

**MEMBERSHIP, TERMS OF REFERENCE & STANDING ORDERS AND
CODE OF CONDUCT**

To: **Cambridgeshire Local Pension Board**

Date: **21st October 2015**

From: **Democratic Services Manager**

Purpose: **The Cambridgeshire Local Pension Board is asked to consider the following:**

- i) the process for appointing to the Employer and Employee Representative vacancies on the Local Pension Board;**
- ii) its Terms of Reference and Standing Orders; and**
- iii) its Code of Conduct.**

Recommendation: **The Cambridgeshire Local Pension Board is asked to recommend to Council:**

- (a) the process for appointing to the Employer or Employee Representative vacancies on the Local Pension Board; and**
- (b) its Standing Orders as set out in Appendix A including changes proposed at its meeting.**

The Cambridgeshire Local Pension Board is also asked to:

- (c) note the new Employer and Employee Representatives on the Board; and**
- (d) adopt the Cambridgeshire County Council Code of Conduct for all members of the Cambridgeshire Local Pension Board.**

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1. BACKGROUND

Membership

- 1.1 At its last meeting, the Board was asked to consider how appointments should be made to outstanding employer and employee vacancies. Following discussion, it was resolved to re-advertise the vacant Employer and Employee Representative places on the Local Pension Board.
- 1.2 The Board also asked officers to contact those who had shown interest in the positions to enquire as to why they had not pursued it further.

Terms of Reference and Standing Orders

- 1.3 The Board at its meeting on 16 July 2015 received a report detailing changes to the Council's Constitution following the meeting of Council on 24 March 2015. There was some discussion about whether the Board's stand-alone function should be recognised. At the meeting, it was agreed to operate within the current process and to consider the Terms of Reference further at a future meeting of the Board if issues arose. The Board resolved to recommend to Council its Standing Orders as set out in Annex 3 including changes proposed at its meeting. The Democratic Services Manager was asked to circulate a revised Annex 3 to the Board.

Code of Conduct

- 1.4 At its last meeting, the Board noted that employee representatives would need to sign the Cambridgeshire County Council Members' Code of Conduct, which covers the procedure for dealing with confidential items.

2. MEMBERSHIP OF THE CAMBRIDGESHIRE LOCAL PENSION BOARD – APPOINTMENT TO EMPLOYER AND EMPLOYEE VACANCIES

- 2.1 Officers met with the Chairman of the Board, Councillor Mac McGuire, on 11 August 2015 to review the advertising process for both the employer and employee vacancies. At the request of the Chairman, it was agreed to advertise as follows:
 - i) On 18 August 2015, a letter and advert was sent to all Cambridgeshire Libraries with a request to display the information.
 - ii) On 18 August 2015, a letter, copy of the advert, application form and pack was e-mailed to all Parish Councils in Cambridgeshire.
 - iii) An advert was placed on the Local Pension Fund website.
 - iv) On 17 August 2015, a letter, a copy of the advert, application form and pack was sent to all Employer Contacts with a request to circulate it to members of the scheme.
- 2.2 The Chairman also asked officers to seek quotations for the printing and posting of one A4 black and white letter to –
 - 1) Deferred and Pensioner members (43,913);
 - 2) Active, Deferred and Pensioner members (69,258); and
 - 3) Active members (25,345).

The cheapest quote was just under £10,000. Given the cost, it was acknowledged that it would not be appropriate to use funding from the Pension Fund.

- 2.3 A request for information was also received from Unison and Unite. Both organisations were e-mailed in August with a copy of the relevant information.
- 2.4 The closing date for applications was 30 September 2015. One application has been received for an Employee representative who will be interviewed before the meeting of the Board by the Head of Community Services & Litigation (deputising for the Monitoring Officer) and Democratic Services Manager.
- 2.5 At the request of the Board, the Democratic Services Manager has contacted one applicant who had shown interest in the Employer Representative position to enquire as to why he had not pursued it further. Unfortunately, the applicant had been unable to attend the interview. He has confirmed that he is still interested in the position and will be interviewed before the meeting of the Board by the Head of Community Services & Litigation (deputising for the Monitoring Officer) and Democratic Services Manager.
- 2.6 The Board has been presented with two recommendations to reflect the possible outcomes of the interviews.

3. TERMS OF REFERENCE AND STANDING ORDERS

- 3.1 Following the last meeting, the Democratic Services Manager circulated the revised Standing Orders attached as **Appendix A** to the Board.
- 3.2 One Board member, supported by another member, has commented that he is uncomfortable with one area. He explained that Local Pension Boards were set up following the Hutton review of public service pensions. One of his intentions is to make sure there is independent oversight of governance. After what happened over Maxwell in the 1990s other pension schemes separated the employer from the pension scheme and fund. The LGPS is peculiar in that the local authority administers the local fund of the LGPS but is also an employer. Therefore there is no legal separation as the employer is making decisions about what is happening to the fund. This member believes that Lord Hutton came up with the idea of scheme advisory boards and local pension boards to provide that independence so at least the pension committees have some independent oversight. He is concerned that any changes to the Standing Orders will be laid before full council for it to agree as he believes this goes against the independent nature of what a local Pension Board is supposed to be. As far as he is concerned, the Local Pension Board is not a committee of the local authority but a committee set up as part of the administering authority's functions but independent of the pensions committee. He quotes the section from LGPS Board Guidance which refers to terms of reference, which is statutory guidance:

"Terms of Reference

5.34 The Administering Authority when establishing its Local Pension Board should create terms of reference for the Board on the basis that the Board is a stand-alone body. The terms of reference are the rules setting out how the Board will be constituted and operate on a day to day basis. The terms of reference for a Local Pension Board should be reviewed periodically and at each material change in regulations impacting on Local Pension Boards."

He is also highlighting the fact that if the Pensions Board makes suggestions about changing its terms of reference and these are blocked it could refer back to the Act and challenge the decision i.e.

Local pension boards: establishment 106 (8) A local pension board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

- 3.3 In response to this concern, the Democratic Services Officer sought legal advice. The Board is advised that the reference to stand-alone body in the paragraph that has been quoted is in relation to the fact that the Board shall have its own terms of reference. Paragraph 5.34 actually states that the Administering Authority (AA) (in this case Cambridgeshire County Council (CCC)) should create the terms of reference. This makes sense as CCC established the Local Pension Board (Pension Fund Board) and therefore from a governance perspective, although the pension board may make changes to the terms etc. these would need to be signed off by CCC as the AA. This is more an internal issue rather than being in relation to the pension board specifically and the example of the Health and Wellbeing Board can be used. If this was established by the full Council, it would follow that any amendments to terms of reference etc. would ultimately go back to full Council for approval. Attention is also drawn to section 8 of the guidance in relation to reporting where recommendations and concerns about decisions of the AA or the Committee with delegated responsibility are reported back to those groups rather than the pension board making unilateral decisions itself.

The point about regulation 106 (8) – the Pension Board will have the power to do anything. It is suggested that this power is conferred by the terms of reference that the AA established. Therefore if the Pension Board wanted to act beyond this it would appear logical to have to go back to the establishing AA to change the Terms of Reference.

4. CODE OF CONDUCT

- 4.1 One Board member, supported by another member, commented that he has a technical issue with regard to adopting the Council's Code of Conduct. Whilst he does not have a problem with following the Council's own Code of Conduct, he believes there needs to be formal recognition that the Board is essentially adopting this code as it suits its purposes. Legal advice has confirmed that, according to the guidance, some or all of an existing code of conduct may be adopted.
- 4.2 The two current Employee Representatives have completed a Code of Conduct form which will be published on the Council's website if the Board approves a recommendation to adopt the County Council's Code of Conduct.

Source Documents	Location
<p data-bbox="260 226 778 338">Local Government Pension Scheme (Amendment) (Governance) Regulations 2015</p> <p data-bbox="260 450 767 517">Local Pension Board – Agenda and Minutes 16 July 2015</p>	<p data-bbox="829 210 1385 394">Jo Walton, LGSS Pensions Service Governance and Regulations Manager Tel - 01604 367030 E-mail - jwalton@northamptonshire.gov.uk</p> <p data-bbox="829 427 1430 539">http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=1020</p>

Cambridgeshire Pension Fund Board (Standing Orders)

1. Notice of Meetings

Meetings of the Board will be convened by the Administering Authority, who will also arrange the clerking and recording of meetings (a member of the County Council's Democratic and Members' Services Team will act as Clerk). Officers from the LGSS Pension Service will provide pension fund information to the Board.

The agenda and papers for meetings must be available at least five clear working days before the meeting.

2. Chairmanship

A Chairman/woman and Vice-Chairman/woman will be appointed by the employer and member representatives of the Board from among their own number but not from the same sector of representatives.

The role of the Chairman/woman is to ensure meetings are properly conducted, decision making is clear and professional advice is followed. The Chairman/woman will agree the agenda and approve the minutes for each meeting.

3. Other members

The Board may appoint other members with the agreement of the Administering Authority. Other members will not have voting rights on the Board.

4. Reporting

The Board should in the first instance report its requests, recommendations or concerns to the Pension Committee.

On receipt of a report, the Committee should, within a reasonable period, consider and respond to the Board.

Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.

Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.

The appropriate internal route for escalation is to the Monitoring Officer and the Section 151 officer.

The Board may report concerns to the LGPS Scheme Advisory Board for considering subsequent to, but not instead of, using the appropriate internal route for escalation.

Board members are also subject to the requirements to report breaches of law under the Act and the Code [and the whistleblowing provisions set out in the

Administering Authority's whistle blowing policy].

The Board will publish an annual report of its activities for that year and include it part of the Pension Fund's annual report.

5. Board Knowledge and Understanding

Every individual who is a member of the Board must be conversant:

- with the rules of the Local Government Pension Scheme;
- any document recording policy about the administration of the Fund which is for the time being adopted in relation to the Fund.

Every individual who is a member of the Board must also have knowledge and understanding of:

- the law relating to pensions; and
- such other matters as may be prescribed.

The Board shall establish and maintain a Knowledge and Understanding Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act.

6. Members' Conduct

The Board should at all times act in a reasonable manner in the conduct of its purpose. Part 5 - Codes and Protocols of the County Council's Constitution will therefore apply to all members of the Board

http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution

The Board should always act within its terms of reference and standing orders.

7. Termination of Membership

Board membership may be terminated prior to the end of the term of office due to:

- (i) a member representative appointed on the basis of their membership of the scheme no longer being a scheme member in the Fund;
- (ii) a member representative no longer being a scheme member or a representative of the body on which their appointment relied;
- (iii) an employer representative no longer holding the office or employment or being a member of the body on which their appointment relied;
- (iv) a Board member no longer being able to demonstrate to the Administering Authority their capacity to attend and prepare for meetings or to participate in required training;
- (v) the representative being withdrawn by the nominating body and a replacement identified;
- (vi) a Board member has a conflict of interest which cannot be managed in

accordance with the Code of Conduct;

- (vii) a Board member who is an elected member becomes a member of the Pensions Committee;
- (viii) a Board member who is an officer of the Administering Authority becomes responsible for the discharge of any function of the Administering Authority under the Regulations.

8. Role of Advisors

The Board will seek alternative routes for advice prior to outside advisors being commissioned at considerable cost. The approval of the Section 151 is required if the Board needs to pay advisers.

9. Urgent Items of Business and the Publication of Information

The Board will follow the requirements of the Local Government Access to Information Act 1985 as set out in the Administering Authority's Constitution.

10. Working Groups/Sub-Committees

The Board will have the power to set up working groups/sub committees if appropriate.

11. Expenses

Board members will be able to claim reasonable expenses from the Pension Fund if claimed within two months.

Travel by private vehicles will be reimbursed at the rates set for tax allowance purposes by the Inland Revenue for business travel. Currently these are 45p per mile for the first 10,000 miles and 25p a mile thereafter and an additional 5p per mile where a passenger (another councillor) is carried.

Parking fees and public transport fares will be reimbursed at cost on production of a valid ticket or receipt. In the case of travel by rail, standard class fare or actual fare paid (if less) will be reimbursed.

12. Public Access to Board Meetings and Information

The Board meetings can be open to the general public (unless there is an exemption under the relevant legislation which would preclude part (or all) of the meeting from being open to the general public.

The following will be entitled to attend Board meetings in an observer capacity:

- (a) Members of the Pension Fund Committee;
- (b) Any person requested to attend by the Board.

Any such attendees will be permitted to speak at the discretion of the Chairman/woman.

13. **Data Protection**

The Administering Authority, Cambridgeshire County Council, assumes the role of the Data Controller.

14. **Amendment of the Terms of Reference (Constitution) and Standing Orders**

The Board may recommend variations to its Terms of Reference or Standing Orders by a simple majority vote by the members provided that prior notice of the nature of the proposed variation is made and included on the agenda for the meeting. The recommendation will then need to be approved by Full Council.