

## NORTH YORKSHIRE COUNTY COUNCIL

## PENSION FUND COMMITTEE

18 SEPTEMBER 2014

## ESTABLISHMENT OF A PENSION BOARD

## Report of the Treasurer

**1.0 PURPOSE OF REPORT**

- 1.1 Subject to any comments Members may have, to establish the Pension Board Terms of Reference for recommendation to the Executive for consideration and onward recommendation to full Council for approval.

**2.0 BACKGROUND**

- 2.1 On 23 June 2014 the Government published a consultation “The Local Government Pension Scheme (Amendment) Regulations 2014: draft Regulations on scheme governance”. These Regulations are essentially a crystallisation of the governance arrangements framework set out in the Public Service Pensions Act 2013.
- 2.2 These Regulations require administering authorities to each establish a Pension Board by 1 April 2015, being a formal body constituted by the Council.
- 2.3 As agreed by Members at the PFC meeting on 10 July 2014 NYPF submitted a response to the consultation, which closed on 15 August 2014. This was a repeat of the response to a consultation in 2013 on the same issue. The Governments conclusion following the consultation process, including detailing any changes to the draft Regulations and the issue of related guidance on the implementation of Pension Boards is expected in due course.
- 2.4 Pending this conclusion from Government, which may not be known for some time, NYPF must make arrangements for the Pension Board based on existing guidelines which require some interpretation. Officers therefore produced a draft of the Pension Board Terms of Reference (**Appendix 1**) after receiving advice from governance specialists. This draft was shared with the Advisory Panel as well as the Council’s legal and democratic services team.

**3.0 CURRENT ACTIVITY**

- 3.1 At the PFC meeting on 10 July 2014 Members decided to replace the Advisory Panel with the Pension Board. The proposed Terms of Reference of the Pension Board describe an appointment process. Members of the Advisory Panel may express interest in being appointed to the Board in accordance with the proposed appointment process.

3.2 At the time of writing, officers are seeking clarification on two issues, being conflicts of interest and insurance. More generally, officers are keeping abreast of approaches being taken by other administering authorities. Additionally comments and/or suggestions may come out of the Advisory Panel meeting which is taking place on 17 September 2014. Members will be informed at the meeting of any necessary or recommended amendments to the Terms of Reference.

#### 4.0 **NEXT STEPS**

4.1 In order to become a formal body of the Council, the creation of the Pension Board and the finalisation of its Terms of Reference must be approved by full Council on the recommendations of the Executive. Members are therefore asked to recommend the Terms of Reference to the Executive for, subject to any comments it may have, onward recommendation to full Council for approval.

4.2 Prior to consideration by the Executive and approval by full Council, should it emerge that the Terms of Reference require amendment, for example if Government publishes guidance on a particular issue, Members are asked to delegate authority to the Treasurer, in consultation with the Chair of the PFC, to make any necessary amendments.

4.3 Following approval of the Terms of Reference by full Council, the Terms of Reference, it may require amendment from time to time. The process for updating the Pension Board Terms of Reference is detailed in Section 18 of that document.

#### 5.0 **RECOMMENDATIONS**

5.1 Members to recommend the Pension Board Terms of Reference for consideration by the Executive and onward recommendation by the Executive to full Council for approval (**paragraph 4.1**).

5.2 Members to delegate authority to the Treasurer, in consultation with the Chair of the Pension Fund Committee, to make any necessary interim amendments to the Pension Board Terms of Reference, arising out of Government guidance, prior to formal approval of the Terms of Reference by full Council (**paragraph 4.2**).

GARY FIELDING  
Treasurer  
Central Services  
County Hall  
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09 September 2014

## Terms of Reference for the Pension Board of the North Yorkshire Pension Fund

### Terms of Reference and Delegated Authorities

#### 1) Introduction

The purpose of this document is to set out the terms of reference for the local Pension Board of the North Yorkshire Pension Fund (NYPF) for which North Yorkshire County Council (NYCC) is the Administering Authority, otherwise referred to as the Scheme Manager.

#### 2) 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 the Scheme Manager
- to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS
- to secure compliance with requirements imposed in relation to the LGPS by the Pensions Regulator
- in such other matters as the LGPS regulations may specify
- secure the effective and efficient governance and administration of the LGPS for the NYPF
- 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 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 and 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.

In addition to the role required by the Regulations, the Pension Board may informally consider Fund activity in relation to investments including decisions made by the Pension Fund Committee (PFC). Pension Board comments and suggestions will be reported by the Chair of the Board who is a (non-voting) member of the PFC.

#### 3) Appointment of members of the Pension Board

The Pension Board shall consist of 11 members and be constituted as follows:

- i) 4 scheme member representatives
- ii) 4 employer representatives
- iii) 3 independent members

Scheme member and employer representatives shall be appointed in equal number and shall together form the majority of the Board's membership.

The process for selecting members of the Pension Board is set out below.

NYPF 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 stand as "scheme member representatives" (paragraph 3i). 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" (paragraph 3ii).

The Scheme Manager will also contact other individuals or organisations as it sees fit in order to identify persons with an appropriate level of knowledge and expertise, to stand as "independent members" (paragraph 3iii). As set out in the Regulations, this category includes Elected Members.

The selection process will be based on information supplied by candidates in support of their appointment application and supplemented by interviews as appropriate, as determined by the Scheme Manager.

All appointments will be made by the Scheme Manager and will be for a term of 3 years. Reappointment for further periods will be at the discretion of the Scheme Manager.

The Chair of the Pension Board will be appointed following a suitable selection process and for a term determined by the Scheme Manager. It will be the role of the Chair to ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.

Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least 2 meetings each year. In the event of consistent non-attendance by any Board member, then the tenure of that membership will be reviewed by the other Board members in liaison with the Scheme Manager.

Other than by ceasing to be eligible as set out above, a Board member may be removed from office during a term of appointment by the unanimous agreement of all of the other members. The removal of an independent member requires the consent of the Scheme Manager. Any Board member may be removed if, in the Scheme Manager's opinion, they do not possess a sufficient level of knowledge and skills (see Section 8).

The Board may, with the approval of the Scheme Manager, co-opt persons who are not members of the Board to serve on sub boards or working groups, particularly where this would add skills and experience.

#### **4) Quorum**

The Board shall have a formal quorum of 3. Advisers and co-opted persons do not count towards the quorum.

#### **5) Conflicts of Interest**

A conflict of interest is defined in the Public Service Pensions Act as:

"In relation to a person, means a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme)."

Each member of the Pension Board (as well as any other attendees participating in the meeting) will be expected to declare, on appointment and at each meeting, any interests which may lead to conflicts of interest. Such a conflict could be in relation to a general subject area or to a specific agenda item of a Pension Board meeting.

The Chair of the Pension Board must be satisfied that the Board is acting within:

- the conflicts of interest requirements of the Public Service Pensions Act and the LGPS Regulations, and
- in the spirit of any national guidance or code of practice in relation to conflicts of interest for Board members, and

Each member of the Pension Board, or a person proposed to be appointed to the Board, (as well as attendees participating in the meeting) must provide the Chair of the Pension Board with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest.

## **6) Board Review Process**

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

## **7) Advisers to the Board**

The Board will be supported in its role and responsibilities by the Scheme Manager. The Board may be supported through the appointment of advisers and shall, subject to any applicable regulation and legislation and approval by the Scheme Manager, consult with such advisers to the Board to help better perform its duties including:

- a Governance Adviser
- the Fund's Actuary
- the Fund's Legal Adviser
- the Fund's Investment Manager(s)
- the Fund's Investment Adviser(s)
- other advisers, so approved by the Scheme Manager

The Board shall ensure that the performances of the advisers so appointed are reviewed on a regular basis.

## **8) Knowledge and Skills**

A member of the Pension Board must be conversant with:

1. The legislation and associated guidance of the Local Government Pension Scheme (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 knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.

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. This must be sufficient to satisfy the Scheme Manager that they have sufficient knowledge and skills to carry out their role

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

## 9) Board Meetings – Notice and Minutes

The Scheme Manager shall give notice to all Pension Board members of every meeting of the Pension Board. The Scheme Manager 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 members.

The Pension Board is a committee of the Council and as such the Council's rules on notice of meetings, publishing agendas, reports, minutes and that meetings and papers (unless exempt) are open to the public will apply.

It is expected that a consensus will be reached on matters discussed by the Pension Board but in the event that this is not possible each member shall be entitled to one vote. The Chair of the Board possesses the casting vote.

There will be 4 Pension Board meetings a year, one to be held each quarter.

## 10) Remit of the Board

The Pension Board must assist the Scheme Manager with such other matters as the scheme regulations may specify. It is for scheme regulations and the Scheme Manager to determine precisely what the Pension Board's role entails.

The Pension Board is entitled to request information from the Scheme Manager in order to carry out its role.

## 11) 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

## 12) Decision making

Each member of the Pension Board will have an individual voting right but it is expected the Pension Board will as far as possible reach a consensus. The Chair of the Pension Board will have the final deciding vote which will be reported to the Scheme Manager.

## 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, 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 and information of the Pension Board members
- 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
- who each individual Pension Board member represents
- any specific roles and responsibilities of individual Pension Board members

Pension Board papers, agendas and minutes of meetings will be published on the NYPF website. These may at the discretion of the Scheme Manager be edited to exclude items 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 Scheme Manager 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) Accountability**

The Pension Board will be collectively and individually accountable to the Scheme Manager.

#### **15) Expense Reimbursement, remuneration and allowances**

No remuneration or allowances will be paid to Pension Board members.

Expenses in connection with fulfilling Pension Board responsibilities including the costs of appropriate training will be met by the Fund.

#### **16) Reporting**

The Pension Board will informally report to the Scheme Manager in order to assist with compliance with the Regulations on governance and administration. The Pension board will formally report to the Council's Executive once a year on issues identified, any the response from the Scheme Manager on a "comply or explain" basis including any action taken in response to the issue.

The Pension Board will also formally report to The Pensions Regulator and to the national Scheme Advisory Board as required by the Regulations and in accordance with reporting guidelines.

#### **17) Insurance**

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

#### **18) Updating the Pension Board Terms of Reference**

Approval for amendments to these Terms of Reference must pursued through the Council's process for amending the Council's Constitution or under the Assistant Chief Executive (Legal and Democratic Services)'s delegated powers to amend the Constitution under Article 15.02 (c) of the Council's Constitution.

#### **19) Definitions**

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

*"Pension Board" or "Board"* Means the local Pension Board for the

## **Appendix 1**

Council as the administering authority of the NYPF as required under the Public Service Pensions Act 2013

*"Scheme Manager"*

Means the Council as the administering authority of the NYPF

*"Chair"*

Reference to duties to be performed, or authorities exercised, by the Chair

*"LGPS"*

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

*"Scheme"*

Means the Local Government Pension Scheme as defined under "LGPS"

## **18) Interpretation**

Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Scheme Manager.

<sup>1</sup> Standards Matter: a review of best practice in promoting good behaviour in public life", Committee on Standards in Public Life, January 2013