

## MUNICIPAL YEAR 2019/2020 REPORT NO.

### MEETING TITLE AND DATE:

Local Pension Board  
23<sup>rd</sup> January 2020

### REPORT OF:

Executive Director of Resources

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Agenda – Part:

Item:

**Subject: Standing Items: (i) Register of breaches of the law, (ii) Risk Register and (i) The Pensions Regulator (TPR) Compliance Improvement Plan update**

**Wards: All**

**Key Decision No:**

**Cabinet Member consulted:**

## 1. EXECUTIVE SUMMARY

- 1.1. From 1st April 2015 the Pensions Regulator (TPR) assumed responsibility for public service pension schemes and put in place codes of practice for public service pension schemes covering a number of areas relating to the management of schemes. The Code of Practice for Public Service Pension Schemes came into force from 1st April 2015 and all schemes must now consider whether they comply with the Code.
- 1.2. This report covers progress made on outstanding requirements on the Pension Regulator's compliance plan.
- 1.3. This report sets out the 'Reporting Breaches Procedure' for the Fund, to help ensure compliance with section 70 of the Pensions Act 2004 and with the 'reporting breaches' section of TPR's Code of Practice. The report provides a summary of the recommendations set out in the Code and details the actions taken by the Enfield Pension Fund to ensure that all those involved in the management of the Pension Scheme understand its requirements. This report provides the Board members with the schedule of employer contribution as failure for an employer to consistently meet the payment schedule will result in them being reported to the Pensions Regulator.

## 2. RECOMMENDATIONS

- 2.1. Members are recommended to:
  - i) Note the progress made on outstanding requirements on the Pension Regulator's compliance checklist and where further work is required and being undertaken as set as Appendix 1;
  - ii) Note the Schedule of Employer Contribution as attached to this report as Appendix 2; and
  - iii) Note the Risk Register and the impact and likelihood of events; attached to this report as Appendix 3.

### **3. BACKGROUND**

- 3.1 Although following the code itself is not a regulatory requirement, should TPR identify a situation where the legal requirements are being breached, the code will be used as a core reference document when deciding appropriate action.
- 3.2 In recent years there has been much greater focus on whether the governance of LGPS pension funds is appropriate. The introduction of local Pension Boards and focus on increased training are just two areas of the greater focus. TPR's greater legal powers of oversight extend this further and the Code of Practice is a useful means to understand what good practice looks like in these areas.
- 3.3 The Pensions Regulator's Policy on compliance and enforcement sets out the powers and the consequences of not meeting the requirements under the Code which could have financial consequences and could in extreme cases lead to financial penalties.
- 3.4 The matters covered by Code 14 are:
- knowledge and understanding for members of pension boards;
  - conflicts of interest;
  - publication of information about pension boards, governance and administration;
  - internal controls;
  - record-keeping;
  - late payment of employer and employee contributions;
  - information about member benefits and disclosure of information to members;
  - internal dispute resolution, and
  - reporting breaches of the law.
- 3.5 In light of the legal powers that have now been placed with TPR and the increasing focus on the governance of public service pension schemes, it is appropriate to consider whether the management of the London Borough of Enfield Pension Fund meets the overriding legal requirements and the recommended ways of working outlined in TPR's Code of Practice.
- 3.6 An updated checklist and improvement plan as at December 2019 is attached at Appendix 1 for review and comment by the Board. The Fund is generally able to demonstrate good levels of compliance with the Code. Two areas that stood out on this review whereby had more items that need further attention were Internal Dispute Resolution and Providing Information to Members and Others.
- 3.7 The items in respect to Internal Dispute Resolution Procedure (IDRP) relates largely to the need to update the IDRP to ensure it includes all required and additional helpful information. The current version is based on the old Communities and Local Government Department (DCLG) sample. This work is in progress and the target is to have this completed before the next board meeting.

- 3.8 Most of the items requiring attention in Section H are now in progress as they relate to the source and format of information. This work is in progress as well and most of it is now partially compliant and the target is to have this completed before the next Board meeting.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 This is a legislative requirement so there is no alternative option to consider.

#### **5. REASONS FOR RECOMMENDATIONS**

- a) There has been much greater focus on whether the governance of LGPS pension funds is appropriate. The introduction of Local Pension Boards and focus on increased training are just two areas of the greater focus. The Pension's Regulator (TPR) now has greater legal powers of oversight that extend this further and the Code of Practice is a useful means to understand what good practice looks like in respect of pension funds.
- b) A good standard of governance is crucial in minimising the key risks involved in managing the Pension Fund. Although there are clear benefits for many schemes of the greater oversight powers that have been given to TPR, ensuring compliance with these areas and the much greater focus on governance results in additional work for officers and advisers of the Fund. Any costs associated with delivering the requirements of this Code and the related legal changes are not material in the context of the Pension Fund and any such costs are recharged to the Pension Fund.

#### **6. COMMENTS FROM OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

- a) There are no immediate direct financial consequences arising as a result of this report. However, understanding the risks that exist in respect of the Pension Fund and the management of those risks is important to the overall strategic management of the Pension Fund and the governance role of this Board. Not all risks are quantifiable from a financial perspective however should they not be appropriately managed they could impact on the reputation of the Fund and the Council.

##### **6.2 Legal Implications**

- a) The Pensions Regulator Code of Practice for Public Sector Pensions came into force on the 1<sup>st</sup> April 2015. The Code introduces the framework for the governance and administration of public service pension schemes and provides an extended regulatory oversight by the regulator. Codes of practice provide practical guidance in relation to the exercise of functions under relevant pension's legislation and set out the standards of conduct and practice expected of those who exercise the functions. It is essential the Pension Policy & Investments Committee undertakes regular monitoring of the management and performance of the fund and use of the compliance checklist will assist with this.
- b) The regulator is required under section 90(2) of the Pensions Act 2004, to issue one or more codes of practice covering specific matters relating

to public service pension scheme. The Code is not a statement of the law and there are no penalties for failure to comply with its provisions. However the Authority must ensure that it complies with the underlying legal duties in respect of those matters specified in section 90(2). It is possible to adopt an alternative approach to that set out in the Code, however any such approach must meet any underlying legal duties of the scheme manager. Failure to do so may result in a penalty being imposed and the regulator also has the power to issue an improvement notice under section 13 of the Pensions Act 2004. The notice may be drafted with reference to the code of practice

- c) When exercising its functions, the Pensions Board, must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector duty).

## **7. KEY RISKS**

- a) The rigorous robust management of Enfield Pension Fund results in better quicker and more effective decision making which can lead to better Fund performance and reduction in the contribution required from the Council towards the Fund. The monitoring arrangement for the Pension Fund and the work of the Pension Policy & Investment Committee should ensure that the Fund optimises the use of its resources in achieving the best returns for the Council and members of the Fund.

### **Appendices**

Appendix 1 – TPR Compliance Improvement Plan as at 31st December 2019

Appendix 2 – Schedule of Employers Contribution as at 31<sup>st</sup> December 2019

Appendix 3 – The Risk Register and the impact and likelihood of events