

London Borough of Enfield

PENSION POLICY AND INVESTMENT COMMITTEE

Meeting Date: 29 July 2021

Subject: TPR Code of Practice Compliance Checklist Report

Cabinet Member: Cllr Maguire

Executive Director: Fay Hammond

Key Decision: []

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.
2. 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.
3. This report covers an updated Compliance Checklist for the London Borough of Enfield Pension Fund up to 30th June 2021.

Proposal(s)

4. The Pension Policy and Investments Committee are recommended to:
 - a) Note the contents of this report;
 - b) Note the Code of Compliance Checklist; and
 - c) Consider the findings, to comment and ask questions.

Reason for Proposal(s)

5. 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.
6. 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

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

Background

10. 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.
11. 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.
12. 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:
 - a) Reporting duties
 - b) Knowledge and understanding
 - c) Conflicts of interest
 - d) Publishing information
 - e) Risk and internal controls
 - f) Maintaining accurate member data
 - g) Maintaining contributions
 - h) Providing information to Members and Others
 - i) Internal dispute resolution procedure
 - j) Reporting breaches.

13. In addition, there is a section in the Fund's compliance check relating to Scheme Advisory Board requirements which are separate.
14. 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.
15. The findings of the latest review continue to show a high level of compliance by the Fund and improvements in a number of areas.
16. Appendix 1 shows the Fund previous position as at November 2018.
17. In relation to whether the Fund is compliant or not the breakdown is as follows:
 - Fully compliant – 82 areas
 - Partially compliant – 13 areas
 - Non-compliant – 2 areas (As at Nov.2018 - need to obtain update from Admin Team)
18. The summary dashboard of Appendices 1 and 2 show how the current compliance compares with the previous review.
19. Appendix 2 provides the 13 areas that are partially compliant and 2 areas of non-compliant.
20. The partially non-compliant relate to the following categories:
21. **Publishing Information** – only 1 partially non-compliant relating to the need to add code of practice paragraph 96 about PB and PPIC and members unto the Council's website.
22. **Risk and Internal Controls** – the outstanding 1 partially non-compliant relates to AVCs:
 - to agree with the Prudential a way of ensuring compliance with regulations
 - To ensure robust processes for checking employer cashflows in relation to benefit payments.
23. **Maintaining accurate member data** – there are 2 partially non-compliant outstanding in this category:
 - i) To agree with Prudential a way of ensuring annual reconciliation is carried out and audited as part of annual report and accounts process.
 - ii) To have a formal documented data improvement plan in place

24. **Maintaining contributions** – the outstanding 1 partially non-compliant relates to AVCs to put in place an improved monitoring process for AVCs
25. **Providing information to Members and Others** – there are 6 partially non-compliant areas in this category, this is mainly due to the fact that I'm yet to contact Admin team for latest updates in the yellow highlighted areas as they are extremely busy currently.
26. **Internal dispute resolution procedure** - there are 2 non-compliant areas and 2 partially non-compliant areas in this category, this is mainly due to the fact that I'm yet to contact Admin team for latest updates in the yellow highlighted areas as they are extremely busy currently.
27. An updated checklist as at June 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.

Safeguarding Implications

28. 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

Public Health Implications

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

Equalities Impact of the Proposal

30. 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

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

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

32. 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.
33. 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

34. 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

35. 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

36. 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.
37. 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).
38. 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
39. 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

40. 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

41. None

Other Implications

42. None

Options Considered

43. There are no alternative options.

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Date of report 18th July 2021

Appendices

Appendix 1 – Enfield Pension Fund Compliance Checklist as at November 2018
Appendix 2 – Enfield Pension Fund Compliance Checklist as at 30th June 2021

Background Papers

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