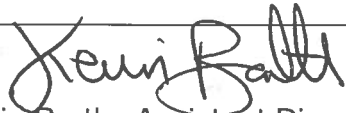


Report for:	Council 23 March 2015	Item number	
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Title:	Establishment of Pension Board from 1 <sup>st</sup> April 2015
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Report authorised by :	 Kevin Bartle, Assistant Director – Finance (CFO)
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Lead Officer:	George Bruce Head of Finance – Treasury & Pensions George.bruce@haringey.gov.uk 020 8489 3726
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Ward(s) affected: N/A	Report for Non Key Decision
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1. Describe the issue under consideration

1.1 To seek Full Council approval to the establishment of a Local Pension Board (“the Board”).from 1 April 2015, agreement of the Board’s terms of reference and the appointment of the Council’s employer representative.

2. Cabinet Member Introduction

2.1 Not applicable.

3. Recommendations

3.1 That Full Council:

a) Agree pursuant to section 5 of the Public Sector Pensions Act 2013 and Section 106 of the Local Government Pension Scheme Regulations 2013 to the establishment of a Local Pension Board, with effect from 1<sup>st</sup> April 2015:

b) Agree the terms of reference of the Board as set out at Appendix 1 of this report:



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- c) Agree to appoint the Cabinet Member for Resources and Culture as an Employer Representative member of the Board:
- d) Delegate to the s151 Finance Officer the responsibility for drafting the Pension Board Code of Conduct, Conflict of Interest Policy and any other ancillary documents that are necessary for the functioning of the Board:
- e) Note that pursuant to Article 15.03(a) of the Council's Constitution the Assistant Director of Corporate Governance and Monitoring Officer will make any necessary and consequential amendments to the Constitution to give effect to these arrangements.

4. Other options considered

4.1 The Pensions Committee have considered two options to meet the requirements of The Local Government Pension Scheme Regulations 2013:

- Combined Pensions Committee and Board,
- Stand alone Board for Haringey

4.2 The Pensions Committee have expressed a strong preference to establish a combined Board & Committee and have written to the Secretary of State seeking approval in accordance with section 106(2) of the above regulations. Unfortunately, the Secretary of State has neither reached a decision on Haringey's request nor set out the criteria that will be as used to make this decision.

4.3 The reasons for preferring a combined Board and Committee include:

- a) All relevant discussions & decisions on pension matters should take place at one committee.
- b) The proposed Board has a scrutiny rather than decision making role that the Committee already performs.
- c) The Pension Fund governance is strong as reflected in recent internal and external audit reports.
- d) The Pensions Committee membership includes directly appointed representatives of the employees and other employers, representation being a key aspect of the regulations. The Committee is willing to increase this representation and extend voting rights to employee and employer representatives.



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- e) Establishing a separate Board will incur additional costs with no clear benefits.

4.4 Should the Secretary of State ultimately agree to our request to operate a combined Board and Committee, there will be a report to a subsequent Council meeting seeking to revise the proposed arrangements.

## 5. Background information

### Role of Pensions Board

5.1 The Public Sector Pensions Act 2013 includes a requirement that local pension boards be established to assist administering authorities with the effective and efficient management and administration of the Scheme. The requirements of the Act are implemented through the above mentioned Regulations. These regulations require Board's to be established by 1<sup>st</sup> April 2015.

5.2 The regulations specify the functions of the Board as:

a) Assist LB Haringey as Scheme Manager:

- To secure compliance with the LGPS Regulations 2013 and any other legislation relating to the governance and administration of the LGPS,
- To secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator, and

b) To ensure the effective and efficient governance and administration of the LGPS and any connected Scheme.

5.3 The role of the Board is to assist the Pensions Committee not replace it.

### Membership

5.4 A key element of the regulations is the membership requirements for the Board. These are:

- a) There shall be equal numbers of employee and employer representatives, with at least four in total,
- b) There is a capacity to represent test.
- c) That an elected member of the Council appointed to the Board must either be an employee or employer representative



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- d) That no elected member or officer who is responsible for discharging any of the Council's functions as scheme manager can be a member of the Board.
- e) While additional persons can be appointed to the Board, only the employer and member representatives will be entitled to vote.

5.5 The Council is responsible for determining the membership of the Board in accordance with 5.4 and the process for appointment and removal.

### Alternative Arrangements

5.6 As discussed in section 4 above, the regulations provide an alternative option of combining the Pensions Committee and Board, with the approval of the Secretary of State. A request has been made for approval for Haringey. A response is awaited. Due to the implementation date of 1<sup>st</sup> April 2015, we have no option but to proceed with establishing a stand alone Board despite our preference for a combined Board and Committee. This may mean that the recommendation is revisited at a subsequent Council meeting.

### Terms of Reference

5.7 The proposed terms of reference for the Pension Board are attached (appendix 1). These have been drafted to meet the requirements of both the regulations and guidance issued by the Shadow Advisory Board. The ToR has been reviewed by external Legal Counsel, whose recommendations have been incorporated.

5.8 The ToR do not go beyond the statutory minimum in terms of remit and membership (with the exception of an independent Chair) reflecting the Pensions Committee's desire to ensure that all significant pension matters are dealt with by the Committee.

5.9 The Key issues within the terms of reference are as follows:

Role – as per 5.2 above

Board membership – 2 employer, 2 employee & 1 independent

Recruitment – see 5.10 below. Council will appoint one employer representative.

Voting – one vote for each Board Member, except the independent has no vote.

Code of conduct – policy to be developed

Conflicts of interest – policy to be developed

Meetings – at least two each year

Remuneration – only the independent chair will be remunerated.



Budget – the Board will prepare an expenses budget for approval by the Pensions Committee

Knowledge & skills – training will be provided to ensure Board Members understand basic pension issues.

Accountability - the Pension Board will report its conclusions to the Pensions Committee.

5.10 The appointment process will ensure that those appointed as employer and employee representatives are either nominated by employers, scheme members or union representatives. A training plan will be prepared for the Board and part of the annual effectiveness review will include compliance with the training plan.

## 6. Comments of the Chief Financial Officer and financial Implications

6.1 The proposals are part of a process of tightening up oversight and governance standards in LGPS. The proposals will not alter the fundamental role of the Council in administering the Haringey fund or setting an investment strategy. While increased scrutiny of processes and controls is beneficial, there will be challenges to ensure an effective interaction between Committee, Board and Officers.

## 7. Assistant Director of Corporate Governance comments and Legal Implications

7.1 The Assistant Director of Corporate Governance has been consulted on the contents of this report.

7.2 Section 5 of the Public Service Pensions Act 2013 requires the establishment through regulations of a local pension board with responsibility of assisting the scheme manager in (a) securing compliance with the Local Government Pension Scheme Regulations 2013 and any legislation relating to the governance and administration of the LGPS (b) securing compliance with requirements imposed by the Pensions Regulator, and (c) ensuring the effective and efficient governance and administration of the LGPS and any connected scheme. .

7.3 The role of scheme manager is delegated to the Council's Pensions Committee and the Local Government Pension Scheme Regulations 2013 require the establishment of local pension boards by 1 April 2015.

7.4 The Board will be a free standing body and Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) and section 102 of the 1972 Act (appointment of committees) do not apply to the Board. The Members Code of Conduct



will therefore not apply and it is advisable for the Council to have a Pension Board Code of Conduct and a Conflict of Interests policy.

7.5 In accordance with Regulation 106(6) the Council may determine the procedures applicable to its Board, save that no member of the Board shall have a right to vote on any question unless they are an employer or member representative.

7.6 The terms of reference of the Board at Appendix 1 comply with the Regulations.

7.7 Whilst Secretary of State approval has been sought for a combined Pensions Committee and Board, this would present both legal and practical difficulties that would have to be addressed if this option was to be taken forward at some future date.

## 8. Equalities and Community Cohesion Comments

8.1 The Council has a public sector equality duty under S149 of the Equality Act 2010 to have due regard to need to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who those characteristics and people who do not.

8.2 Policy and Strategy Team have been consulted in the preparation of this report and they comment that the proposals outlined in this report carry no apparent implications for the any aspect of duty outlined above.

## 9. Head of Procurement Comments

9.1 Not applicable

## 10. Policy Implications

10.1 None.

## 11. Reason for Decision



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11.1 The Council is required to comply with the Public Sector Pensions Act 2013 and associated regulations. Pending a response to the request to combine the Board with the existing Pensions Committee the Council would be in breach of the regulations if it did not establish a Board by 1<sup>st</sup> April 2015.

## 12. Use of Appendices

12.1 Appendix 1: Pension Board Terms of Reference

13. Local Government (Access to Information) Act 1985

13.1 Not applicable.





# Terms of reference for the Local Pension Board of LB Haringey

## 1) Introduction

1.1 The purpose of this document is to set out the terms of reference for the Local Pension Board of the London Borough of Haringey Pension Fund ("the Board) as required by the Public Service Pensions Act 2013 ("the Act") and the Local Government Pension Scheme Regulations 2013 ("the Regulations").

1.2 The Scheme Manager for the purposes of the Public Sector Pensions Act 2013 is London Borough of Haringey ("LB Haringey"). Its functions are discharged in accordance with the Council's Constitution by the Pensions Committee.

## 2) Responsibilities of the Pension Board

2.1 The role of the Board as laid down by section 106(1) of the Regulations is to assist LB Haringey:

- a) To secure compliance with:
  - i) the Regulations,
  - ii) and any other legislation relating to the governance and administration of the Scheme and any connected scheme,
  - 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.

2.2 The Council retains ultimate responsibility for the administration and governance of the Pension Fund and has delegated its functions as scheme manager & administering authority of the Fund to the Pensions Committee. The role of the Board is to support the Pensions Committee to fulfil that responsibility and secure compliance with any requirements imposed by the Pensions Regulator.

2.3 The principle functions of the Board shall include:

- (i) Seeking assurance that due process is followed with regard to Pensions Committee decisions.
- (ii) Considering the integrity and soundness of Pensions Committee decision making processes.

2.4 The Board shall have the power to do anything which is calculated to facilitate or is conducive or incidental to, the discharge of its functions.

## 3) Membership

3.1 The Board shall consist of 5 members and be constituted as follows:

- i) 2 employer representatives, being 1 from LB Haringey and 1 from other scheduled and admitted employers;
- ii) 2 scheme member representatives, being 1 active and 1 pensioner & deferred members; and
- iii) 1 independent member.

3.2 The Chair of the Board will be the Independent Member. In the absence of the Independent Member, the meeting will appoint a chair.

3.3 The Chair will ensure that meetings are properly conducted, decision making is clear and professional advice is followed. The decision of the Chair on all points of procedure and order shall be final. The Chair will monitor the performance and attendance of Board members and if appropriate make recommendation to terminate Board appointments in accordance with section 4 below.

3.4 All employer and employee members of the Board will have equal voting rights. The Independent Member will not be entitled to vote.

3.5 The Board may, with the approval of the Pensions Committee, co-opt no more than two persons to advise and support them. Co-optees are not Board members and do not have voting rights.

#### 4) Appointment of Board Members

4.1 The Council's employer representative will be appointed by Full Council and may be either a Councillor, who is not a member of the Pensions Committee, or an officer of the Council.

4.2 The Admitted and Scheduled bodies' representatives will be nominated by employers other than the Council. If there is more than one nomination a panel consisting of the Chair of the Pensions Committee, Chair of the Board and CFO to the Council will select a candidate.

4.3 The active scheme member representatives will be the appointed jointly by trade unions who represent working scheme members.

4.4 The pensioner and deferred member representative will be selected through an open invitation to apply. If there is more than one nomination a panel consisting of the Chair of the Pensions Committee, Chair of the Board and CFO to the Council will select a candidate.

4.5 The Independent Member will be appointed by a panel consisting of the Chair of the Pensions Committee and CFO to the Council. The Independent member will be required to be a person with good proven knowledge, experience and understanding of the LGPS and a clear understanding of the scrutiny function.

4.6 Prospective members of the Board will be required to demonstrate to the Chair of the Pensions Committee that they have the capacity to represent employees and employers (as appropriate) and that they do not have a conflict of interest. The decision of the Chair of the Pensions Committee will be final.

4.7 Each member of the Board will serve for a period of four years and will be eligible to be re-appointed in accordance with the above processes, subject to compliance with the conditions of appointment.

4.8 Each Board member should endeavour to attend all Board meetings during the year. No substitutes shall be permitted. Should a Board member miss two consecutive meetings then the tenure of that membership will be reviewed by the other Board members and may be terminated, in which case a new appointment process will commence for the remainder of the term.

4.9 Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all of the other members following a recommendation by the Chair. The removal of the independent member or Council representative requires the consent of the Chair of the Pensions Committee.

4.10 Should a member of the Board resign, a replacement will be appointed using the appropriate process outlined above.

## 5) Quorum & Voting

5.1 The Board shall have a formal quorum of three comprising at least one employer and one employee representative. No substitutes shall be permitted. Advisers and co-opted persons do not count towards the quorum. All decisions will be by majority of votes unless stated otherwise in these terms, although it is expected that the Board will, as far as possible, reach a consensus.

## 6) Meetings

6.1 The Board shall meet sufficiently regularly to discharge its duties and responsibilities. There will be at least two meetings a year, with additional meetings if the Board so agrees.

6.2 Notes of all meetings will be provided to Board Members at least 30 days in advance, unless agreed otherwise by Board Members.

6.3 The agenda for each meeting will be agreed by the Chair and all papers will be circulated to Members at least one week prior to the date of the meeting.

6.4 A formal record of Board proceedings will be maintained. Following the approval of the minutes by the Chair of the Board, they shall be circulated to all members.

6.5 The Board has the power to set up working groups on whatever terms that the Board determines and will prepare terms of reference for these entities.

## 7) Standards of Conduct and Conflicts of Interest

7.1 All members of the Board are expected to act at all times within these terms of reference and in accordance with the Pension Board Code of Conduct. In accordance with section 108 of the Regulations Board members must not have a financial or other interest that could prejudice them in carrying out their Board duties. This does not include a financial or other interest arising merely by virtue of membership of the LGPS.

7.2 Each Board member must provide the Council with such information as is reasonably required for the purpose of demonstrating that there is no conflict of interest.

## 8) Budget and Business Plan

8.1 The Board will prepare a Business Plan and Budget each year to be approved by the Pensions Committee.

## 9) Board Review Process

9.1 The Board will undertake each year a formal review process to assess how well it and the members are performing with a view to seeking continuous improvement in the Board's performance.

## 10) Advisers to the Board

10.1 The Board may be supported in its role and responsibilities through the appointment of advisers, in addition to the Independent member and shall, subject to any applicable regulation and legislation from time to time in force, consult with such advisers on such terms as it shall see fit to help better perform its duties including:

Officers from the Council's Finance, HR, Legal and other teams as needed;

The Fund's Actuary;

The Fund's Investment Managers and Custodian;

The Fund's Investment Consultant; and

Other advisers, so approved by the Pensions Committee (via Board budget).

10.2 Remuneration to advisors appointed by the Board must be in accordance with the expenses budget agreed by the Pensions Committee.

10.3 The Board shall ensure that the performances of the advisers to the Board are reviewed on a regular basis.

#### 11) Knowledge and Skills

11.1 Every member of the Pension Board must be conversant with –

1 The rules of the LGPS.

2 Any document recording policy about the administration of the LGPS which is for the time being adopted by the LB Haringey Pension Fund.

11.2 It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.

11.3 Pension Board members are required to be able to demonstrate their knowledge and understanding and to keep these up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

11.4 The Council will provide a training programme, which all Board members must attend.

#### 12) Accountability

12.1 The Pension Board will report all relevant recommendations and decisions to the Pensions Committee.

#### 13) Expense Reimbursement, remuneration and allowances

13.1 Remuneration for Employee and Employer Representatives will be limited to a refund of actual expenses incurred in attending Board meetings and training. Remuneration for the Independent member will be agreed on appointment and approved by the Pensions Committee.

13.2 The expenses of the Pension Board are a part of the costs of administering the Pension Fund.

#### 14) Publication of Pension Board information

14.1 The Council will publish up to date information on the Council's website including:

- The names and information of the Pension Board members.
- The Board's terms of reference.
- Papers, agendas and minutes of meetings.

