

London Borough of Hackney
Pensions Board



TERMS OF REFERENCE

 **Hackney**

PENSION BOARD

Pension Board

The local Pension Board which is an advisory Board of the Council is responsible for the governance and administration of the London Borough of Hackney's Pension Fund. The Pension Board has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. (The Local Government Pension Scheme (Amendment) (Governance Regulations 2015)

Terms of Reference

The Council as administering authority may determine the procedures applicable to the pension board in accordance with The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015. The Pension Board will operate in accordance with its Terms of Reference contained in Part 3 of this Constitution. The Constitution applies to the Pension Board unless specifically excluded by the Terms of Reference.

Pension Board

It is considered that the Pension Board should be formally established as a statutory advisory Board of the Council with the following terms of reference:

1) Introduction

The Pension Board is established by Hackney Council under the powers of the Public Service Pensions Act 2013 and The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 ("the Regulations"). The Council as administering authority may determine the procedures applicable to the pension board in accordance with the Regulations including as to the establishment of sub-committees, formation of joint committees and payment of expenses. The Constitution applies to the Pension Board unless specifically excluded by the Terms of Reference.

2) Powers of the Pension Board

The Pension Board will exercise all its powers and duties in accordance with legislation and the Terms of Reference. The Pension Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its functions.

3) Role of the Pension Board

Under the Public Service Pensions Act 2013 by sections 5 (1) and (2) the role of the Pension Board is to assist Hackney Council as Scheme Manager of the London Borough of Hackney Pension Fund:

- a) to secure compliance with the Local Government Pension Scheme (LGPS) Regulations and any other legislation relating to the governance and administration of the Scheme, and any requirements imposed in relation to the LGPS by the Pensions Regulator
- b) to ensure the effective and efficient governance and administration of the London Borough of Hackney Pension Fund"

The Pension Board provides oversight of these matters and, accordingly, is not a decision making body in relation to the management of the Pension Fund. The Pension Fund's management powers and responsibilities which have been, and may be, delegated by the Council to committees, sub-committees and officers of the Council, remain solely the responsibility of those committees, sub-committees and officers including but not limited to the setting and delivery of the Fund's strategies, the allocation of the Fund's assets and the appointment of contractors, advisors and fund managers.

The Pension Board will ensure that in performing their role it is:

- undertaken effectively and efficiently and
- complies with relevant legislation; and
- undertaken by having due regard to and in the spirit of the Code of Practice on the governance and administration of public service pension schemes issued by the Pensions Regulator and any other relevant statutory or non-statutory guidance.

The Board must provide minutes of each meeting to the following Pensions Committee, copied to the Corporate Director Finance & Resources, and may make reports and recommendations to the Pensions Committee insofar as they relate to the role of the Pension Board. Any such reports or recommendations must be provided at least 15 working days in advance of the next Pensions Committee to the Assistant Director, Financial Management and Corporate Director Finance & Resources.

In addition, an annual report of the Pension Board (as prepared by the Chair of the Pension Board), must be provided to the Lead Member for Finance, Corporate Director Finance & Resources, Assistant Director - Financial Management, the Assistant Director - Legal and Democratic Services, Pension Fund Committee and Council but as well as being published in the Fund's Annual Report and Accounts

In the exceptional circumstances that the Board considers that a matter brought to the attention of the Pensions Committee and Corporate Director Finance & Resources has not been acted upon or resolved to their satisfaction by the Pensions Committee and/or Corporate Director Finance & Resources within a reasonable period, the Pension Board will provide a report to Council.

4) Composition of the Pension Board

The Appointments Panel will oversee the appointment process and decide which individuals should be appointed to the Pension Board. The Appointments Panel will consist of:

- the Lead Member for Finance
- Corporate Director, Finance & Resources
- the Assistant Director, Financial Management
- the Assistant Director, Legal and Democratic Services

a) Membership

The Pension Board shall consist of 4 or 5 members and be constituted as follows:

- i) Two Employer Representatives
- ii) Two Scheme Member Representatives
- iii) One Independent Member (optional as outlined in clause 4(f) below).

Substitutes for the Employer or Scheme Member Representatives are not permitted. The Independent Member, if appointed, may have an Alternate who will carry out Pension Board business if the Independent Member is not available to do so.

b) Eligibility and selection criteria

- i) Two Employer Representatives who have the capacity to represent Pension Fund employers – at least one of the employer representatives must be an employee, or an elected member of Hackney Council.
- ii) Two Scheme Member Representatives who have the capacity to represent Pension Fund members – at least one of the representatives must be a member of the London Borough of Hackney Pension Fund and membership may be any of the following categories: active, deferred or pensioner. Where the other member is not a member of the Pension Fund, they must have the requisite knowledge and skills to be able to represent the interests of the scheme members of the Pension Fund.

The Appointments Panel will jointly define and keep under review any further eligibility and/or selection criteria that will apply to Pension Board members having due regard to the LGPS Regulations and any other relevant Code of Practice and guidance (statutory or otherwise).

In accordance with the LGPS Regulations, no officer or elected member of Hackney Council who is responsible for the discharge of any function of the Administering Authority under the LGPS Regulations may be a member of the Hackney Pension Board.

c) Appointment of Members

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

Step 1 – All Fund employers will be invited to nominate individuals to represent employers on the Pension Board. All scheme members will be invited to nominate themselves or other scheme members to represent scheme members on the Pension Fund. Applications will be invited in relation to any Independent Advisor.

The Appointments Panel can reject any nomination/application made where:

- they consider the individual does not appropriately meet their eligibility and/or selection criteria.
- the number of nominations/applications for any category of Board member merit a short-list being created for interview purposes and where that is the case, the information provided on the nomination/application will be assessed by the Appointments Panel against the selection criteria to determine who should be short-listed.

Step 2 – The Appointments Panel will determine who should be appointed as members of the Pension Board based on whatever process they consider appropriate, which may include but is not restricted to a formal interview.

Step 3 - Where Step 1 and 2 fails the Appointments Panel will take any other action they consider appropriate to appoint suitable Pension Board members.

Where appointments to the Board have been made, Hackney Council shall publish the name of Board members and the process followed in their appointment.

d) Term of Office

i) The Employer and Scheme Member Representatives are appointed for a period of three years from the date of establishment of the Pension Board or the date of their appointment if later. This period may be extended to up to four years if jointly agreed by the Appointments Panel. An appointment will cease if:

- an employer representative is no longer in the employment of that employer or becomes responsible for the discharge of any function of the Administering Authority under the LGPS Regulations in relation to the Pension Fund
- a scheme member representative is no longer able to demonstrate that they represent the interests of the scheme members
- A Pension Board member can no longer demonstrate their capacity to attend and prepare for meetings or to participate in the required training
- A Pension Board member has a conflict of interest which cannot be managed in accordance with Clause 7 of these terms of Reference
- A Pension Board member for any other reason does not meet the criteria required to be a Pension Board member.

ii) Any Independent Member's term of office will be determined by separate contract terms agreed by the Appointments Panel but will not be longer than a period of 10 years and will be subject to ongoing review as defined in those terms.

Any Pension Board member may be re-appointed for further terms following an appointment process.

Other than ceasing to be eligible (as set out above) a Pension Board member may only be removed from office during the term of appointment by the unanimous agreement of the Appointments Panel. Such reasons may include non-compliance with these Terms of Reference including inappropriate conduct, conflicts of interest, avoidance of training or low meeting attendance.

Term dates may not be exact due the period of the appointment process. The actual date of appointment may therefore be extended for this purpose or other exceptional circumstances by up to three months, or by a further reasonable period with the agreement of the Appointments Panel.

e) Quorum

All Members of the Pension Board are expected to regularly attend meetings. Records of attendance of all Members will be maintained and reported to the Assistant Director, Financial Management and Assistant Director, Legal and Democratic Services on at least an annual basis and included in the Board's annual report.

A meeting of the Pension Board will only be quorate when two of the four Employer and Scheme Member Representatives are present, and where the Board has an Independent Member they must also be present.

A meeting that is (or becomes at any point) not quorate will cease immediately.

f) Chair and Vice Chair

The Appointments Panel will appoint a Chair and a Vice Chair from the membership of the Pension Board.

Where the Appointments Panel do not consider that any of the members of the Board to have the requisite knowledge and skills for the role of Chair at the point in time they are to appoint the Chair, they will appoint an Independent Member to the Pension Board who will also undertake the role of Chair to the Pension Board. The Independent Member may have an Alternate who can undertake the role of Chair in his absence.

The appointments to Chair and Vice Chair will be reviewed at such times as considered appropriate by the Appointments Panel, unless the Chair is an Independent Member, in which case the position will be linked to the term of appointment for the Independent Member.

The role of the Chair is to:

- Ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine that decisions are democratically made where consensus cannot be reached.
- To uphold and promote the purpose of the Board and to interpret its Terms of Reference when necessary
- Ensure that the Pension Board members have the knowledge and skills as determined in the Fund's Training Policy and other guidance or legislation and maintain a training record.
- Agree the agenda for each Pension Board meeting.
- Approve minutes for Pension Board meetings.
- Ensure an attendance record is maintained along with advising Hackney Council on remuneration and expenses to be paid.
- Advise Hackney Council on an appropriate budget (e.g. for the use of advisers, training, accommodation, remuneration and expenses) for the Board, which should be formally approved by the Pension Committee with the Pension Fund Annual Budget.
- Write reports required by Hackney Council on the work of the Board.
- Liaise with the Head of Financial Services on the requirements of the Board, including advanced notice for Hackney Council officers to attend and arranging dates and times of Board meetings.
- Other tasks which may be deemed appropriate by Hackney Council for the Chair of the Pension Board.
- Other tasks that may be requested by the members of the Pension Board, within the remit of these Terms of Reference and subject to agreement with the Assistant Director, Financial Management.
- Annually reviewing and reporting on the performance of the Board.
- The Chair will act in consultation with the Board remembering at all times it is unlawful to delegate Council side matters to an individual Chair of a Committee, Panel or Advisory Board.

Where the Independent Member is the Chair, the role includes:

- Acting as professional adviser for the Board or arranging such advice as required subject to agreement by the Assistant Director, Financial Management.

The decision of the Chair on all points of procedure and order shall be final.

g) Voting

Scheme Member and Employer Representatives will have individual voting rights. Any other person attending a meeting will not have a right to vote. Where the Chair is a Scheme Member or Employer Representative, he or she will have the deciding vote in cases where an equality of votes exists.

Any decision being reported to Council must receive agreement from a majority of voting members. It is expected that the Pension Board will as far as possible reach a consensus in all voting matters.

The results of any voting outcomes will be reported in the Board minutes

5) Location and Timing

The Pension Board will normally meet at an office of Hackney Council.

Meetings will take place at any point on a Monday to Friday if it is a normal working day apart from in exceptional circumstances agreed by all Pension Board members and other individuals expected to attend the Pension Board.

The Board will meet a minimum of twice each calendar year. The Chair may call, or agree to call, additional meetings.

Urgent business of the Pension Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Pension Board including telephone conferencing and e-mails.

6) Remuneration and Expenses

An allowance may be made to both Employer and Scheme Member Representatives for attending meetings relating to Pension Board business (including attending training). The Appointments Panel will determine the level of allowance to be paid.

Attendance at training events will be at the basic allowance in accordance with the preceding paragraph.

It is hoped that employers of Representatives on the Pension Board will provide appropriate support to allow the Representative to perform this role within their normal working day without any reduction in pay. Even if that is the case, the Representative may be entitled to an allowance.

In addition, Employer and Scheme Member Representatives will also be entitled to claim travel and subsistence allowances.

Allowances and expenses will only be paid if claimed by the representative and must be claimed within four weeks of each meeting.

Payments to any Independent Member will be in accordance with the terms of his/her contract.

7) Conflicts of Interest

Though members of the Pension Board include representatives of specific categories of stakeholder (i.e. scheme members and employers) each member is required to have due regard to the role of the Pension Board as outlined in these Terms of Reference. Accordingly all members are expected to work jointly in the best interests of the Pension Fund, putting aside any individual views of any stakeholders. This should not prevent members from sharing their knowledge on how matters might impact specific stakeholders of the Fund.

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 in the subject area or specific agenda of that Pension Board.

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 at the Pension Board, and
- in accordance with any London Borough of Hackney Pension Fund Conflicts of Interest Policy or Procedures that apply to the Board.

Part 2 of Hackney Council's Code of Conduct for Members and Co-optees shall apply in relation to the management of conflicts of interest on the Pension Board with the exception of the registration of pecuniary interests and how interests are to be disclosed which are detailed below.

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 Assistant Director, Financial Management and the Assistant Director, Legal and Democratic Services with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest.

The Assistant Director, Financial Management and Assistant Director, Legal and Democratic Services will jointly adopt the role of ensuring that the Chair and Vice Chair of the Pension Board does not have a conflict of interest. Further they must be satisfied that the Chair is carrying out his or her responsibilities under this part appropriately.

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)."

8) Receipt of advice and information

The Board will be supported in its role and responsibilities by the Independent Member, if there is one appointed. In addition Pension Board members will receive the final reports, minutes and agendas relating to all Pensions Committees and may attend Pensions Committee meetings (including during exempt items).

Insofar as it relates to the role of the Pension Board, it may also:

- request and receive information and reports from the Pensions Committee or any other body or officer responsible for the management of the Fund
- examine decisions made or actions taken by the Pensions Committee or any other body or officer responsible for the management of the Fund.

Any further requests for information and advice are subject to the approval of the Assistant Director, Financial Management, who will be required to consider positively all reasonable requests in relation to the role of the Pension Board whilst being mindful of value for money.

9) Knowledge and Skills

Under the requirements of the Public Service Pensions Act, a member of the Pension Board must be conversant with:

- a) the legislation and associated guidance of the Local Government Pension Scheme (LGPS), and
- b) any document recording policy about the administration of the LGPS which is adopted by the London Borough of Hackney Pension Fund.

In addition, a member of the Local Pension Board must have knowledge and understanding of –

- The law relating to pensions, and
- Any other matters which are prescribed in regulations.

It is for individual Pension Board members to be satisfied 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:

- participate in training events (a written record of relevant training and development will be maintained)
- undertake a personal training needs analysis or other method to identify gaps in skills, competencies and knowledge.

- comply with the Pension Fund's Training Policy insofar as it relates to Pension Board members.

10) Standards of Conduct

The Code of Conduct for Members and Co-optees in Hackney Council's Constitution shall apply in relation to the standards of conduct of Pension Board members as if they are Co-opted Members of Hackney Council insofar as it can be reasonably considered to apply to the role of members of the Pension Board and unless excluded elsewhere within these Terms of Reference.

11) Administration

The Chair shall agree with the Head of Financial Services (the 'Board Secretary') an agenda prior to each Pension Board meeting. The agenda and any papers for the Pension Board will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency. High level minutes of each meeting including all actions, decisions and matters where the Board was unable to reach a decision will be recorded and circulated to all Board members within 10 working days after the meeting. These minutes will be subject to formal agreement by the Chair taking consideration of comments by Board members (which may be done electronically between meetings).

The minutes may, at the discretion of the Chair, 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 Pension Board must comply with Hackney Council's data protection policy. It must also adhere to Hackney Council's requirement, controls and policies for Freedom of Information Act compliance.

The Board Secretary's responsibilities shall include:

- Ensuring that the Board members meet and maintain the knowledge and skills requirements in accordance with Clause 9 of these terms of reference
- Arranging such advice as may be required and appropriately approved in accordance with Clause 8 of these terms of reference
- Ensuring an attendance record is maintained.

12) Access to the Public and publication of Pension Board information

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

- Members of the London Borough of Hackney Pension Fund Pensions Committee

- The Corporate Director Finance & Resources, Monitoring Officer, Assistant Director - Financial Management, Head of Financial Services, Assistant Director - Legal and Democratic Services, the Lead Member for Finance
- other officers or advisers of Hackney Council or other employers involved with the management of the Pension Fund subject to approval in advance by the Chair, or on request by the Chair
- any other person requested to attend by the Chair
- any other person subject to approval in advance by the Chair.

Any such attendees will be permitted to speak on request to the Chair.

Otherwise, the Pension Board will be treated in the same way as a Committee of the Hackney Council and, as such, members of the public may attend and papers will be made public in accordance with the Access to Information Procedure Rules in Hackney Council's Constitution.

In addition, the Board will need to consider any additional communication necessary with scheme members and employers, and liaise with the Board Secretary with a view to carrying this out in an efficient and effective manner.

13) Accountability

The Pension Board will be collectively and individually be accountable to Hackney Council.

14) Review, Interpretation and Publication of Terms of Reference

These Terms of Reference have been agreed by full Council. The Council will monitor and evaluate the operation of the Pension board and may review these Terms of Reference from time to time.

Changes to these Terms of Reference will only be approved by full Council.

The Monitoring Officer is authorised to make minor amendments, consequential upon statutory or regulatory change, or to rectify errors, or to update arrangements consequential upon other external factors.

The ruling of the Assistant Director, Financial Management and Assistant Director, Legal and Democratic Services as to the construction or application of these Terms of Reference, will be final, such interpretation will have regard to the role of the Pension Board

The Terms of Reference will also form part of the London Borough of Hackney Pension Fund's Governance Policy and Compliance Statement which will be made available in accordance with the requirements of the LGPS Regulations.

15) Definitions and Interpretation

Points of interpretation:

- All references to job titles of officers are to officers within Hackney Council unless otherwise stated.

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

“Pension Board” or “Board”

The local Pension Board for Hackney Council, administering authority for the London Borough of Hackney Pension Fund as required under the Public Service Pensions Act 2013

“Code of Practice”

The Pension Regulators Code of Practice No 14 governance and administration of public service pension schemes

The Public Services Pensions Act 2013 (as amended)

“the Act”

The London Borough of Hackney Pensions Committee or any committee or sub-committee that may be established with delegated powers for the management and administration of the Fund on behalf of Hackney Council as Administering Authority

“the Pensions Committee”

“Fund” or “Pension Fund”

London Borough of Hackney Pension Fund

“the LGPS Regulations”

The Local Government Pension Scheme Regulations 2013 (as amended) and The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015

“Scheme Manager”

Hackney Council as administering authority of the London Borough of Hackney Pension Fund.

“Chair”

The appointed Chairperson of the Pension Board

“LGPS”

The Local Government Pension Scheme

“Scheme”

The Local Government Pension Scheme

