

Decision Maker: Pensions Investment Sub-Committee
General Purposes & Licensing Committee
Council

Date: 3rd February 2015
10th February 2015
23rd February 2015

Decision Type: Non-Urgent Non-Executive Non-Key

Title: LOCAL PENSION BOARD

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Chief Officer: Director of Finance

Ward: Borough Wide

1. Reason for report

- 1.1 This report outlines the proposed changes to the structure and governance arrangements of Local Government Pension Schemes (LGPS) brought about by the Public Service Pensions Act 2013 and associated Regulations and seeks the required approval for the establishment of a Local Pension Board.
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2. RECOMMENDATIONS

- 2.1 The Pensions Investment Sub-Committee is requested to consider the report and provide a view on the proposals to the General Purposes and Licensing Committee.
- 2.2 Subject to comments from the Pensions Investment Sub-Committee, the General Purposes and Licensing Committee is requested to recommend that Council:
- (i) approve the establishment of a Local Pension Board;
 - (ii) approve the composition of the Local Pension Board as set out in paragraph 3.17;
 - (iii) approve the draft terms of reference (appendix 2);
 - (iv) delegate authority to the Director of Finance, in consultation with the Chairman of Pensions Investment Sub-Committee and the Chairman of General Purposes and Licensing Committee to make any agreed changes to the draft terms of reference as set out in paragraph 3.18;

- (v) agree the process for nominations and appointments as set out in paragraphs 3.22 and 3.23 and that:
 - (a) appointment of the two employer representatives be made by Council;
 - (b) appointment of the two member representatives be formally delegated to the General Purposes and Licensing Committee on the recommendation of an appointments panel as constituted in paragraph 3.23 and in the terms of reference;
- (vi) delegate authority to the Director of Finance, in consultation with the Chairman of Pensions Investment Sub-Committee and the Chairman of General Purposes and Licensing Committee, to make any changes necessary arising from the issue of final Regulations.

Corporate Policy

1. Policy Status: Existing policy. The Council's pension fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations for the purpose of providing pension benefits for its employees.
 2. BBB Priority: Excellent Council.
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Financial

1. Cost of proposal: Estimated cost There will be costs associated with the National Scheme Advisory Board and the establishment and operation of a Local Pension Board which cannot yet be quantified (see section 5)
 2. Ongoing costs: Recurring cost.
 3. Budget head/performance centre: Pension Fund
 4. Total current budget for this head: £35.8m expenditure (pensions, lump sums, etc.), £41.6m income (contributions, investment income, etc.), £693.7m total fund market value at 31st December 2014
 5. Source of funding: Pension Fund
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Staff

1. Number of staff (current and additional): the Board will comprise of 2 employer and 2 member representatives and be supported by the Pensions Manager
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Statutory requirement. Local Government Pension Scheme Regulations 2013 (as amended)
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 5,637 current employees, 5,007 deferred pensioners and 4,937 pensioner members (for all employers in the Fund) as at 31st December 2014. 67 Scheduled Bodies and 4 Admission Bodies in the Fund.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: Council wide

3. COMMENTARY

- 3.1 Following the Independent Public Service Pensions Commission's final report in March 2011, the Public Service Pensions Act 2013 (the 2013 Act) gave powers to the Secretary of State to introduce a number of changes to the administration of the LGPS.
- 3.2 Significant changes were introduced from 1st April 2014 as a result of the Local Government Pensions Scheme (LGPS) Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014. These included the move to a Career Average Revalued Earnings (CARE) Scheme, changes to the annual accrual and contribution rates and the link to state pension age as well as the introduction of the new '50/50' option and changes to the definition of pensionable pay. Details were reported to the General Purposes and Licensing Committee on 10th June 2014.
- 3.3 From April 2015, a new governance structure for the LGPS and other public sector pension schemes comes into force. With a view to improving the standard of management and administration of public sector schemes, the 2013 Act requires the Secretary of State to make Regulations establishing a National Scheme Advisory Board (NSAB) with responsibility for advising on changes to Scheme Regulations. The Board has been set up in 'shadow' form to test the format, terms of reference, membership and sub committees prior to the issue of final Regulations. Additionally, for schemes such as the LGPS which are subject to local administration, for each administering authority to establish a Local Pension Board to assist in the management and administration of the scheme.
- 3.4 The Department for Communities and Local Government (DCLG) issued draft Regulations on governance arrangements in June 2014. A set of revised draft Regulations was issued in October 2014 for consultation alongside the proposed provisions on cost control. A copy of the Council's formal response to this most recent consultation is attached at appendix 1.
- 3.5 Current arrangements for the management and administration of the Bromley Pension Fund have been in place for some time. The Council is the administering authority for the Fund which includes a number of scheduled and admitted bodies as well as the Council itself in its capacity as an employing authority. It is not unusual for a local authority to act as both an employer and an administering authority.
- 3.6 The General Purposes and Licensing Committee is responsible for the overall administration of the LGPS. The Pensions Investment Sub-Committee, which reports to the General Purposes and Licensing Committee, has responsibility for monitoring the financial position of the Pension Fund (including consideration of the triennial actuarial valuations), investment of the Pension Fund (including the appointment of external investment managers) and also oversees the management of the Council's additional voluntary contributions scheme. The Pensions Investment Sub-Committee is responsible for the prudent and effective stewardship of the Fund and, as such, oversees the monitoring and management of risk. External investment manager performance is reviewed through quarterly reports and any matters arising are considered by the Sub-Committee.

3.7 Under the Council's Scheme of Delegation:

- responsibility for the day to day administration, including the determination and application of LGPS Regulations, has been delegated to the Director of Finance;
- the application of all matters relating to ill-health retirement has been delegated to the Director of Human Resources;
- the Director of Finance and Director of Human Resources have joint authority to determine future applications for early payment of deferred benefits and for ensuring the Council's responsibilities under the requirements of automatic enrolment are met;
- applications for early retirement and flexible retirement are usually considered by a Chief Officer Early Retirement Panel.

3.8 The proposals issued by Government in the draft regulations and associated guidance introduce a new governance structure for the LGPS from 1st April 2015. The proposals are designed to improve and strengthen fund governance and decision making and impose new duties and responsibilities for administering authorities. The structure can be summarised as follows:

Secretary of State:	being the "responsible authority" who may make Regulations for the scheme (established in accordance with Section 2 of the 2013 Act).
Scheme Advisory Board:	with responsibility for providing advice to the Secretary of State on the desirability of changes to the Scheme; also responsible for advising administering authorities and local pension boards with regard to the administration and management of the Scheme and of individual Funds (as required under Section 7 of the 2013 Act).
Administering Authority:	being the "scheme manager" responsible for managing or administering the scheme (as required under Section 4 of the 2013 Act).
Local Pension Board:	with responsibility for assisting the administering authority in relation to specified matters (as required under Section 5 of the 2013 Act).
Pensions Regulator:	an existing body whose regulatory powers were extended (under Section 17 and Schedule 4 of the 2013 Act) to cover some aspects of the LGPS.

3.9 The new structure expands the current role of the Pensions Regulator to include the regulatory oversight of aspects of the governance and administration of public service pension schemes, including the LGPS. This does not extend to cover areas such as the funding and investment of Funds. The Regulator has issued a draft Code of Practice applicable to administering authorities, some of which directly applies to local pension boards. To date the Regulator has said that their role will be to educate and enable and will only enforce action in extreme cases where authorities may disregard statutory requirements. Nonetheless, this does introduce a fresh regulatory dimension for local authorities to consider.

3.10 As the "scheme manager", the Council has ultimate responsibility for both the administration and management of the scheme locally as well as employer responsibilities and responsibility for funding and investment decisions. No changes are proposed to the current structure or levels of delegation, as set out in paragraphs 3.6 and 3.7. However, Government's intention is that the establishment of a Local Pension Board will provide additional governance and oversight. Whilst the Board itself will have no decision making powers, it may make recommendations on compliance and governance issues.

- 3.11 The requirement to establish a Local Pension Board represents a significant change to existing governance arrangements. The key role of the Board is to “assist” the administering authority in securing compliance with LGPS Regulations and other relevant legislation as well as any requirements imposed by the Regulator. This covers the administration and management of the scheme and extends to regulatory matters relating to funding and investments. Final guidance is still awaited concerning the scope of the Board and whether there are any specific requirements.
- 3.12 The Board must be established by 1st April 2015, meaning its composition and terms of reference must be approved. The Board is required to be operational within a ‘reasonably practicable’ period and by 1st August 2015 at the very latest.
- 3.13 Under existing draft Regulations, the Board must consist of an equal number of employer and Scheme member representatives with a minimum of number of four in total. Administering authorities may also appoint others to sit on the Board, including an independent chair, if they so wish. An employer representative must be able to represent the full range of employers in the Bromley Fund whilst member representatives must be able to stand for all Fund members including active, deferred and pensioner members. A role description and person specification will be drawn up to assist the nomination and appointment process.
- 3.14 The Regulations require that Board members have relevant experience and the capacity to properly represent the employers and members of the Fund. However, no officer or elected Member who is responsible for the discharge of any local government pension functions may be a member of the Board. Board members are also required to have a degree of knowledge and understanding of the law relating to pensions and be familiar with LGPS and other relevant Regulations. Administering authorities are responsible for supporting Board members in meeting these requirements through induction, knowledge sharing and ongoing training.
- 3.15 The function of a Local Pension Board may only be undertaken by an existing pensions committee with Secretary of State approval and could be subject to conditions. However, somewhat contradictory, as set out in paragraph 3.14, it is not permitted for an officer or Councillor who is responsible for the discharge of any function under the LGPS Regulations or other relevant legislation to be a member of the Board. Consequently, Members of both the General Purposes and Licensing Committee and Pensions Investment Sub-Committee would be excluded from becoming Board members as would officers who have delegated authority for pensions related matters or who are responsible for operational matters on a day to day basis.
- 3.16 At the time of writing, final regulations and accompanying guidance have yet to be issued although no fundamental changes are currently anticipated. An update will be provided at the meeting if any further information is available. Given the requirement for a Local Pension Board to be established by 1st April 2015, Members are requested to approve the draft composition and terms of reference and to delegate authority for any changes arising from the issue of final Regulations to the Director of Finance in consultation with the Chairman of both General Purposes and Licensing Committee and Pensions Investment Sub- Committee.
- 3.17 It is initially proposed that the Board is made up of 4 members, to include 2 employer and 2 member representatives. This will ensure that cost implications are kept to a minimum as well as the impact on existing resources required to implement and support the Board whilst at the same time ensuring regulatory requirements are met. The process of nomination and appointment, as well as the need for sufficient induction and training, will also be more manageable than seeking to appoint a larger number of Board members. There is nothing in the Regulations to prohibit an expansion of the Board at a later date should this be considered necessary.

- 3.18 Draft terms of reference setting out the composition, role and principal functions of the Local Pension Board are attached at Appendix 2. The existing Pension Fund Governance Policy Statement will need to be revised accordingly and, following revision, be published on the Council's website. In recognition of the requirement for representatives of scheme employees on the Board, consultation on these draft terms will be undertaken with departmental representatives and recognised trade union representatives through the established forum. Any agreed changes will need to be reflected in the final published terms of reference and Members are requested to delegate authority to the Director of Finance, in consultation with the Chairman of Pensions Investment Sub-Committee and the Chairman of General Purposes and Licensing Committee, for such amendments to be made.
- 3.19 It is proposed that the Board will meet twice a year and produce an annual report to full Council via Pensions Investment Sub-Committee and General Purposes and Licensing committee. The report will include a summary of the work the Board has undertaken during the year, details of training received and training needs identified, a draft work plan for the following year and any matters that the Board wishes to raise or bring to the attention of the Administering Authority.
- 3.20 In line with the draft Regulations, Members are requested to approve the composition of the Board and the draft terms of reference.
- 3.21 The Society of London Treasurers recently issued a survey to all London Boroughs requesting details of their proposals for the formation and operation of their Local Pension Board. 26 responses were received and the results are summarised in the table below. It must be stressed that, in many cases, decisions have yet to be considered and approved by Members so may therefore be subject to change.

No. of Board Members	No. of LA's	No. of meetings per annum	No. of LA's	Independent Chair?	No. of LA's	Allowance paid to Board members?	No. of LA's	Who will the Board report to?	No. of LA's	How frequently will they report?	No. of LA's
4	7	2	10	Yes	10	Yes	5	Pensions/Audit Committee or Panel Only	7	Annually	13
5	8	3	3	No	12	No	9	Pensions/Audit Committee or Panel plus Full Council	3	Bi-annually	1
6	6	4	7	Unknown	4	Chair only	6	Full Council Only	6	Unknown	12
7	3	5	1	Total	26	Unknown	6	Unknown	10	Total	26
8	0	Unknown	5			Total	26	Total	26		
9	1	Total	26								
Unknown	1										
Total	26										

- 3.22 All employers and Scheme members must have an equal opportunity to be nominated to become Board members through an open and transparent process. The process for the nomination and appointment of Board members is not prescribed in the Regulations and is to be determined by each Administering Authority. As the largest employer in the Fund, it is proposed that at least one of the two employer representatives be appointed from the Council. Nominations for the other employer representative will be sought from the scheduled and admitted bodies. We will therefore be seeking nominations from all employers in the Fund, including the Council. It is proposed that the employer representatives be formally appointed for a three year term by Council at their meeting on 20th April 2015. Should no nominations be received from the other employers in the Fund, both of the employer representatives will need to be selected from Council nominations.
- 3.23 With regard to member representatives, it is proposed that nominations be requested via the Departmental Representatives and Trade Union Forum. Nominations will also be sought through an open advertisement on the Council's website and by letter to scheduled and admitted bodies. It is not proposed to write to scheme members individually. If more than two nominations are received, they will be considered by an appointments panel consisting of the Chief Accountant, Pensions Manager and a representative from Human Resources who will shortlist and interview if necessary. The panel will make recommendations to the General Purposes and Licensing Committee who will be asked to formally appoint the two member representatives at their meeting on 27th May 2015.

4. POLICY IMPLICATIONS

- 4.1 The Council's Pension Fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations for the purpose of providing pension benefits for its employees.

5. FINANCIAL IMPLICATIONS

- 5.1 Regulation 113 of the draft Regulations provide that the cost of the Local Government Pension Scheme Advisory Board be defrayed by administering authorities in such proportions as are determined by the Board. This will be based on its annual budget, as approved by the Secretary of State, and the number of persons for whom we are the appropriate administering authority. It is acknowledged that further work is needed to ensure the Board is adequately funded to enable them to carry out their agreed work plans and that the cost to administering authorities is fair and represents value for money. At this stage it is not possible to estimate the likely costs involved as no information is available but it is confirmed that they are to be treated as administration costs of the scheme and are therefore correctly chargeable to the Pension Fund.
- 5.2 Although permitted under Regulations, it is not proposed to pay Local Pension Board members an allowance. As set out in the draft terms of reference, remuneration for Board members will be limited to a refund of actual expenses incurred in attending Board meetings and training.
- 5.3 As the administering authority the Council is required to facilitate the operation of the Local Pension Board including providing suitable accommodation for Board meetings as well as administrative support, advice and guidance. This will be done within existing in-house resources wherever possible.

- 5.4 There may be costs arising from legal, technical and other professional advice that may be required by the Board on an ad-hoc basis. Costs may also be incurred in providing adequate and suitable training, both initially and on an ongoing basis, for Board members to ensure that they are equipped to fulfil the requirements of the role. It is difficult to quantify these costs at the present time as the extent of support and training required will be dependent upon the level of existing knowledge and experience of individual Board members. However, officers will seek to keep any such costs to a minimum through the use of existing in-house expertise as well as exploring opportunities for shared learning with other boroughs where appropriate.
- 5.5 Any costs arising from the establishment and operation of the Local Pension Board will be treated as appropriate administration costs of the scheme and, as such, will be correctly chargeable to the Pension Fund.

6. LEGAL IMPLICATIONS

- 6.1 The Public Service Pensions Act 2013 provides primary legislation for all public service schemes including the LGPS 2014.
- 6.2 LGPS Regulations 2013 came into force on 1st April 2014 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 were published on 10th March 2014.
- 6.3 Consultation on LGPS (Amendment) (Governance) Regulations 2014 – Better Governance and Improved Accountability in the Local Government Pension Scheme ended on 21st November 2014. The new governance structure for the LGPS and other public service pension schemes comes into force on 1st April 2015 and final Regulations are awaited.

7. PERSONNEL IMPLICATIONS

- 7.1 Each administering authority is responsible for managing and administering the LGPS in relation to any person for whom it is the appropriate administering authority under the Regulations.
- 7.2 The Council is required to enrol all eligible employees into the LGPS unless they are entitled to enrolment in the Teachers' Pension Scheme or the NHS Pension Scheme. Employees may opt out of the relevant Pension Scheme thereafter if they so wish.
- 7.3 It is intended to consult with departmental representatives and recognised trade union representatives at the corporate forum held by the Director of Human Resources in February.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	Public Service Pensions Act 2013; Local Government Pension Scheme (Amendment) (Governance) Regulations 2014; Local Government Pension Scheme Regulations 2013; Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.