties required of them and will promote training for all members of the Board and encourage attendance at training sessions. Furthermore the Chair will ensure that an induction programme is organised for all new Board members to attend.

3 *Statutory Responsibilities of Board Members*

Members of the Board have statutory responsibility for assisting the administering authority in securing compliance with the Local Government Pension Scheme regulations, any other legislation relating to governance and administration of the Scheme and any requirements imposed by the Pensions Regulator in relation to the Scheme.

Board members must:

- Ensure that high standards of governance and administration are observed and maintained at all times;
- Ensure that the Board operates within the limits of its statutory authority and any other conditions laid down by the Pensions Regulator;
- Ensure that, in reaching decisions, the Board has taken into account any guidance issued by the appropriate professional advisor(s);
- Ensure that all policies and practices upon which the Board advises meet the key strategic objectives of the administering authority.

The Chair and other members of the Board should each have copies of, or have easy access to:

- The Pension Board Member's Handbook (including this Code of Conduct);
- The Local Government Pension Scheme Regulations 2013 (and associated legislation);
- All Pension Fund governance and administration policies;
- The Pension Fund's current Business Plan;
- The Pension Fund's Business Continuity Plan;
- The most recent Annual Report and Accounts of the Pension Fund;
- The most recent Actuarial Valuation Report.

4 Delegation

To the extent permitted by the Public Service Pension Act 2013, the Superannuation Act 1972 and the current Local Government Pension Scheme regulations, responsibility for the day-to-day management and administration of the Scheme is delegated to officers of the Royal Borough of Windsor & Maidenhead.

The Royal Borough has a written Constitution as required by section 37 of the Local Government Act 2000. Section D of Part 6 of the Constitution sets out the delegated powers under which the Pension Board may operate with regard to Pension Fund investments and the functions delegated to officers involved in managing the Pension Fund.

Decisions taken by individual members or sub-committees of the Board under delegated powers will be recorded in written minutes available to the Board and the public as a whole.

5 Responsibilities of Individual Board Members

Individual Board members should be aware of their wider responsibilities as members of the Board. Like others who serve the public, they should follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life and which is replicated in Schedule A to this Code of Conduct. Board members must:

- Ensure that high standards of probity are observed at all times;
- Undertake on appointment to comply at all times with this Code of Conduct and with rules relating to the use of public funds;
- Play a full and active role in the work of the Pension Board and act in good faith and in the best interests of the Pension Board and the Pension Fund;

- Respect the principle of collective decision-making and statutory responsibility and once the Board has made a decision, members should support that decision;
- Deal with all stakeholders fairly, efficiently, promptly, effectively and sensitively and not act in a way that unjustifiably favours or discriminates against particular individuals or interests;
- Not misuse information gained in the course of their public service for personal gain, nor seek to use the opportunity of public service to promote private interests or those of connected persons, firms, businesses or other organisations;
- Declare to the Chair any private interests which may be perceived to conflict with their duties as a member of the Pension Board;
- Not misuse official resources (including facilities, equipment, stationery, telephony and other services) for personal gain;
- Comply with any statutory or administrative requirements relating to membership of the Board;
- Ensure that they comply with the requirements of Confidentiality, Disclosure of Information and Data Protection regulations both whilst a member of the Board and after having left the Board.

6 Political Activity

Whilst there is no restriction placed on members of the Pension Board with regard to political activity members of the Board should:

- Be conscious of their responsibilities and seek to abide by the Seven Principles of Public Life (set out in Schedule A – selflessness; integrity; objectivity, accountability, openness, honesty, leadership);
- Exercise a proper discretion in relation to the work of the Pension Board and agree not to make political speeches or engage in other political activities that relate directly to policy or regulations of the Pension Fund;

All Board members are expected to:

- Consult the Chair of the Board if they have any queries or doubts in relation to these requirements;
- Inform the Chair of the Board before undertaking any significant political activity; and
- Understand that their appointment as a Board member may be terminated if, in the view of the Chair of the Board, the positions are incompatible.

7 Conflicts of Interest

Board members are entitled to manage their own affairs in privacy. However, their work for the Board must be carried out in an environment that is free from any suggestion of improper influence. Those providing information must be confident that it will be properly handled and any conflicts of interest identified immediately they arise and be properly managed.

Board members must take steps to ensure that any conflict of interest to which they may be subject to does not affect a decision taken by the Pension Board.

The Chairman and other Board members are expected to declare any personal or business interests which may conflict with their responsibilities as Board members.

There are three key requirements:

- 1 to declare any potential conflict of interest which arises in the course of their work as a Board member, whenever it becomes relevant;
- 2 to seek permission from the Chair before dealing in shares and related investments; and
- 3 to complete a declaration of interests.

All members of the Pensions Board will be required to comply with the Royal Borough's Conflicts of Interest policy unless stricter requirements are introduced by regulation or mandatory guidance from the Pensions Regulator.

8 *Personal Liability of Board Members*

The Government has indicated that individual members of the Boards of public bodies who have acted honestly and in good faith will not have to meet out of their own personal resources any personal civil liability which is incurred in execution or purported execution of their Board functions, save where the person has acted recklessly.

9 *Openness and Responsiveness*

The administering authority is subject to a number of legal requirements in relation to the information it holds including the Public Service Pension Act 2013, the Freedom of Information Act 2000 and the Data Protection Act 1998. Subject to these requirements, Board members are expected to conduct all their dealings in an open and responsible way. This should include:

- Making annual reports publicly available;
- Where practical and appropriate, holding open meetings;
- Releasing minutes or summary reports of meetings;
- Following best practice in making available information to all stakeholders and the public in general through the Berkshire Pension Fund website;
- Maintaining well publicised and easy-to-use complaints procedures.

10 *Accountability for Public Funds*

Board members have a duty to ensure the safeguarding of public funds and the proper custody of assets which have been publicly funded. They must carry out their fiduciary responsibilities effectively and at all times conduct its operations as economically and efficiently as possible with full regard the relevant statutory provisions set out by the Public Service Pensions Act 2013 and the Local Government Pension Scheme Regulations 2013.

The Board should ensure that it can demonstrate that its resources are used to good effect, with propriety, and that public funds within its control are not used for private, partisan or political purposes.

SCHEDULE A – The seven principles of public life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material 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 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 merits.

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.

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.

6. Draft Terms of Reference for Pension Board members

Purpose

The Public Service Pension Act 2013 introduced the framework for the regulatory oversight of the governance and administration of public service pension schemes by the Pensions Regulator.

As a result of that Act, this Pension Board has been set up in accordance with Regulation 53(4) of the Local Government Pension Scheme Regulations 2013 (*subject to amendment by the LGPS (Amendment) (Governance) Regulations 2014*) and has been established for the purpose of assisting the administering authority, the Royal Borough of Windsor & Maidenhead, in relation to securing compliance with the Local Government Pension Scheme Regulations, any other legislation relating to governance of the Scheme and administration of the Scheme in line with the requirements imposed by the Pensions Regulator in relation to the Scheme.

Outline of Pension Board member responsibilities

- i) To adopt the code of conduct set out previously;
- ii) To declare any conflicts of interest immediately and take appropriate action;
- iii) To be conversant with Local Government Pension Scheme regulations and associated pension legislation;
- iv) To have sufficient knowledge and understanding of Scheme rules and policies relating to the administration of the Scheme;

- v) To challenge any failure to comply with the Scheme rules and associated legislation and any failure to meet the requirements and expectations of the Pensions Regulator;
- vi) To challenge any advice and guidance provided and to understand how that advice and guidance impacts on any decision for which the Board is legally responsible;
- vii) To have an understanding of funding and investment governance matters;
- viii) To undertake sufficient learning and development training to ensure suitable competency, skills and knowledge required of a Board member;
- ix) To represent all stakeholders of the Pension Scheme;
- x) To monitor levels of performance of the administering authority and Scheme employers, review notices of unsatisfactory performance and determine what, if any, costs should be recovered by the Pension Fund where a failure to meet certain levels of performance have not been met;
- xi) To report breaches of the law to the Pensions Regulator where there is a reasonable cause to believe that a legal duty, which is relevant to the administration of the Scheme, has not been, or is not being, complied with as a result of which there is a likely material significance to the Pensions Regulator;
- xii) Determine under what circumstances Scheme employers should be reported to the Pensions Regulator;
- xiii) Keep under review the administering authority's communication policy with regard to Pension Scheme stakeholders;
- xiv) To maintain records of all meetings and make public those records in so far as possible subject to Data Protection legislation;
- xv) To continually review the terms of reference.

Membership/Representation

In accordance with section 5(4)(c) of the Public Service Pensions Act 2013 the Pension Board is required to include employer representatives and representatives of members in the scheme in equal numbers.

For clarity, "employer representatives" means persons appointed to the Board for the purpose of representing employers of members in Scheme and "member representatives" means persons appointed to the Board for the purpose of representing members of the Scheme.

The Pension Board will therefore consist of:

- 1 Independent Chairman/Advisor;
- 3 Employer representatives;
- 3 Scheme member representatives;

Members of the Pension Board will commit to attending all scheduled meetings but if necessary will nominate a proxy. Attendance records will be maintained (and published) in line with an agreed schedule.

Once a year the Board will vote to confirm the appointment of the Chairman for a further period of 12 months. They will also vote to confirm the appointment of all other Board members for a further period of 12 months and where a majority vote for any position is not sustained, the Board will agree to elect, by majority, alternative individuals to those positions

Meetings

The Pension Board will meet each quarter in the offices of the Royal Borough of Windsor & Maidenhead to discuss items set out in an agreed agenda in line with the responsibilities listed in section 2 of these terms of reference. As part of each meeting the Board will decide the need or otherwise for non-members to be invited to one or more future meetings of the Board to give advice or guidance on matters arising from issues raised during the course of Pension Board meetings.

Decisions will be made by consensus (i.e. Board members are satisfied with the decision even though it may not be their first choice). In the absence of a consensus the Chairman will make the decision.

Quorum

The quorum for meetings shall be 4 members including at least one Scheme employer representative and one Scheme member representative. Any meeting not quorate shall be reconvened at the earliest available opportunity and in any event no later than one calendar month after the meeting that was not quorate.

Sub-groups

There may be occasion to undertake sub-group meetings to complete a specific piece of work, or where data or preparation needs to be undertaken by a specific section of the Board. Any formed sub-groups will report to the main Pension Board which will agree and lead on the strategic direction of the activity being undertaken.

Sharing of information and resources (including confidential materials)

The Pension Board will access all shared information and have certain resources made available through a password protected section of the Berkshire Pension Fund website as maintained and facilitated by the Scheme Manager.

Each Board member will provide a secure email address for circulation of all Pension Board documents all of which will be provided electronically wherever possible but in paper format on request.

Training

Members of the Pension Board will apply sufficient time to their learning and development alongside their other duties and be aware of their legal responsibilities from the date that they take up post. Members will attend training sessions arranged by the Scheme Manager and undertake a personal training needs analysis, reviewing their skills, competencies and knowledge in order to identify any gaps or weaknesses.

Reporting

Reporting lines will be established so that all Scheme employers and Scheme members not present at meetings of the Pension Board will have the opportunity to raise issues through their Pension Board representatives and receive outcomes from those meetings in a timely, effective and agreed manner.

Minutes of Pension Board meetings, details of decisions taken and any other such matters as deemed appropriate will be made available to all stakeholders via the Berkshire Pension Fund website (subject to certain items being redacted in accordance with the Data Protection Act 1998 as necessary).

Where actions are recommended by a sub-group these actions must be ratified by the full Pension Board.

Review of Terms of Reference

The terms of reference may be amended, varied or modified in writing after consultation and agreement by Board members. They will be reviewed annually to ensure continuing regulatory compliance and ongoing development of the Board members.

Appendix 1 – Draft Regulations

Local Pension Boards: establishment

106.—(1) Each administering authority shall no later than 1st April 2015 establish a Pension Board (“a local Pension Board”) responsible for assisting it—

(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 Pensions Regulator in relation to the Scheme; and

(b) to ensure the effective and efficient governance and administration of the Scheme.

(2) Where the Scheme manager is a committee of a local authority the local Pension Board may be the same committee if approval in writing has been obtained from the Secretary of State.

(3) Approval under paragraph (2) may be given subject to such conditions as the Secretary of State thinks fit.

(4) The Secretary of State may withdraw an approval if such conditions are not met or if in the opinion of the Secretary of State it is no longer appropriate for the local Pension Board to be the same committee.

(5) An administering authority may determine the procedures applicable to a local Pension Board, including as to voting rights, the establishment of sub-committees, formation of joint committees and payment of expenses.

(6) A local Pension Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

(7) The expenses of a local Pension Board are to be regarded as part of the costs of administration of the fund held by the administering authority.

Local Pension Boards: membership

107.—(1) Subject to paragraphs (2) and (3) each administering authority shall determine—

- (a) the membership of the local Pension Board;
- (b) the manner in which members of the local Pension Board may be appointed and removed;
- (c) the terms of appointment of members of the local Pension Board.

(2) A local Pension Board must include an equal number, which is no less than 4 in total, of employer representatives and member representatives(4) and for these purposes the administering authority must be satisfied that—

(a) a person to be appointed as an employer representative has relevant experience and the capacity to represent employers on the local Pension Board; and

(b) a person to be appointed as a member representative has relevant experience and the capacity to represent members on the local Pension Board.

(3) No officer or elected member of an administering authority who is responsible for the discharge of any function under these regulations (apart from any function relating to local Pension Boards or the Local Government Pension Scheme Advisory Board) may be a member of a local Pension Board.

Local Pension Boards: conflict of interest

108.—(1) Each administering authority must be satisfied that any person to be appointed as a member of a local Pension Board does not have a conflict of interest(5).

(2) An administering authority must be satisfied from time to time that none of the members of a local Pension Board has a conflict of interest.

(3) A person who is to be appointed as a member of a local Pension Board by an administering authority must provide that authority with such information as the authority reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a local Pension Board must provide the administering authority which made the appointment with such information as that authority reasonably requires for the purposes of paragraph (2).

Local Pension Boards: guidance

109. An administering authority must have regard to guidance issued by the Secretary of State in relation to local Pension Boards.