

## **Local Pension Board (4 - 8 members plus an independent chairman)**

### **1. Establishment**

- 1.1 The Isle of Wight Council is the Administering Authority and Scheme Manager for the Isle of Wight Council Pension Fund, part of the Local Government Pension Scheme, as defined in s.4 of the Public Service Pensions Act 2013 ('the Act').
- 1.2 It has established the Local Pension Board ('the Board') under s.5 of the Act and regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended), and the Board operates independently of the Pension Fund Committee
- 1.3 The Board is not a committee constituted under s.102 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the Constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly provided.
- 1.4 The Board is accountable to the Scheme Manager and the Pensions Regulator.

### **2. Responsibility and Role of the Board**

- 2.1 The responsibility of the Board, as defined by sections 5(1) and (2) of the Act, is to assist the Administering Authority as Scheme Manager in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme (LGPS) including:
  - (a) securing compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS;
  - (b) securing compliance with requirements imposed in relation to the LGPS by the Pensions Regulator; and
  - (c) such other matters as the LGPS regulations may specify.
- 2.2 The Administering Authority retains ultimate responsibility for the administration and governance of the scheme.
- 2.3 The role of the Board is to support the Administering Authority to fulfil that responsibility and secure compliance with any requirements imposed by the Pensions Regulator.
- 2.4 In its role, the Board will have oversight of the administration and governance of the Fund including:
  - (a) the direction of the Fund and its overall objectives;
  - (b) the administration of benefits and contributions.
- 2.5 The activity of the Board can also include:
  - (a) reviewing the Fund's governance and policy documents, for adoption by pension committee;
  - (b) reviewing compliance with the Fund's governance and policy documents;
  - (c) reviewing the administrative programme of the Fund as part of the Fund's annual report;

- (d) reviewing ACCESS pooling as part of the Fund's annual report;
- (e) reviewing the ongoing arrangements for the training of Board members;
- (f) reviewing the Fund's Risk Register, for approval by pension committee;
- (g) reviewing audit and assurance reports; and
- (h) reviewing the Fund's website and other communication methods.

### **3. Membership, Eligibility, Nominations, and Appointments**

3.1 The Administering Authority shall determine its membership.

#### *Minimum and Maximum Numbers and Types of Board membership*

3.2 The Board shall consist of a minimum of four members and a maximum of eight members plus an independent chairman

3.2 No substitute members are permitted.

3.3 It is constituted with an equal number of employer representatives and scheme member representatives as follows:

- (a) Minimum of two, maximum of four, employer representatives
- (b) Minimum of two, maximum of four, scheme member representatives

#### *Employer representatives*

3.4 For the minimum membership size of four members (plus an independent chairman), one of the employer representatives shall be an elected member of the council. The other employer representative will be selected for nomination by the other employers of the Fund using the following process:

- (a) the Scheme Manager will seek nominations from all external employers
- (b) candidates will provide short biographies
- (c) employers will be asked to select their preferred candidate
- (d) the Administering Authority shall determine which candidate to appoint.

3.5 Should the total number of members increase, additional employer representatives will initially be sought from the council but may also be sought from the external employers of the Fund.

3.6 The Administering Authority must be satisfied that a person to be appointed to the Local Pension Board as an employer representative has the capacity to represent all employers.

3.7 No officer or elected member of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board. Board representatives must therefore not be members of the Pension Fund Committee.

3.8 Where an employer representative vacancy occurs the Administering Authority shall seek to appoint a replacement as soon as practicable.

#### *Scheme representatives*

- 3.9 One of the scheme member representatives shall be nominated by a recognised trades union, which is responsible for arranging its own nomination of a suitable candidate, representing both active and retired members. If more than one nomination is received from two or more recognised trade unions, all such nominations shall be put forward for the Administering Authority to determine who to appoint to such a vacancy.
- 3.10 For all other scheme member representatives, the council will undertake a selection process by requesting expressions of interest from all active, deferred and retired members, with nominations put forward for the Administering Authority to determine who to appoint.
- 3.11 The Administering Authority must be satisfied that a person to be appointed to the Local Pension Board as a scheme member representative has the capacity to represent all scheme members.
- 3.12 Where a scheme representative vacancy occurs the Administering Authority shall seek to appoint a replacement as soon as practicable.

*Independent chairman*

- 3.13 There shall also be an independent chairman, appointed by the Administering Authority.
- 3.14 The chairman must have no pre-existing employment, financial or other material interest in either the Administering Authority or any scheme employer, nor be a member of the Isle of Wight Council Pension Fund. Such a chairman has no right to vote.
- 3.15 Where a vacancy occurs for the independent chairman position, the Administering Authority shall seek to appoint a replacement as soon as practicable.

*Vice-chairman*

- 3.16 The Board may appoint a vice-chairman on an annual basis from amongst its own number or in-year should a vacancy arise.
- 3.17 In the event that neither the chairman nor the vice-chairman are present, the Board members present may appoint one of their number to preside for the particular meeting.

*Conflict of interests*

- 3.18 No one may be appointed to the Board who has a conflict of interest that is considered by the Administering Authority to be prejudicial to the exercise of their functions as a Board member.
- 3.19 It is the responsibility of the Board member to provide any information required by the Administering Authority in order to determine whether such a conflict exists (see also 4 below 'Register of Interests and Code of Conduct').
- 3.20 A conflict arises where a financial or other interest is likely to prejudice a person's exercise of functions as a Board member (but does not include a financial or other

interest arising merely by virtue of membership of the scheme or any connected scheme).

*Duty to comply with role profile and to attend arranged training*

- 3.21 All Board members, whether scheme member or employer representatives, will be expected to comply with the role profile for Board members, published on the Pension Fund's website.
- 3.22 The Board shall establish and maintain a policy and framework to address the knowledge and skills requirements that apply to Board members under the Act and regulations. That policy and framework shall set out the degree of knowledge and skills required as well as how knowledge and skills are acquired, reviewed and updated.
- 3.23 Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the knowledge and skills policy and framework. Where Board members attend external training, they will be required to provide a report back to the Board in order to share the knowledge gained with other Board members.
- 3.24 Following appointment, each member of the Board should be conversant with the legislation and associated guidance of the LGPS and any other document recording policy about the administration of the LGPS which is for the time being adopted.

*Length of term of office and removal from office*

- 3.25 The Chairman, each employer representative and each scheme member representative so appointed shall serve initially for a fixed four-year period from the date their appointment takes effect, which may be extended by decision of the Administering Authority for further four year terms, subject to remaining eligible, re-nomination and re-selection.
- 3.26 Any Board member can be removed by the Administering Authority for good cause. Without prejudice to the generality, it includes removal on the grounds of the employer representative appointed due to being a councillor ceasing to be an elected councillor for the Isle of Wight Council, the nominating body withdrawing their representative, a conflict of interest that cannot be managed, non-attendance, breach of code of conduct and non-participation in training.
- 3.27 Each Board member should endeavour to attend all Board meetings during the year and shall be required to attend at least two of the scheduled meetings each financial year. In the event of any Board member failing to do so, or other persistent non-attendance, (including failure to attend training sessions without reasonable cause) then the tenure of office of that member shall be reviewed by the Administering Authority.
- 3.28 Other than by ceasing to be eligible, a Board member may only be removed from office during their term of office by the Administering Authority.

**4. Register of Interests and Code of Conduct**

- 4.1 A register of interests is maintained by the Board to record and monitor its members interests and responsibilities.

- 4.2 The register of interests is reviewed annually by the Board and published on the scheme's website.
- 4.3 The principles included in the Isle of Wight Council Members' Code of Conduct shall apply to all members of the Board. Likewise, all other relevant Isle of Wight Council policies shall apply to members of the Board.
- 4.4 All Board members must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest that might arise as a result of their position on the Board, and complete a register of interests.
- 4.5 Where a conflict is identified, the Board and the Scheme Manager shall manage it by applying the principles contained within the Isle of Wight Council Members Code of Conduct (see Part 5 Section 3).
- 4.6 Where it is deemed impossible to manage a conflict, the Board member may be required by the Administering Authority to stand aside in relation to any specific issue being considered or, if necessary, resign their position on the Board or be removed by the Administering Authority.

## **5. Meetings**

### *Frequency*

- 5.1 There will be at least four Board meetings a year. Other meetings may be convened by the chairman with due notice as the Board determines.

### *Notice*

- 5.2 The Administering Authority shall give reasonable advance notice to all Board members of every meeting of the Board which shall normally be at least 5 clear working days.
- 5.3 The agenda and supporting papers shall be distributed to members of the Board normally at least 5 clear working days prior to the meeting.
- 5.4 Any member of the Board may request that an item be added to the agenda for consideration, subject to that matter being relevant to the remit of the Board as set out in these terms of reference. Any items considered outside of the remit will be discussed with the chairman of the Board and the requestor notified of the outcome and rationale.
- 5.5 Subject to the requested item being valid, the Administering Authority will schedule the item of business for the next appropriate Board meeting, taking into account items already scheduled and the level of preparation. Note – if the next meeting of the Board is to be held within 28 days of receipt of the request, the item of business is unlikely to be scheduled before the following meeting.

### *Quorum*

- 5.6 The Board has a quorum of three, requiring at least one employer representative and at least one scheme member representative to be present..

### *Holding of meeting*

- 5.7 The Board's meetings will be open to the general public, unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public (see, for example, the Data Protection Act 2018). Meetings may be held either in person or remotely or a hybrid of the two methods at the discretion of the Board.

#### *Voting*

- 5.8 No member of the Board shall have a right to vote on any question unless that member is an employer representative or a scheme member representative.
- 5.9 It is expected the Board will as far as possible reach a consensus, but where a deadlock has been reached on any matter under consideration which has been the subject of a tied vote the matter shall be referred to the Pension Fund Committee and/or Administering Authority together with the views of the members on the matter.

#### *Minutes*

- 5.10 The Administering Authority shall ensure that a formal record of Board proceedings is maintained, whether in electronic format or in writing.
- 5.11 The draft minutes shall be circulated to all Board members, who will be given 21 days to comment, after which time the draft minutes will be published.
- 5.12 The accuracy of the final minutes shall be agreed at the next suitable meeting of the Board.

#### *Publication*

- 5.13 The Board's public papers including agendas and minutes of meetings will be published on the Council's website subject to the rules on access to information and the Data Protection Act 2018.

### **6. Advisers**

- 6.1 The Board may be supported in its role and responsibilities by the appointment of advisers and shall, subject to any applicable regulation and other legislative provision, consult with such advisers to the Board to help perform its duties.
- 6.2 Any cost associated with the use of advisers to the Board must first be agreed with the Administering Authority.

### **7. Powers of the Board**

- 7.1 The Board only has those powers granted to it under statutory provision and so only has a very defined and limited jurisdiction.
- 7.2 The Board has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its statutory functions.
- 7.3 But, for the avoidance of any doubt whatsoever, and subject to 7.4 below, it is for the Administering Authority (and not for the Board) to determine the procedures applicable to the Board, including as to the establishment of sub-committees, formation of joint committees and payment of expenses.

- 7.4 No member of the Board shall have the right to vote on any question unless that member is an employer representative or a scheme member representative (see 5.8 above).

### **8. Reporting Duty of the Board**

- 8.1 The Board shall provide an annual report to the Pension Fund Committee. The report shall include information on the business conducted by the Pension Board with any risks or concerns identified and mitigation steps proposed.
- 8.2 The annual report will also be published on the Pension Fund's website.
- 8.3 Any concerns requiring reporting outside the annual process should be raised with the Pension Fund Committee.

### **9. Budget and Expenses**

- 9.1 The Board is to be provided with adequate resources to fulfil its role. In doing so the budget for the Board will be met from the Fund.
- 9.2 The Board shall seek the prior approval from the Administering Authority's Section 151 Officer for any expenditure to be made.
- 9.3 The expenses of the Board are to be regarded as part of the costs of administration of the fund held by the Administering Authority.
- 9.4 The Pension Fund may meet reasonable expenses of the Board. Such expenses will be met by the Fund and have regard to the Administering Authority's Members' Allowance Scheme.
- 9.5 But for the avoidance of any doubt, other than the independent chairman, Board members shall not receive an annual allowance of any kind in respect of being a member of the Board.

### **10. Accountability**

- 10.1 The Board shall be collectively and individually accountable to the Scheme Manager.

### **11. Review of terms of reference**

- 11.1 These terms of reference shall be reviewed on each material change to those parts of the regulations covering local pension boards and at least every four years.
- 11.2 These terms of reference were adopted on 17 November 2021.

NB. The following documents/regulations have been referred to in formulating the Board's terms of reference:

- Local Government Pension Scheme (LGPS) – Guidance on the creation and operation of Local Pension Boards in England and Wales (issued by the Shadow Scheme Advisory Board)
- The Public Service Pensions Act 2013
- The Local Government Pension Scheme Regulations as amended
- Code of Practice No. 14 governance and administration of public service pension schemes (issued by the Pensions Regulator)

Part 3 'Responsibility for Functions' – Section 6

- The Local Government Pension Scheme (LGPS) – Questions and Answers on Local Pension Boards (issued by the Shadow Scheme Advisory Board)
- Template Terms of Reference for a Local Pension Board (issued by the Shadow Scheme Advisory Board).