



GOVERNANCE COMMITTEE

11 March 2015

Subject Heading:

LOCAL PENSION BOARD

CMT Lead:

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Report Author and contact details:

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Policy context:

The Local Pension Board is a statutory requirement.

Financial summary:

A budget of £35k will be required for the administration and funding of the Board, and this will be charged to the Havering Pension Fund

SUMMARY

To take steps to progress the establishment of a Local Pension Board as required by Regulation 106 of the Local Government Pension Scheme Regulations 2013 (the 2013 Regulations) , which came into force on 20 February 2015 requiring the Council to establish a pension board no later than 1st April 2015

RECOMMENDATIONS

That the Governance Committee recommend to Council:

1. Additions to the Constitution as detailed at paragraph 12 of the report:
2. The adoption of the attached:
 - Terms of Reference for the Local Pension Board
 - Code of Conduct for members of the Local Pension Board
 - Conflict of Interest Policy for members of the Local Pension Board
3. The delegation of the power to make any further amendments to the Constitution (including oneSource delegations) as may be necessary and to revise the Terms of Reference, Code of Conduct and Conflicts of Interest

policy to the Monitoring Officer, after consultation with the Council's Section 151 Officer and the Lead Member for Value.

REPORT DETAIL

1. Regulation 106 of the Local Government Pension Scheme Regulations 2013 (the 2013 Regulations), which came into force on 20 February 2015, requires the Council to establish a local pension board no later than 1st April 2015 responsible for assisting it
 - (a) to secure compliance with —
 - (i) the 2013 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 any connected scheme; and
 - (b) to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.
2. The Pension Committee agreed at its meeting on the 23 September 2014 to the establishment of a working group of officers from London Borough of Havering and London Borough of Newham to assist in devising appropriate plans for implementation of the requirement to establish a Local Pension Board and accordingly this Report sets out the recommendations of the group. The Pensions Committee have received further updates.
3. As stated above there is no alternative other than to establish the Local Pension Board. This requirement is being brought in at the same time as a new national Scheme Advisory Board and follows on from changes in the Scheme whereby accrual of pension builds up on a career average basis rather than being linked to final salary, also implemented through the 2013 Regulations. The changes follow wide discussion and consultation.
4. Currently the Constitution delegates the Council's functions as Scheme Manager, primarily to the Pensions Committee under Part 3 paragraph 1.2. Under the service specific officer delegations at Part 3 section 3.7.2 (b) the Council's section 151 officer is delegated to administer the Council's Pension Fund.
5. The Guidance on implementation of the new Local Pension Board recommends that the Council consider whether this current arrangement is fit for purpose. The working group has reviewed this and considers that it is. The Local Pension Board will have the role of assisting the Council to ensure compliance with the various duties under the Scheme exercised by the Members and officers as described above.

Governance Committee, 11 March 2015

6. The Local Pension Board will be a free-standing committee and will not be set up under section 101 Local Government Act 1972 and therefore the Member's Code of Conduct will not apply to it.
7. The first recommendation therefore seeks to reflect within the Constitution the position of the statutory Pension Board.
8. Terms of Reference. The working group has devised the attached terms of reference and these are recommended for Council's approval.
9. The key issues within the terms of reference are as follows:
 - 9.1 Local Pension Board Membership. The Regulations require there to be an equal number of scheme member and employer representatives with a minimum of four. It is proposed that the Local Pension Board consist of 4 members in total, serving for a four year term, with a chair to be appointed from amongst the four members by the Local Pension Board on a time limited and rotating basis, and that the chair appointed will have a casting vote in the event of a tie. The representatives must have the capacity to represent either scheme members or employers which the Guidance indicates would include the ability and time to feedback to those they represent. Elected Members could be appointed to these representative roles.
 - 9.2 Remuneration of members of the Local Pension Board. It is proposed that the members of the Local Pension Board will receive an allowance of £117 for each meeting attended (matching the allowance for co-opted members)
 - 9.3 Voting. The Chair will seek to achieve consensus in decision making, but as stated above, it is proposed will have a casting vote in the event of a tie.
 - 9.4 Code of Conduct. The Local Pension Board is required to have a code of conduct to which each of its members must adhere, but as stated above the Council's code is not directly applicable, except to any Councillors who are members of the Local Pension Board as they would be doing so in their official capacity, and therefore the attached Code is recommended for adoption.
 - 9.5 Conflicts of Interest. The Regulations require that no person may be appointed who has a conflict of interest in relation to the subject matter of the Board's consideration. The definition of a conflict of interest for the purpose of the Board's functions is potentially wider than it would be for a Councillor considering Council business and therefore it has been necessary to prepare a specific conflict of interest policy for this Board which is attached for approval. It is proposed that members of the Local Pension Board should disclose any private interests and that this register shall be managed by the Monitoring Officer who should also have the power to exercise the Council's functions, should it be necessary to do so, in the event of an unresolved conflict of interest.

Governance Committee, 11 March 2015

Council is recommended to approve the attached conflict of interest policy.

- 9.6 Meetings. It is proposed that there be 5 meetings per year including one annual meeting to occur two weeks after each meeting of the Pensions Committee.
10. The final version of the 2013 Regulations was unfortunately only published on 29 January 2015 and there were a number of changes from the draft version and therefore there may be a need to further revise the three documents attached to reflect the current legislation. The attached versions are therefore being submitted as the current working versions but Council is also asked to delegate the power to make any further amendments to the Constitution (including 'oneSource delegations) as may be necessary and to revise the Terms of Reference for the Local Pension Board, Code of Conduct for the Local Pension Board and Conflicts of Interest Policy for members of the Local Pension Board. There will also be a need to review the current Governance Compliance Statement.
11. Funding of the Local Pension Board. The costs of administration will be funded entirely from the Pension Fund as required by Regulations. The Section 151 Officer will be responsible for setting the budget and approving expenditure of the Board.
12. **Changes to the Constitution: To establish this board in The Council's Constitution are as follows**

At Part 2 Appendix (Council Bodies) add a new paragraph

"Havering Local Pension Board

Membership: to be determined in accordance with the Local Government Pension Scheme Regulations 2013, not being a body constituted under section 101 of the Local Government Act 1972."

At Part 3 Section 1.4 Statutory and non-statutory bodies

Add: Name – "Havering Local Pension Board"

Functions: "Assisting the scheme manager (i.e. the Council) in relation to the following matters.

- (a) securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that is connected with it;**
- (b) securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator;**
- (c) such other matters as the scheme regulations may specify."**

At Part 3, Section 3.7.7 Functions of the Director of Legal and Governance

Add paragraph (s) and make consequential amendments to the lettering of the succeeding paragraphs:

“To take any necessary action to address any conflicts of interest arising in the Havering Local Pension Board.”

13. Timetable. Recruitment and advertising for members will be undertaken shortly and will involve communications to all Scheme employers and scheme members. A Panel will meet as soon as reasonably possible to shortlist and interview prospective candidates following the Council meeting approving the establishment of the Local Pension Board due to take place on 25 March. Whilst the legislation requires the Board to be established by 1 April 2015 its first meeting does not need to take place for up to four months thereafter. A date for the first meeting will therefore need to be set up following appointments to the Board.

IMPLICATIONS AND RISKS

Financial implications and risks:

As required by regulations, the cost of the Local Pension Board is viewed as part of the administration costs for the relevant Local Government Pension Scheme (LGPS) fund. This means that the administering authority will be able to require employers to contribute to those expenses under existing LGPS regulations.

The final version of the regulations published on the 29 January 2015 has changed the emphasis of “having experience and knowledge” to “having the capacity to undertake training”. On this basis the budget allocated for the running of the Local Pension Board will be increased to accommodate the level of training to be made available. The estimated on-going running costs of the Local Pension Board are currently estimated at £35k p.a.

The working group established to implement the arrangements of the Local Pension Board was set up in partnership with the London Borough of Newham as part of the oneSource arrangements. Therefore the set-up costs will be shared and the Havering element of these costs is currently estimated at £8k. Total set-up costs for Havering are estimated to be in the region of £10k (this does not include officer time).

As required by regulations, the cost of the National Scheme Advisory Board are also to be viewed as part of the administration costs for the LGPS as a whole and are met by the administering authorities. Each authority’s share will be based on the board’s approved budget and the split will be based on the number of members in each authority’s fund. We have not been advised at the time of writing this report what Havering’s Pension Fund contribution will be

The impact of meeting the above costs is likely to impact the employer contributions rates in future valuations.

Legal implications and risks:

The legal requirements of the new legislation are set out within the Report. As stated there is no option but to establish the Pension Board by 1st April. As this Report seeks to do this will minimise any legal risks to the Council.

There are elements of discretion within the Terms of Reference, Code of Conduct and Conflict of Interest policy, which the Council must exercise reasonably. The proposals do not depart from the Guidance and therefore there does not appear to be any legal risk in adopting them.

Human Resources implications and risks:

There will be additional staff resources required to service the Local Pension Board but these will be met from existing resources and funded by the Pension fund. Otherwise there are no apparent Human resources implications.

Equalities implications and risks:

There are no apparent equalities implications or risks arising from the statutory requirement to establish a Local Pension Board

BACKGROUND PAPERS

None