

**London Borough of Enfield**

**ENFIELD PENSION BOARD**

**Meeting Date: 09 June 2021**

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**Subject: TPR Code of Practice Compliance Checklist Report**

**Cabinet Member: Cllr Maguire**

**Executive Director: Fay Hammond**

**Key Decision: [ ]**

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**Purpose of Report**

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 consider whether they comply with the Code.
2. This report covers an updated Compliance Checklist for the London Borough of Enfield Pension Fund up to 31st May 2021.

**Proposal(s)**

3. The Pension Board are recommended to:
  - a) Note the contents of this report;
  - b) Note the Code of Compliance Checklist; and
  - c) Consider the findings and are invited to comment and ask questions.

**Reason for Proposal(s)**

4. 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.
5. 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.

### **Relevance to the Council's Corporate Plan**

6. Good homes in well-connected neighbourhoods.
7. Build our Economy to create a thriving place.
8. Sustain Strong and healthy Communities.

### **Background**

9. 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.
10. 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.
11. The Pensions Regulator's Code of Practice No 14 outlines expectations in relation to the governance and administration of public service pension schemes. It was issued in April 2015. The Code is split into the following categories, and within each of these categories there are a number of specific requirements:
  - i) knowledge and understanding for members of pension boards;
  - ii) conflicts of interest;
  - iii) publication of information about pension boards, governance and administration;
  - iv) internal controls;
  - v) record-keeping;
  - vi) late payment of employer and employee contributions;
  - vii) information about member benefits and disclosure of information to members;
  - viii) internal dispute resolution, and
  - ix) reporting breaches of the law.
12. Since the Code was issued the Fund has carried out regular reviews to assess its compliance against the requirements, some of which are legal requirements. Although compliance is assessed on an ongoing basis, periodically a more detailed review takes place, and this was carried out in the latter part of 2020. The findings were considered in detail by the Pension Board at their last meeting.
13. The findings of the latest review continue to show a high level of compliance by the Fund and improvements in a number of areas.
14. Appendix 1 shows the Fund previous position as at November 2018.

15. Currently there is only 1 area where it has not yet been possible to carry out a full check of whether the Fund is compliant (with 1 further area not being relevant). In relation to whether the Fund is compliant or not the breakdown is as follows:
  - Fully compliant – 83 areas
  - Partially compliant – 12 areas
  - Non-compliant – no areas
  - Not relevant – 1 area.
16. The second and third pages of the summary show how the current compliance compares with the previous review.
17. Appendix 2 provides more detail in relation to the 12 areas that are partially compliant but in summary:
18. The majority of these relate to the same category, which is around the monitoring and management of the receipt of contributions from employers. This process is well established in the Fund, but it is not fully documented which is the reason for it being scored as partially compliant. This is an area of work that has been identified and prioritised to be completed in 2021/22.
19. The 2 areas within the Knowledge and Skills category will remain partially compliant as it is not felt appropriate to meet these requirements, as highlighted in the commentary against these points.
20. The 1 area in the Providing Information to Members and Others category will be resolved as part of the Fund's website review which is expected to make progress during 2021.
21. An updated checklist as at May 2021 is attached at Appendix 2 for review and comment by the Board. The Fund is generally able to demonstrate good levels of compliance with the Code and these are highlighted in green.
22. There are a number of items requiring attention in Section H: Providing Information to Members and Others. The principal area of concern at the last review of this section relates to the despatch of the Annual Benefits Statements. For this year, the pension administration team have a system in place for swift completion and despatching of statements to members to ensure statutory deadline will be met.

### **Safeguarding Implications**

23. Poor corporate governance and unsustainable business practices can impact on share prices and increases the risk that the Fund may experience a loss of value in its investments in the future

### **24. Public Health Implications**

25. The Enfield Pension Fund indirectly contributes to the delivery of Public Health priorities in the Borough.

### **Equalities Impact of the Proposal**

26. 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**

27. Environmental and climate change considerations are all over this report.

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

28. The rigorous robust management of LBE 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.
29. Ensuring good corporate governance and the adoption of sustainable business models at the companies in which the Fund invests should over the longer term ensure that they are able to deliver superior returns to the Fund.

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

30. 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.

### **Financial Implications**

31. 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.

### **Legal Implications**

32. The Pensions Regulator Code of Practice for Public Sector Pensions came into force on the 1st 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 Pensions Committee undertakes regular monitoring of the management and performance of the fund and use of the compliance checklist will assist with this.

33. 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).
34. 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
35. 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).

### **Workforce Implications**

36. 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**

37. None

### **Other Implications**

38. None

### **Options Considered**

39. There are no alternative options.

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**Appendices**

Appendix 1 – Enfield Pension Fund Compliance Checklist as at November 2018

Appendix 2 – Enfield Pension Fund Compliance Checklist as at 31st May 2021

**Background Papers**

- The Pensions Act 2004
- The Pensions Regulator's Code of Practice