

NORTH YORKSHIRE COUNTY COUNCIL

EXECUTIVE

15 OCTOBER 2019

PENSION BOARD – REVIEW OF TERMS OF REFERENCE

Report of the Assistant Chief Executive (Legal and Democratic Services)

1.0 Purpose of the Report

To provide the Executive with details of the recent review of the Pension Board's Terms of Reference, and seeking a recommendation for approval by the County Council as Administering Authority to the North Yorkshire Pension Fund.

2.0 Background

2.1 At the inaugural Meeting of the Pension Board, held on 30th July 2015, Members adopted the Terms of Reference for the Board, as approved by County Council on 18th February 2015.

2.2 It was envisaged that Pension Board Members would undertake a periodic review of the Terms of Reference to ensure that these remained relevant, going forward, and took account of any changes in legislation and working practices.

2.3 The Terms of Reference were previously reviewed on 24 January 2018 and Pension Board Members agreed that the current Terms of Reference (appendix 1) were no longer fit for purpose, given changes to the nature of the LGPS, particularly around the introduction of pooling arrangements, since they were first developed.

2.4 At its meeting held on 18th July 2019, assisted by the Treasurer, Gary Fielding, and Independent Observer, Peter Scales, of the North Yorkshire Pension Fund (NYPF), Board Members undertook a review of the Terms of Reference.

3.0 Review of Terms of Reference

3.1 The following amendment to the Terms of Reference was agreed by Pension Board members:-

Section 8 – Remit of the Board

Add an additional bullet point as follows:-

“Reviewing the governance of the new pooling arrangements, to assist in ensuring compliance, effective and efficient reporting, and the monitoring of investment management.”

3.2 A copy of the Terms of Reference, with the change highlighted in bold, is included at **Appendix 1**.

3.3 The remainder of the Terms of Reference were agreed to continue as stated.

4.0 Recommendation

- 4.1 That Executive notes the change to the Terms of Reference for the Pension Board, and recommends that this be approved by the County Council.

BARRY KHAN,
Assistant Chief Executive (Legal and Democratic Services),
County Hall,
Northallerton

September 2019

Background Documents:

Pension Board of the North Yorkshire Pension Fund

Terms of Reference and Delegated Authorities

1) Role of the Local Pension Board

The role of the local Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is

- to assist North Yorkshire County Council (NYCC) as Administering Authority in its role as Scheme Manager
- to secure compliance with the Local Government Pension Scheme (LGPS) regulations and any other legislation relating to the governance and administration of the LGPS
- to secure compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator
- to secure the effective and efficient governance and administration of the LGPS for the North Yorkshire Pension Fund (NYPF, or the Fund)
- in such other matters as the LGPS regulations may specify
- to provide the Scheme Manager with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest

The terms “Administering Authority” and “Scheme Manager” are used interchangeably in the Regulations but are separately defined in this document (see section 18). NYCC as the Administering Authority has ultimate responsibility for the Fund and has delegated powers to manage the Fund to the Pension Fund Committee (PFC).

These Regulations provide that the Pension Board has the general power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Pension Board will also help ensure that the NYPF is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator, with due regard to guidance issued by Government, the Pensions Regulator and the National Scheme Advisory Board.

The Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively, but not less than four times in any year.

The Pension Board will determine the precise timing of its own meetings, which will take place at suitable intervals between PFC meetings so that PFC activity relevant to the Board can be considered and responses to recommendations reviewed prior to the next meeting of the PFC.

2) Membership and Appointment Process

The Pension Board shall consist of 9 members and be constituted as follows:

- i) 4 scheme member representatives, of whom
 - a. 2 shall represent and be drawn from active members of the Fund
 - b. 1 shall represent and be drawn from pensioner and deferred pensioner members of the Fund
 - c. 1 shall represent and be drawn from either the active or deferred/pensioner members of the Fund
- ii) 4 employer representatives, of whom
 - a. 1 shall be nominated by NYCC who shall meet the requirements of the relevant regulations in relation to avoidance of conflict with the County Council's role as Administering Authority
 - b. 1 shall be nominated by the City, Borough and District Councils, the Police and Fire bodies and the National Parks which are employers within the Fund
 - c. 1 shall be nominated by all other employers within the Fund
 - d. 1 shall be nominated by any employer other than NYCC
- iii) 1 independent member, who shall be appointed as Chair of the Pension Board. Elected Members and officers involved in the management and administration of the Fund are not permitted to become Pension Board members.

The Administering Authority will contact employers and members of the Fund to inform them of the Pension Board arrangements and to canvass interest whenever appointments to the Pension Board are required. Active, pensioner and deferred pensioner members will be eligible to nominate themselves as "scheme member representatives". Individuals put forward by the Fund's employers, whether or not those individuals are members of the Fund, will be eligible to stand as "employer representatives".

The position of independent member will be advertised publically. The Administering Authority will seek an independently minded individual with a track record of dealing with governance issues. Following receipt of nominations/applications the Administering Authority will arrange an independent as possible appointment process. This process will include assessing information supplied by candidates in support of their nomination/application and may be supplemented by interviews as appropriate.

Members in all categories will only be appointed to the Pension Board by the Administering Authority if they either meet the knowledge and skills requirements set out in the relevant regulations and guidance (see Section 7) or commit to do so within 3 months of the appointment date.

Members of the Pension Board will serve for a term of 4 years following which they may either retire from the Board or seek nomination for an additional term. The term of office may otherwise come to an end

- i. For scheme member representatives if they cease to be a member of the relevant group
- ii. For employer representatives who are councillors if they cease to hold office as a councillor
- iii. For employer representatives who are not councillors when they cease to be employed by their nominating employer

- iv. For a councillor member who is appointed to the PFC
- v. For a scheme member or employer representative who is appointed to a role with responsibility for the management or administration of the Fund
- vi. Where there is a conflict of interest which cannot be managed in accordance with the Pension Board's Conflicts of Interest Policy
- vii. Where a member fails to attend meetings, undertake training or otherwise comply with the requirements of being a Pension Board member

Each Pension Board member should endeavour to attend all Board meetings during the year and is expected to attend at least 3 meetings each year. The chair of the Board is also expected to attend the quarterly meetings of the PFC.

Given the nature of the Pension Board as a supervisory body and the need for appropriate knowledge and skills and the clear avoidance of conflicts of interest, substitute members are not permitted.

In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Administering Authority.

Other than by ceasing to be eligible as set out above, a Board member may also be removed from office during a term of appointment by the unanimous agreement of all of the other members. The removal of the independent member requires the consent of the Administering Authority.

3) Conflicts of Interest

The policy for identifying, monitoring and managing conflicts of interest is set out in a separate policy document, which should be regularly reviewed by the Pension Board.

4) Standards of Conduct

The role of Pension Board members requires the highest standards of conduct and therefore the "seven principles of public life" will be applied to all Pension Board members and embodied in their code of conduct.

These are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership

5) Knowledge and Skills

A member of the Pension Board must be conversant with:

1. The legislation and associated guidance of the LGPS
2. Any document recording policy about the administration of the LGPS which is for the time being adopted by the NYPF

A member of the Pension Board must have knowledge and understanding of:

- a. the law relating to pensions, and
- b. any other matters which are prescribed in the regulations

Individual Pension Board members must satisfy themselves that they have the appropriate degree of local knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board. This includes being fully aware of all requirements detailed in these terms of reference for example on standards of conduct and conflicts of interest, and being conversant with the investment strategy of the Fund.

In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

6) Board Review Process

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

7) Accountability

The Pension Board will be collectively and individually accountable to the Administering Authority.

8) Remit of the Board

The Pension Board must assist the Administering Authority with such matters as the scheme regulations may specify. It is for scheme regulations and the Administering Authority to determine precisely what the Pension Board's role entails. Examples of activity include, inter alia:

- reviewing the Fund's governance and policy documents, such as the Governance Compliance Statement and the Communications Policy Statement
- reviewing the Fund's Annual Report
- reviewing the administrative performance of the Fund
- reviewing shareholder voting and engagement arrangements
- reviewing the Fund's Risk Register
- reviewing the NYPF website

- supporting and challenging PFC actions as a critical friend
- **Reviewing the governance of the new pooling arrangements, to assist in ensuring compliance, effective and efficient reporting, and the monitoring of investment management.**

9) Decision making

Each Pension Board member who is a scheme member or employer representative will have an individual voting right but it is expected that the Pension Board will as far as possible reach a consensus. The Chair of the Pension Board will not be entitled to vote.

10) Quorum

The Board shall be quorate if the Chair, 1 scheme member representative and 1 employer representative are present.

11) Board Meetings – Notice, Minutes and Reporting

The Administering Authority shall give notice to all Pension Board members of every meeting of the Pension Board and shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board, they shall be circulated to all Pension Board members.

The Pension Board is a committee of the Council and as such the Council's rules on notice of meetings, publishing agendas, reports and minutes and that meetings and papers (unless exempt) are open to the public will apply. At the discretion of the Administering Authority items may be edited or excluded on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

The Pension Board shall annually report to the Administering Authority on its nature and activities. The precise content of this report will be subject to consideration and agreement at a meeting of the Board but as a minimum should include

- a. details of members attendance at meetings of the Pension Board
- b. details of training and development activities made available to Pension Board members and attendance at such activities
- c. details of any recommendations made by the Pension Board to the Scheme Manager and the Scheme Manager's response to those recommendations
- d. details of costs incurred in the operation of the Pension Board
- e. a review of the effectiveness of the Board (see Section 6)

In consideration of items of business at its ordinary meetings the Pension Board shall determine whether it wishes to make recommendations to the Scheme Manager, to which the Scheme Manager shall respond at the subsequent meeting.

The Pension board shall also report as required by the regulations to the Pensions Regulator and the National Scheme Advisory Board.

12) Reporting Breaches

Any breach brought to the attention of the Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in the draft code of practice 14 issued by the Pensions Regulator, *Governance and Administration of Public Service Pension Schemes*.

13) Publication of Pension Board information

Scheme members and other interested parties will want to know that the NYPF is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, and to carry out its role in relation to the governance and administration of the scheme and requirements of the Pension Regulator.

Up to date information will be posted on the NYPF website showing:

- the names of the Pension Board members and other relevant information
- how the scheme members are represented on the Pension Board
- the responsibilities of the Pension Board as a whole
- the full terms of reference and policies of the Pension Board and how they operate
- the Pension Board appointment process
- any specific roles and responsibilities of individual Pension Board members

The Administering Authority will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

14) Advice to the Board

The Board will be supported in its role and responsibilities by the Administering Authority through advice and support as appropriate.

15) Expense Reimbursement, remuneration and allowances

The Administering Authority will determine remuneration and allowances to be paid to Pension Board members based on recommendations made by the Independent Panel on Members Remuneration. These arrangements are reviewed annually.

Expenses in connection with fulfilling Pension Board responsibilities will be met by the Fund based on the Council's Members Scheme of Allowances and officers Travel and Expenses Policy as appropriate. The costs of appropriate training will also be met by the Fund.

16) Insurance

The Council's Public Liability Insurance applies to members of the Pension Board.

17) Updating the Pension Board Terms of Reference

Approval for significant amendments must be pursued through the Council's Constitution Working Group. General updating or housekeeping can be carried out without the need to seek formal approval.

18) Definitions

The undernoted terms shall have the following meaning when used in this document:

<i>“Pension Board” or “Board”</i>	Means the Pension Board for the Council as the Administering Authority of the NYPF as required under the Public Service Pensions Act 2013
<i>“Administering Authority”</i> <i>“Scheme Manager”</i> <i>“Chair”</i>	Means the Council Means the PFC of the Council The individual responsible for chairing meetings of the Pension Board and guiding its debates
<i>“LGPS”</i>	The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and the The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009
<i>“Scheme”</i>	Means the Local Government Pension Scheme as defined under “LGPS”

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