

PART 1 - PUBLIC

Decision Maker: **General Purposes & Licensing Committee Council**

Date: 27 May 2015
29 June 2015

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

Title: **LOCAL PENSION BOARD - APPOINTMENT OF BOARD MEMBERS**

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Chief Officer: Director of Finance

Ward: Borough Wide

1. Reason for report

1.1 This report seeks the required approval for the appointment of members to the Local Pension Board, following a previous report setting out changes to the structure and governance arrangements of the Local Government Pension Scheme (LGPS).

2. **RECOMMENDATION(S)**

2.1 **The General Purposes and Licensing Committee is requested to:**

- (i) **formally appoint the two member representatives to the Local Pension Board for a period of 3 years from 1st July 2015 (paragraph 3.13);**
- (ii) **pursuant to (iv) below, nominate the two employer representatives to be recommended to Council for appointment (paragraph 3.13);**

Recommend that Council:

- (iii) **agree the amendment to the terms of reference as set out in paragraph 3.11;**
- (iv) **approve the revised terms of reference (appendix 1);**
- (v) **subject to recommendation (iii) and (iv) formally appoint the two employer representatives to the Local Pension Board for a period of 3 years from 1st July 2015 (paragraph 3.13);**
- (vi) **delegate authority to the Director of Finance in consultation with the Chairman of General Purposes and Licensing Committee and the Chairman of Pensions Investment Sub-Committee to make any further required changes to the terms of reference (paragraph 3.14).**

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.), £38.6m income (contributions, investment income, etc.), £744m total fund market value at 31st March 2015
 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): 5,782 current active members, 5,066 deferred pensioners and 4,948 pensioner members (for all employers in the Fund) as at 31st March 2015. 66 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 From April 2015, a new governance structure for the LGPS and other public sector pension schemes came into force. 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 NSAB will seek to encourage best practice, increase transparency, and co-ordinate technical and standards issues. They may also formulate standards and guidance for local scheme managers and Pension Boards. Although still in 'shadow' form, the statutory body is expected to become operational shortly following the appointment of Board members.
- 3.3 For schemes such as the LGPS which are subject to local administration, each administering authority is required to establish a Local Pension Board to assist in the management and administration of the scheme. In this regard, the Department for Communities and Local Government (DCLG) issued draft Regulations on governance arrangements in June 2014 and a set of revised draft Regulations was issued in October 2014 for consultation. Final Regulations were laid before Parliament on 28th January 2015 and were accompanied by detailed guidance from the LGPS Shadow Scheme Advisory Board.
- 3.4 The Local Pension Board had to be established by 1st April 2015, meaning its composition and terms of reference must have been approved by that date. The Board is required to be operational within a 'reasonably practicable' period and by 1st August 2015 at the very latest. The Regulations require the Board to be made up of an equal number of employer and Scheme member representatives with a minimum number of four in total. Further detail is set out in a report entitled "Local Pension Board" considered by the Pensions Investment Sub-Committee and General Purposes and Licensing Committee on 3rd and 10th February respectively. Subsequently, on 23rd February 2015, Council approved the establishment of a Local Pension Board and agreed its composition and terms of reference.
- 3.5 The Board will consist of four members, to include two employer and two member representatives. The process for nominations and appointments, as set out in the original report, was also agreed. As the largest employer in the Fund, it was proposed that at least one of the two employer representatives be appointed from the Council and that nominations for the other employer representative be sought from the scheduled and admitted bodies. It was agreed that employer representatives be formally appointed for a three year term by Council and, in the event that no nominations be received from other employers in the Fund, that both employer representatives be selected from Council nominations.
- 3.6 The appointment of the two member representatives was formally delegated to the General Purposes and Licensing Committee. An appointments panel, consisting of the Chief Accountant, Pensions manager and a representative from Human Resources would shortlist, interview and make recommendations to the Committee should more than two nominations be received.

3.7 As set out in NSAB guidance, all employers and Scheme members were required to be given an equal opportunity to be nominated to become Board members. Following the approval of Council for the Board to be established, officers began the process of seeking expressions of interest from prospective members. An advert was placed on the Council's website, together with supporting information about the Board. Information about the Board and how to apply was emailed to all London Borough of Bromley officers and to all other scheme employers within the Fund. Additionally, nominations were sought from the Departmental Representative and Trade Union Forum members as well as seeking Councillor nominations for the two employer representatives through Group Secretaries/Leaders.

3.8 In addition to the methods set out in paragraph 3.7, details of two potential nominees had been provided through the former Chairman of General Purposes and Licensing Committee. They were contacted directly and requested to complete an expression of interest form should they wish to be considered as Board members.

3.9 The response has been disappointing with only four expressions of interest being received, each to act in the capacity of member representatives. These are:

Brian Toms (as nominated through the former Chairman of GP&L)
Jane Harding (as nominated through the former Chairman of GP&L)
Glenn Kelly (currently employed by LBB)
Lesley Rickards (formerly employed by LBB)

The expression of interest forms are included elsewhere on the agenda as a confidential appendix to this report (appendix 2).

3.10 No expressions have been received for employer representatives. As set out in paragraph 3.4, the Board must consist of an equal number of employer and member representatives. As only four expressions of interest have been received, as a means of populating the Board, it would appear reasonable to invite the two external prospective members to act in the capacity of employer representatives and the two current/former employees as member representatives. At the time of writing, both Mr. Toms and Ms. Harding have indicated that they would be happy to act in this capacity.

3.11 Under our current approved terms of reference, employer representatives must be employed by one of our scheme employers and would no longer be eligible to sit on the Board if they leave such employment. An amendment would therefore be required to the terms as follows:

- Current terms of reference (para. 17):

If a Local Pension Board member acting as an employer representative leaves the employment of the employer they are representing they will no longer be eligible to sit on the Board.

- Amended terms of reference (para. 17):

A Local Pension Board member acting as an employer representative must be nominated by a Scheme Employer within the Bromley Fund. Should the Employer they are representing wish to withdraw their nomination, they will no longer be eligible to sit on the Board.

- 3.12 The Regulations do not specify that employer representatives be employed by a Scheme employer nor that member representatives be a Scheme member. The key requirement is that they have the “capacity” to represent employers and members respectively. The proposed amendment to the terms of reference is therefore not contrary to Regulations. No officer or Councillor who has responsibility for any function under the LGPS Regulations or other relevant legislation is permitted to be a member of the Board.
- 3.13 Members of the General Purposes and Licensing Committee are therefore requested to:
- (i) formally appoint Glenn Kelly and Lesley Rickards to act in the capacity of member representatives
 - (ii) recommend that Council agree to the amendment set out in paragraph 3.11 and approve the revised terms of reference (appendix 1);
 - (iii) nominate Brian Toms and Jane Harding to act in the capacity of employer representatives;
 - (iv) recommend that Council formally appoint Brian Toms and Jane Harding for a period of 3 years from 1st July 2015
- 3.14 Consultation on the draft terms of reference was undertaken with departmental representatives and recognised trade union representatives through the established forum. Information about the proposed change has been circulated to forum members and any matters arising will be reported verbally at the meeting. The terms of reference will be formally adopted by the Board at its first meeting and be reviewed after the Board has been fully operational for a period of one year. Members are requested to delegate authority to the Director of Finance in consultation with the Chairman of General Purposes and Licensing Committee and the Chairman of Pensions Investment Sub-Committee to make any agreed changes to the terms of reference as required.
- 3.15 As set out in the ‘Local Pension Board – Supplementary Report’ in February the Director of Finance was authorised to make an application to the Secretary of State for approval to establish a Combined Local Pension Board and Committee if, in consultation with the Chairman of General Purposes and Licensing Committee and the Chairman of Pensions Investment Sub-Committee, it was established that it would provide a suitable alternative arrangement. This would be subject to any criteria or conditions that may be applied. Further details have been sought from DCLG but the information received to date provides little in the way of guidance and does not set out any specific criteria. Furthermore, it does not appear that DCLG intend to issue anything further at this stage. As it has not yet been possible to establish whether this option would indeed provide a suitable alternative, it is necessary to continue with the establishment of the Local Pension Board as previously approved in order to meet the statutory deadline of 1st August 2015 for the Board to become operational.

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 Although permitted under Regulations, it is not proposed to pay Local Pension Board members an allowance. As set out in the terms of reference, remuneration for Board members will be limited to a refund of actual expenses incurred in attending Board meetings and training.
- 5.2 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.
- 5.3 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.
- 5.4 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 The LGPS (Amendment) (Governance) Regulations 2015 – were laid before Parliament on 28th January 2015 and came into force on 01st April 2015.

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 Consultation has taken place with departmental representatives and recognised trade union representatives at the corporate forum held by the Director of Human Resources in February 2015. Similarly, staff representatives are aware of the proposed slight variation to the original terms of reference previously agreed by Full Council.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	Public Service Pensions Act 2013; Local Government Pension Scheme (Amendment) (Governance) Regulations 2015; Local Government Pension Scheme Regulations 2013; Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014. Local Pension Board Report, Supplementary Report and Appendices to Pensions Investment Sub-Committee, General Purposes & Licensing Committee and Council 3 rd , 10 th and 23 rd February 2015