

London Borough of Enfield

PENSION POLICY AND INVESTMENT COMMITTEE

Meeting Date: 28 January 2021

Subject: Enfield Pension Fund Governance Status Review and National Guidance and Requirements on Governance

Cabinet Member: Cllr Maguire

Executive Director: Fay Hammond

Key Decision: []

Purpose of Report

1. This report introduces the Enfield Pension Fund current Governance status and also provides some highlights of the current national guidance and requirements for Pension Fund Governance.
2. The Enfield Pension Fund Governance Policy and Compliance Statement has been prepared in accordance with the Local Government Pension Scheme Regulations. It sets out the governance procedures for the Fund and indicates where it is compliant with best practice as laid down in statutory guidance issued by the Secretary of State.
3. One of the functions of the Committee is to meet the Council's duties in respect of the efficient management of the pension fund. The Committee's consideration of this information contributes towards the achievement of the Council's statutory duties.

Proposal(s)

4. Pension Policy and Investments Committee are recommended to:
 - i) Note and consider the contents of this report especially the National Guidance and Requirements for Governance;
 - ii) approve Enfield Pension Fund draft Governance Policy and Compliance Statement, attached as Appendix 1; and
 - iii) approve the approved Scheme of Delegation which is included as Appendix A of the attached draft Statement.

Reason for Proposal(s)

5. For effective and efficient management of the Fund.

6. There is a requirement for the Committee to be kept up to date with current issues and legislative developments to support and effect the effective discharge of their role.
7. Regulation 55 of the Local Government Pension Scheme Regulations 2013 requires Enfield Council, as the administering authority for the Enfield Pension Fund, to prepare a written statement setting out details of the authority's delegation of functions under the LGPS Regulations.
8. The statement sets out the governance procedures for the Fund and indicates where it is compliant with best practice as laid down in statutory guidance issued by the Secretary of State. This document presents an update to the existing statement as part of the review programme set out in the Pension Fund Business Plan.
9. **Relevance to the Council's Corporate Plan**
10. Good homes in well-connected neighbourhoods.
11. Build our Economy to create a thriving place.
12. Sustain Strong and healthy Communities.

Background

13. Since 1st April 2006, administering authorities have been required to publish and maintain a pension fund governance statement setting out the governance arrangements for their Fund including details of membership, how often they meet and the decision-making process. This requirement has been maintained in the LGPS Regulations 2013, with Regulation 55 requiring funds to prepare and maintain a governance compliance statement.
14. Regulation 55 requires that:
 - (1) An administering authority must prepare a written statement setting out:
 - (a) whether the authority delegates its functions, or part of its functions under these Regulations to a committee, subcommittee or an officer of the authority;
 - (b) if the authority does so-
 - (i) the terms, structure and operational procedures of the delegation,
 - (ii) the frequency of any committee or sub-committee meetings,
 - (iii) whether such a committee or sub-committee includes representatives of Scheme employers or members, and if so, whether those representatives have voting rights;
 - (c) the extent to which a delegation, or the absence of a delegation, complies with guidance given by the Secretary of State and, to

the extent that it does not so comply, the reasons for not complying; and

- (d) details of the terms, structure and operational procedures relating to the local pension board established under regulation 106 (local pension boards establishment).
 - (2) An administering authority must keep a statement prepared under paragraph (1) under review, and make such revisions as are appropriate, following a material change to any of the matters mentioned in that paragraph.
 - (3) Before preparing or revising a statement under this regulation, an administering authority must consult such persons as it considers appropriate.
 - (4) An administering authority must publish its statement under this regulation, and any revised statement.
15. This document therefore presents an update to the Governance Policy and Compliance Statement, under the programme of regular policy review set out in the Fund's business plan. It is recommended that the Committee approve the policy and statement for consultation with key stakeholders, including employers and other interested parties. It is intended that the final draft be brought to the November Pension Policy & Investment Committee for final approval.
16. The key amendments that have been made are:
- a) Updating the Policy and Statement to reflect new regulations (including the LGPS (Management and Investment of Funds) Regulations 2016)
 - b) Updating officer delegations to reflect staff changes within the Pension Fund
 - c) Updating delegations to reflect changes to roles as a result of asset pooling
17. Appendix B of the document includes the Fund's Statement of Compliance against best practice as laid down in statutory guidance issued by the Secretary of State. It is pleasing to note that the Fund continues to be fully compliant in all areas.

Good Governance Project

18. LGPS Regulations mentioned the word "governance" for the very first time in 2005. Since then we've seen an explosion in the use of the term, as expectations have developed and grown around what good governance means for the LGPS. The last few years alone have seen an oversight role for The Pensions Regulator, expanded oversight by MHCLG, the introduction of local pension boards, increasing administrative complexity and the introduction of investment pooling.

19. It was against this backdrop that the LGPS Scheme Advisory Board (“SAB”) appointed Hymans Robertson to assist with its Good Governance project in early 2019. The brief was to examine the effectiveness of the various current LGPS models; they were then to consider alternatives or enhancements which would help to take the good practice of the best funds and make it universal. It was made clear from the start that any proposals put forward must maintain the strong democratic local accountability that exists currently within the LGPS; in short, separation of LGPS funds from local authority structures was not on the cards

Phase I

20. Throughout spring 2019, Hymans carried out a comprehensive consultation exercise designed to gather the views and opinions of as many LGPS stakeholders as possible. To supplement an online survey, Hymans hit the road to hear views on Good Governance across the country including roundtable events, appearances at conferences, webinars and many one-to-one conversations. Interactions included dedicated pensions officers, chief finance officers, elected members, local pension board members, monitoring officers, independent advisers and trade unions. By the end they had engaged with over 200 stakeholders, and 76 funds across England and Wales.
21. These conversations from across the LGPS world helped to inform their final report accepted by the SAB in July 2019. Central to the report was the recognition that no single governance model is appropriate for all funds; rather than focus on how funds are set up to deliver the LGPS function, it is more sensible to focus on the outcomes they deliver. The report went on to propose that funds should report their level of compliance against a governance framework: this would include areas such as conflict management, sufficiency of resource and budget, and representation on governance committees and boards.

Phase II

22. Keen to take these proposals forward, the SAB initiated Good Governance Phase II which involved bringing together two working groups to further develop the ideas within Phase I. The groups were established by the SAB to ensure a wide range of representation from all areas of the LGPS, also in attendance were The Pensions Regulator and MHCLG. The Phase II report was accepted by the SAB in November last year and brings more detail to areas such as publishing a governance compliance statement, budget setting, and the independent review process.

Phase III

23. This will see the SAB consider how statutory guidance can be used to put the LGPS governance framework in place, and what KPIs can be used to measure governance effectiveness.

24. For those funds wanting to get ahead of the game and be ready for this Good Governance guidance and KPIs, there is plenty they can be doing. For example, funds might want to consider their conflicts of interest policy and ensure it really does address all of the actual, potential and perceived conflicts that exist in the LGPS world. Or maybe try reviewing the fund's decision-making processes; where are key decisions made, who is responsible for delivery of those decisions, who needs to provide oversight and is what you've documented actually reflected in the constitution? A full review of all mandatory and best practice policies, as identified by the Pensions Regulator is also recommended.

National Guidance and Requirements on Governance

25. In this section we summarise some of the key elements of good governance that are included in national guidance or best practice.

Summary of guidance

The guidance and requirements refer to within this paper are as follows:

- SAB Good Governance Project¹ – phase 2 report ("SAB Good Governance Project Outcomes ")
- MHCLG Statutory Guidance on Governance Compliance Statements² ("MHCLG Statutory Governance Guidance")
- The Pensions Regulator's Code 14: Governance and administration of public service pension schemes³ ("TPR Code of Practice")
- CIPFA's Administration in the LGPS: a guide for pensions authorities⁴ ("CIPFA Administration Guide")

Scheme Advisory Board's Good Governance Project

26. As the principles of SAB's Good Governance project are integral to this governance review, shown below are the latest proposals, which are from phase 2 of the project, and which are likely to be incorporated into statutory guidance:

- The need for new statutory governance guidance from the Ministry for Housing Communities and Local Government (MHCLG) to effectively implement the proposals from this project. The current guidance in this area was published in 2008.
- Each administering authority to:
 - have a single named officer responsible for the delivery of all LGPS related activity for that fund (i.e. an LGPS senior officer).
 - publish an annual governance compliance statement that sets out how they comply with the governance requirements set out in MHCLG's

new guidance. This would need to be co-signed by the LGPS senior officer and, where different, the S151 officer.

https://www.lgpsboard.org/images/PDF/HymansRobertson_GoodgovernanceintheLGPS_Phase-II_November2019.pdf

http://lgpsregs.org/timelineregs/Statutory%20Guidance%20and%20circulargovernance/Governance_Statutory_Guidance.doc

<https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pensioncode-of-practice>

<https://www.cipfa.org/policy-and-guidance/reports/administration-in-the-lgps>

- publish a conflicts of interest policy which includes details of how actual, potential and perceived conflicts are addressed
 - refer to SAB guidance on statutory and fiduciary duty
 - publish a policy on the representation of scheme members and non-administering authority employers on its committees, explaining its approach to representation and to voting rights for each party.
- In the areas of knowledge and skills:
 - a requirement for key individuals within the LGPS, including LGPS officers and pensions committee members, to have the appropriate level of knowledge and understanding to carry out their duties effectively (in effect this tries to bring requirements in line with those already in place for Local Pension Boards)
 - a requirement for s151 officers to carry out LGPS relevant training as part of CPD requirements to ensure good levels of knowledge and understanding
 - a requirement to have a policy setting out how training is delivered, assessed and recorded
 - CIPFA and other professional bodies be asked to produce guidance and training modules (particularly for S151 officers).
 - In terms of the service delivery of the LGPS, each Administering Authority must:
 - document key roles and responsibilities relating to the fund and publish a roles and responsibilities matrix setting out how key decisions are reached.
 - publish an Administration Strategy and report the Fund's performance against agreed indicators.

- ensure their committee is included in the business planning and budget setting processes.
- give proper consideration to pay and recruitment policies in order to meet the needs of the pension fund; not simply applying general council staffing policies such as recruitment freezes.
- From a compliance and improvement perspective the proposal is that each Administering Authority must undergo a biennial independent governance review and produce an improvement plan to address any issues identified, with those reviews and reports to be assessed by a SAB panel of experts. The Local Government Association (LGA) will also consider establishing a peer review process for LGPS funds.

MHCLG Statutory Governance Guidance

27. MHCLG statutory guidance includes the principle that "The management of the administration of benefits and strategic management of fund assets clearly rests with the main committee established by the appointing council."
28. It also states:
- [Policy decisions on administration matters] are key decisions which should be subject to the rigorous supervision and oversight of the main committee.
 - LGPS committees and panels need to receive regular reports on their scheme administration to ensure that best practice standards are targeted and met and furthermore, to satisfy themselves and to justify to their stakeholders that the fund is being run on an effective basis.

TPR's Code of Practice

29. TPR's Code refers to the outsourcing of services in paragraphs 119 and 120, focussing on the provision of administration services. It refers to:
- Providers of outsourced services should be required to demonstrate that they have adequate internal controls, which should be incorporated within the terms of engagement between the scheme and service provider. The scheme manager (is taken to be the PPIC) should be satisfied that internal controls associated with those services are adequate and effective.
 - Information from providers should be sufficiently detailed and comprehensive and service level agreements should cover all services that are outsourced.
 - Where the management of scheme data has been outsourced, it is vital that schemes understand and are satisfied that the controls in place will ensure the integrity of scheme member data.

CIPFA Administration Guide

30. This CIPFA guidance includes the following:
31. What if administration is outsourced or delivered through a shared-service arrangement?
32. Whether administration service is delivered internally (within the administering authority), outsourced to a private sector contractor or provided through a shared-service arrangement, the responsibility for the proper governance of the Fund, including administration and communications matters, still lies with the administering authority.
33. Accordingly, all the points highlighted above* to equally be included in reporting from any external provider or shared service partner of the administration services. A close working relationship is fundamental to ensuring that the administration provider can continually meet legal and other requirements, particularly given the Fund will have no or little direct control over the resources available to deliver the scheme administration services.

[*Note that this refers to areas set out within the CIPFA guide, including reporting against areas such as legal deadlines, internal targets, overall turnaround times, breaches and errors, numbers of tasks/cases, satisfaction surveys, data issues and employer performance.]

34. It will be extremely important to ensure that the information to be included in reporting, and the level of detail expected, is clearly set out when carrying out any tender or appointment process. This should ensure full details of all Fund specific service standards or other targets (albeit noting that these may move during the period of the contract). This should also set out expectations in relation to rectification where an administration provider is failing to meet requirements.

Safeguarding Implications

35. None.

Public Health Implications

36. The Enfield Pension Fund indirectly contributes to the delivery of Public Health priorities in the borough.

Equalities Impact of the Proposal

37. The Council is committed to Fairness for All to apply throughout all work and decisions made. The Council serves the whole borough fairly, tackling inequality through the provision of excellent services for all, targeted to meet the needs of each area. The Council will listen to and understand the needs of all its communities.

Environmental and Climate Change Considerations

38. There are no environmental and climate change considerations arising from this report.

Risks that may arise if the proposed decision and related work is not taken

39. This is a noting report.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

40. Risks arising from poor administration and management tend to be reputational but can include additional expenditure. This and future reports are designed to provide the Committee with assurance that pension risks are being adequately managed.

Financial Implications

41. The S151 Officer is satisfied that all material, financial and business issues and possibility of risks have been considered and addressed and that there are no direct financial implications arising as a consequence of the revised Policy and Statement. The cost of compliance with the necessary regulations with regards to governance is minimal in comparison to the value of the fund, and the risks arising through failure to do so.
42. The effective and efficient management of Fund assets and achievement of performance targets are key to the achievement of the funding strategy objectives and this is a good decision which can result in greater cost savings to the fund.

Workforce Implications

43. The employer's contribution is a significant element of the Council's budget and consequently any improvement in investment performance will allow the Council to meet this obligation easily and could also make resources available for other corporate priorities.

Property Implications

44. None

Other Implications

45. None

Options Considered

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

Conclusions

47. The report was considered by the members of PPIC at their last meeting of 26th November 2020 and referred this report to the monitoring officer for comments on the Fund current governance arrangement considering the

national guidance and requirements status. It was highlighted that there is a need:

- To have one representation of scheme members and a representation from non-administering authority employers on Enfield Pension Fund Committee
 - To also consider the policy or an approach of enlisting members for the two highlighted representations with no voting rights onto the Committee.
48. Phase III of the SAB Good Governance review has been slowed down by COVID19, it is due to restart and Funds are advised that they might want to consider their conflicts of interest policy and ensure it really does address all the actual, potential and perceived conflicts that exist in the LGPS.
49. It is worth noting that an independent assessor might be needed and engaged to carry out the Enfield Pension Fund Governance review once the national guidance and requirements are made mandatory by MHCLG.

Report Author: Bola Tobun
Finance Manager – Pensions & Treasury
Bola.Tobun@enfield.gov.uk
Tel no. 020 8132 1588

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Appendices

Appendix 1 – Draft Governance Policy and Statement of Compliance
Appendix A - Delegation of Functions to Officers
Appendix B – Enfield Pension Fund’s Statement of Compliance

Background Papers

https://www.lgpsboard.org/images/PDF/HymansRobertson_GoodgovernanceintheLGPS_Phase-II_November2019.pdf

http://lgpsregs.org/timelineregs/Statutory%20Guidance%20and%20circulars/Governance_Statutory_Guidance.doc

<https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pensioncode-of-practice>

<https://www.cipfa.org/policy-and-guidance/reports/administration-in-the-lgps>