

Croydon Council

REPORT TO:	GENERAL PURPOSES & AUDIT COMMITTEE 25 March 2015
AGENDA ITEM:	9
SUBJECT:	Establishment of a Croydon Council Local Pension Board
LEAD OFFICER:	Richard Simpson, Assistant Chief Executive (Corporate & Resources & s151 Officer)
CABINET MEMBER	Councillor Simon Hall, Cabinet Member for Finance & Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT: This report is to seek the General Purpose and Audit Committee's approval on the establishment of a Local Pension Board to assist the administering authority with the effective and efficient management of the Local Government Pension Scheme.	
FINANCIAL SUMMARY: A budget will be set aside from the Pension Fund to support the work of the Local Pension Board. All expenditure will be subject to the discretion of the Director of Finance on an item by item basis. Expenses incurred through the work of the Board are considered to be part of the costs of administration of the Fund.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

For general release

<p>1. RECOMMENDATIONS</p> <p>1.1 The Committee is requested to approve the establishment of a Local Pension Board</p> <p>1.2 To approve a delegation to the Director of Finance and Assets (s151 Officer) to finalise the Terms of Reference as attached at Appendix A .</p> <p>1.3 Approval of the adoption of the policies which govern the behaviour and function of the Board to be delegated to the Director of Finance and Assets (Section 151 Officer).</p>

2. EXECUTIVE SUMMARY

- 2.1 This report details the process that has led to the establishment of the Local Pension Board, which all local authorities are required to have in place by 1 April 2015. This report is for information purposes only as the establishment of the Board is a matter for Council and agreeing working practices concerns the Scheme Manager. The Local Government Pension Scheme (LGPS) is a statutory funded public service pension scheme. It differs in legal status from trust based pension schemes in the private sector because it is established under statute and not set up under trust. It also differs from most other public service pension schemes which are unfunded schemes. Matters of governance in the LGPS therefore need to be considered in their own merits and with proper regard to the unique legal status of the LGPS.
- 2.2 This report is brought to the Committee as there is a legal requirement for the Local Pension Board to be established before 1 April 2015.

3 DETAIL

- 3.1 The Public Service Pensions Act 2013 (The Act) introduced a raft of governance reforms to the Local Government Pension Scheme (LGPS) including the establishment of Local Pension Boards. The purpose of these Boards is to assist the Administering Authority (in this instance Croydon Council), to secure compliance with:

- The Local Government Pension Scheme Regulations 2013;
- Other legislation relating to the governance and administration of the LGPS;
- The requirements imposed by the Regulator in relation to the LGPS; and
- To ensure the effective and efficient governance and administration of the LGPS.

The Act also introduces some new terms to describe the governance roles within the LGPS: one of these is 'Scheme Manager'. For the purposes of establishing the Local Pension Board the Scheme Manager is the Director of Finance and Assets.

- 3.2 The Act requires that the Board be established by 1 April 2015 and should meet within four months of being established.

Role and Membership of the Local Pension Board

- 3.3 The membership of the Board is prescribed by the Regulations. The recommendation for the Croydon Board is to have 6 voting members, 3 representing members of the Local Government Pension Scheme and 3 representing the Scheme employers, including the Council itself. The chair of the Board will be an independent, professional, experienced and suitably qualified individual selected by the Director of Finance and Assets (s151 Officer) in his capacity as Scheme Manager. The Chair will not be drawn from 6 staff or employer representatives nor will the Chair be allowed to vote. . The Chair selected will be appointed on merit following an appropriate selection process. 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.

- 3.4 The remit of the Local Pension Board will be to interpret all aspects of governance and administration of the LGPS, including funding and investments. It also has a regulatory control function, to secure compliance with the Regulations relevant to the administration of the Scheme, and any requirement imposed by the Pensions Regulator in relation to the LGPS. The Local Pensions Board does not replace the Administering Authority or make decisions which are the responsibility of the Administering Authority.

Terms of Reference

- 3.5 The Terms of Reference for the Board which are appended to this report (see Appendix A) are consistent with the Regulations, the Guidance issued by the National Standards Board (which advises the Secretary of State on matters relating to the LGPS) and the template Terms of Reference recently published by the National Standards Board. This report recommends that the Council adopts this document to define the way that the Board will operate.

- 3.6 In addition there are a number of policies that will relate to the work of the Board. Some of these will automatically apply such as the Council Code of Conduct for Members Policy when the Board is established. Some, including the Internal Dispute Resolution Procedure, are already defined by the Regulations governing the administration of the LGPS. Others, such as the Training Policy will be adopted by the Board at its first meeting. These policy documents are aligned, as far as is allowed by the Regulations, with existing Council policy documents. These policies include:

- Council Code of Conduct for Members Policy,
- Members Allowances
- Internal Disputes Resolution Procedure (IDPR) System Employees Guide
- Local Pensions Board Conflicts of Interest Policy
- Local Pension Board Reporting Breaches Policy
- Local Pension Board Training Policy

A set of these policy documents can be found in Appendix B.

- 3.7 A budget will be set aside from the Pension Fund to support the work of the Local Pension Board. All expenditure will be subject to the discretion of the Director of Finance on an item by item basis. Expenses incurred through the work of the Board are considered to be part of the costs of administration of the Fund.

4 FINANCIAL AND RISK CONSIDERATIONS

- 4.1 There are no further financial considerations flowing from this report.

5. COMMENTS OF THE SOLICITOR TO THE COUNCIL

- 5.1 The Council Solicitor approves that the remit of this report falls within the function of the Committee as approved by the Full Council. However, in light of

the statutory requirement that the Local Pension Board be established by 1 April 2015 under the Public Service Pension Act 2013 it is appropriate for this Committee to consider the contents of this report and supporting documentation.

Approved by: Julie Belvir, Director of Democratic & Legal Services and Council Solicitor.

6 Other considerations

- 6.1 Other than the considerations referred to above, there are no customer Focus, Equalities, Environment and Design, Crime and Disorder or Human Rights considerations arising from this report

CONTACT OFFICER:

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Chief Executive's Department, ext. 62552.

BACKGROUND DOCUMENTS:

Local Pension Board Terms of Reference Appendix A
Local Pension Board Policies Appendix B

APPENDIX A

Draft Terms of reference for the Local Pension Board of the Croydon Council Pension Fund dated 25/02/2015

1) Definitions

“Advisers”	means those provided for in paragraph 8 of these Terms of Reference;
“Board”	means the voting members of the Local Pension Board;
“Chair”	means the suitably qualified individual who is selected and appointed by the Scheme Manager who has responsibility of ensuring the Board acts appropriately in accordance with these Terms of Reference;
“Employer Representative”	means persons appointed to the Board for the purpose of representing employers of the Scheme and any connected Scheme;
“Fund”	means the Croydon Council Pension Fund that is run by Croydon Council and is part of the National Local Government Pension Scheme;
“Internal Dispute Resolution Procedure”	means the Local Pension Board’s internal dispute resolution procedure as set out in a separate document titled “Internal Dispute Resolution Procedure”.
“LGPS”	means the Local Government Pension Scheme;
“Local Pension Board”	means the Local Pension Board (LPB) for Croydon Council as administering authority for the Fund as required under the Public Service Pension Act 2013;

“Member Representative”	means persons appointed to the Board for the purpose of representing members of the Scheme and any connected Scheme;
“Members”	means the Employer and LGPS Member Representatives collectively;
“Pensions Regulator”	means the UK regulator of work-based pensions whose powers derive from the Pensions Act 2004 and its powers inherited from the Occupational Pensions Regulatory Authority (OPRA) from 6 April 2005
“Scheme”	means the Local Government Pension Scheme in England and Wales;
“Scheme Manager”	means the Croydon Council as administering authority of the Fund exercised through the Director of Finance;
“Scheme Regulations”	means 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 Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 and any subsequent legislation made in relation to the LGPS;

2) Introduction

The purpose of this document is to set out the terms of reference for the Local Pension Board (“LPB”) of the Fund.

3) Role of the Local Pension Board

The role of the LPB, as defined by section 5(1) and (2) of the Public Services Pensions Act 2013, is to –

- Assist the Administering Authority (Croydon Council) in its role as a Scheme Manager of the Scheme;-

- To secure compliance with the Scheme 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 effective and efficient governance and administration of the LGPS for the Fund;
- Provide the Scheme Manager with such information as it requires to ensure any member of the LBP or person to be appointed to the LPB does not have a conflict of interest.

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

The LPB shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

4) Establishment

The LPB is established on *[insert date]* subsequent to recommendation by the Croydon Council Pension Committee to the General Purposes and Audit Committee on 24/03/2015 of the recommendation to establish the LPB *[insert report reference details]*.

5) Appointment of members of the Local Pension Board

The process for the selection and appointment of members of the LPB is set out below, with all appointments being made by the Scheme Manager:

The LPB shall consist of 6 voting members constituted as follows:

- i) 3 Employer Representatives;
- ii) 3 Member Representatives;

The LPB Board shall be an equal number of voting Employer representatives and Member Representatives.

No representative (elected, officer or other) shall be permitted to be on both the London Borough of Croydon Pension Committee and Croydon Council's LPB.

Employer Representatives

Employer Representatives shall be office holders or senior employees of employers of the Fund or have experience of representing scheme employers in a similar capacity. No officer or elected member of Croydon Council who is responsible for the discharge of any function of Croydon Council under the Scheme Regulations may serve as a member of the LPB.

Employer Representatives should be able to demonstrate their capacity to represent the employers. This will be in relation to attending and completing the necessary preparation for meetings and participating in training as and when required.

Substitutes for Employer Representatives shall be appointed by the same process as Member and Employer Representatives. This will be limited to one (1) substitute per GPAC20150325AR9

Employer Representative. Where appointed substitutes should be named and must undertake the same training as full members.

Each Employer Representative appointed by the Scheme Manager shall serve for a fixed 2 year term which may be extended by the Scheme Manager for further periods(s) subject to their re-nomination. Such appointments will be determined following an expression of interest and then a shortlist and interview process.

Employer Representatives shall endeavour to attend all Board meetings during each year.

Member Representatives

Member Representatives shall either be Scheme members or have capacity to represent Scheme members of the Fund.

Member Representatives should be able to demonstrate their capacity to attend and completed the necessary preparation for meetings and participate in training as and when required.

Substitutes shall be appointed by the same process as Member and Employer Representatives. This will be limited to one (1) substitute per Member Representative. Where appointed substitutes should be named and must undertake the same training as full members.

Each Member Representative appointed by the Scheme Manager shall serve for a fixed 2 year term which may be extended by the delegated powers of the Scheme Manager for further periods(s) subject to their re-nomination.

Member Representatives shall endeavour to attend all Board meetings during each year.

6) Suspension/Termination/Removal of Employer Representatives, Member Representatives and Substitutes

A Representative's (including substitute's) term of office may be suspended or come to an end in any of the following circumstances:

1. Expiry of a fixed term of office without any extension being granted/authorised by the Scheme Manager;
2. A Representatives death;
3. Unable to act appropriately in his/her role because of illness or injury;
4. Failure to attend two consecutive meetings (this would be to the Scheme Manager's discretion);
5. Representative wishes to resign – a notice period of 4 weeks is required to be given to the Scheme Manager;

6. Representative ceases to represent his constituency, for example if an employer representative leaves the employment of his employer and therefore ceases to have the capacity to represent the Fund's employers;
7. Representative has a conflict of interest which cannot be managed in accordance with the LPB's conflicts policy;
8. Representative has breached the Members' code of conduct.

In addition to the above, the Scheme Manager may suspend a Member Representative whilst investigations into (but not limited to) the above are conducted. Upon the conclusion of any investigation the Scheme Manager may either approve the Member to return to his/her role or can terminate their appointment and secure a replacement.

7) The Chair

The Chair of the LPB will be a suitably qualified person who is selected and appointed by the Scheme Manager for a fixed term of office to be 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.

The Chair shall:

1. Ensure the LPB delivers its purpose as set out in these Terms of Reference;
2. Ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered; and
3. Seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published.

8) Quorum

The Board shall have a quorum of one three (3). If a meeting is inquorate it will be cancelled and re-scheduled for as soon as is reasonably practicable following the date of the originally scheduled meeting. This also applies in the event the Chair is unable to attend, however, reasonable notice must be given to the LPB of any absence.

Advisers do not count towards the quorum.

9) Conflicts of Interest

The policy applicable to Members and for identifying conflicts of interest is set out in a separate policy document titled "Local Pension Board Conflicts of Interest Policy".

10) Board Review Process

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

11)Advisers to the Board

The Board may be supported in its role and responsibilities through the appointment of Advisers by the Pension Committee and officers, to support the London Borough of Croydon Pension Committee. Subject to any applicable regulation and legislation from time to time in force, the Board may consult with such Advisers and on such terms as it shall see fit to help better perform its duties including but not limited to:

- Governance Adviser
- The Fund's Actuary;
- The Fund's Legal Adviser
- The Fund's Investment Managers(s)
- The Fund's Investment Advisers
- The Fund's Employer Covenant Adviser
- The Scheme Manager

Other Advisers may be appointed by the Pension Committee on the recommendation of the Scheme Manager.

The Board shall ensure that the performance of all Advisers who are appointed are reviewed on a regular basis as part of the Board Review Process.

12)Knowledge and Skills

Employer and Member Representatives (including substitutes) of the LPB must be conversant with –

1. The legislation, Scheme Regulations 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 Fund).

All members of the LPB must have a working knowledge and understanding of –

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

It is for the Scheme Manager (who will be responsible for any appointments) to be satisfied that those seeking to be appointed have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the LPB.

In line with the duties under their role, the LPB members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date on anything that would fall within the remit of their role. LPB members are therefore required to maintain a written record of all relevant training and development (whether internal or external) they have undertaken. In the event that LPB members wish to attend an external course/training event prior approval must be

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sought from the Scheme Manager. All information in relation to training and development of all LPB members shall be made available to the Board as part of the Board Review Process. In addition, the Scheme Manager may, at any time request to inspect such records upon providing the relevant member with a written request which must be adhered to within 7 days of receipt of such a request.

All LPB members will undertake an annual personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses and mandatory training that the Board or Scheme Manager considers is required to ensure the Board operates as effectively as possible. LPB members will comply with the Scheme Manager's training policy, details of which are found in the separate document titled [*Local Pension Board Training Policy*].

13) Board Meetings – Notice, Agendas, Minutes, Timings and Location

The Scheme Manager shall give 5 day's written notice, by email, to all Employer and Member Representatives of every meeting of the LPB. The Scheme Manager shall ensure that formal minutes of all LPB meetings are maintained. Following the approval of the minutes by the Chair they shall be circulated by email to all members within 14 days of the meeting date and then published in accordance with paragraph 17).

There will be a minimum of 4 LPB meetings each year. The dates of such meetings are to be agreed in June of each year by the Member Services Team to allow the Board to plan around any scheduled Pensions Committees which will then provide the Board with the opportunity to effectively review the work of the Pensions Committee.

All LPB meetings will be held in the Croydon Town Hall, Katharine Street, Croydon, Surrey, CR9 1ET at [insert time], unless stated otherwise in the notice for the meetings.

14) Remit of the Board

The role of the LPB will be determined by the relevant Scheme Regulations. The LPB will assist the Scheme Manager with such other matters as any relevant Scheme Regulations may specify.

15) Standards of Conduct of Members

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

These are –

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness

- Honesty
- Leadership

The Council Code of Conduct for Members which will apply to Members of the LPB, is set out in a separate document.

16)Decision making

Each Employer Representative and Member Representative of the LPB will have an individual voting right but it is expected the LPB's decisions (in so far as is possible) will be reached by consensus.

17)Publication of Local Pension Board Information

Scheme members and other interested parties will want to know that the Croydon Council Pension Fund is being efficiently and effectively managed. They will also want to be confident that the LPB 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.

To this end information will be posted on the Fund website showing:

- The names and biographies about the LPB members
- How the Scheme and employer members are represented on the LPB
- The responsibilities of the LPB as a whole
- The full terms of reference and policies of the LPB and how they operate
- The LPB appointment process
- Who each individual LPB members represents
- Any specific roles and responsibilities of individual LPB members.

LPB papers, agendas and minutes of meetings will be published on the Fund website. These may be published in redacted form at the discretion of the Council Monitoring Officer in consultation with the Scheme Manager and having consideration to s100A Local Government Act 1972 or exempt information as specified in Part 1 Schedule 12A of the Local Government Act 1972, which provides that information should not be disclosed due to its confidential nature. 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. However, the final decision as regards the release of exempt information rests with the Council Monitoring Officer.

18)Accountability

The LPB will be collectively and individually accountable to the Scheme Manager and must also report annually to the Secretary of State, as provided in the Regulations.

In addition to the above, and in line with Croydon Council's corporate values, Honesty and Transparency will apply to the LPB.

19)Expense Reimbursement

The Administering Authority shall meet the expenses of Member Representatives for Out-of-Borough travel in line with the relevant travel allowances/rates, as agreed by (Croydon Council) Members' Allowances Scheme July 2014.

The Administering Authority shall reimburse the Employer of the relevant Employer Representative in respect of any time off work that has been taken that is both necessary and reasonable in the opinion of the Scheme Manager to fulfil their role as a member of the LPB.

[Remuneration and other expenses] – this will be on the basis of a fixed fee as agreed from time to time by the Scheme Manager

20)Reporting Breaches

Any reported breach in connection with the administration of the LGPS, whether potential, or actual, brought to the attention of the LPB and shall be dealt with in accordance with the procedure set out in a separate policy document titled "Local Pension Board Reporting Breaches Policy". For the purposes of this policy a breach is considered to include any statutory responsibilities/obligations that have not been performed as and when required.

21) Internal Dispute Resolution Procedure

The LPB's Internal Dispute Resolution is set out in a separate policy document titled "Internal Dispute Resolution Procedure (IDRP) System Employees' Guide."

22)Complaints

Any complaint received in relation to the LPB will be dealt with in accordance with the Complaints Policy, which is set out in a separate document titled "Local Pension Board Complaints Procedure".

23) Budget

The LPB must seek approval from the Administering Authority's s151 Officer or Deputy s151 Officer for any expenditure it wishes to incur in line with its responsibilities. Until a written decision has been communicated to the LPB by the relevant officer, the LPB is not authorised to make any financial commitment to a third party.

24)Review of Terms of Reference

These Terms of Reference shall be reviewed:-

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- on the making of any material change to those part of the Scheme Regulations;
and
- annually.

25) 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.

..... dated:
Signed on behalf of the Administering Authority

..... dated:
Signed on behalf of *[insert details of relevant Member]*

Local Pension Board Conflicts of Interest Policy

This document should be read in conjunction with the Terms of Reference for the Local Pension Board of Croydon Council Pension Fund dated *[insert date when finalised]*. Unless stated otherwise, the defined terms used in this document have the same meaning as attributed to them under the Terms of Reference document.

Introduction

There are various legal requirements which need to be considered to make sure that sound governance principles are followed, and in particular that conflicts of interest are properly managed.

These include:

- 1) Section 5 (5) of the Public Service Pensions Act 2013, which defines “conflict of interest” for the purpose of a Local Pension Board;
- 2) Regulation 108 of the Regulations, which places duties on the Administering Authority to satisfy itself that Local Pension Board (“LPB”) members do not have a conflict of interest on appointment or whilst they are members of the Board;
- 3) The 2011 Act, requires Councillors to comply with the code of conduct of their authority and to disclose interest;
- 4) The ‘Nolan Principles’ with which any holder of public office is also expected to comply; and
- 5) The expectations are contained in the Regulator’s Code of Practice.

The Regulator’s Code of Practice on Conflicts of Interest

Whilst members of the LPB may be subject to other general legal requirements, when exercising functions as a member of the LPB, the Regulator expects the requirements which specifically apply by virtue of the 2013 Act to be met and the standards of conduct and practice set out in its Code of Practice to be complied with.

What is a Conflict of Interest?

The LPB does not make decisions in relation to the administration and management of the Fund (role of the Administering Authority) and it is not anticipated that any significant conflicts will arise. Nonetheless, the issues surrounding conflicts of interest needs to be considered.

There is a requirement for LPB members not to have a conflict of interest – the issue of conflict being considered in light of the LPB’s role, which is to assist the Administering Authority.

A conflict of interest is a financial or other interest which is likely to prejudice a person’s exercise of functions as a member of the LPB. However, a conflict does not include a financial or other interest arising merely by virtue of a person being a member of the LGPS and/or Fund (or any connected scheme).

By way of example, a conflict of interest may arise when a member of a LPB in fulfilling their legal duty to assist the Administering Authority has, at the same time, a separate personal interest (financial or otherwise) or another responsibility in relation to that matter which gives rise to a possible conflict with their initial responsibility (assisting the Administering Authority) as a LPB member.

The guidance issued by the Pensions Regulator and LGPS may be considered when presented with any situation involving a conflict of interest and members should make themselves familiar with the examples used in these documents.

Identifying, Monitoring and Managing Conflicts-The role of the Local Pension Board

- 1) The Local Pension Board should cultivate a culture of openness and transparency it should identify, monitor and manage dual interests and responsibilities which are or have the potential to become conflicts of interest.
- 2) The Local Pension Board should evaluate the nature of any dual interest and responsibilities and assess the impact on their operations and good governance were a conflict of interest to materialise.
- 3) A register for the declaration of interest will be provided to effectively record and monitor dual interests and responsibilities
- 4) The register will also capture decisions about how any identified potential conflicts should be managed.
- 5) The Local Pension Board's register of interests should be circulated to the Local Pension Board for ongoing review and should be published on the Fund's website. Any concerns should be reported to the Administering Authority and include in an annual report a section on good governance and management of conflicts.
- 6) Conflicts of interest should be included as an opening agenda item at Local Pension Board meetings, and revisited during the meeting where necessary. This provides an opportunity for those present, including non-Board members, to declare any dual interest and responsibilities, which have the potential to become conflicts of interest, and to minute discussions about how they will be managed so as to prevent an actual conflict arising.

Considering Conflicts of Interest – Responsibilities of Board Members

Individual members of the LPB need to know how to identify when they may have a potential conflict of interest which needs to be declared and which may also restrict their ability to participate in meetings or decision-making. To assist with this, members have a legal duty to provide information to the Administering Authority in relation to conflicts of interest.

Reporting Breaches of the Law

This document should be read in conjunction with the Terms of Reference for the Local Pension Board of Croydon Council Pension Fund dated **[insert date when finalised]**. Unless stated otherwise, the defined terms used in this document have the same meaning as attributed to them under the Terms of Reference document.

Legal requirements

Certain people are required to report breaches of the law in writing to the Scheme Manager as soon as reasonably practicable and where they have reasonable cause to believe that:

- A legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with, e.g. keeping records/internal controls; and
- The failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions.

Those subject to the reporting requirements in the context of public service pension's schemes are as follows:

- A Scheme Manager
- Members of Local Pension Boards ("LPB's")
- Any person who is otherwise involved in the administration of a public service pension scheme
- Employers. In the case of a multiemployer scheme, any participating employer who becomes aware of a breach should consider their duty to report, regardless of whether the breach relates to, or affects members who are its employees or those of other employers
- Professional advisers including auditors, actuaries, legal advisers and fund managers.
- Any person who is otherwise involved in advising the scheme manager in relation to the scheme.

Implementing adequate procedures

Identifying and assessing a breach of law is important in reducing risk and providing an early warning of possible malpractice. Those people with a responsibility to report breaches, including Scheme Managers and LPB members (reporters) should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations. Procedures should enable people to raise concerns and facilitate the objective consideration of those matters

Procedures will include the following features:

- Obtaining clarification of the law where it is not clear to those responsible for reporting
- Clarifying the facts around the suspected where they are not known
- Consideration of the material significance of the breach taking into account its cause, effect, the reaction to it, and its wider implications, including where appropriate, dialogue with the Scheme Manager or LPB

- A clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the regulator
- An established procedure for dealing with difficult cases
- A timeframe of **[TBC]** for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable

Judging whether a breach must be reported

Breaches can occur in relation to a wide variety of the tasks normally associated with the administration function of the scheme such as keeping records, internal controls, calculating benefits, making investments, or investments related decisions.

Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated. Therefore, it is imperative that where a breach is suspected, reporters still refer the matter to the Scheme Manager so that investigations can be undertaken to establish whether or not a breach has in fact occurred.

In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Scheme Manager or the Pension Regulator may require before taking legal action.

It is also important that a reporter is aware that any delay in reporting any potential breach may exacerbate or increase the risk of the breach causing further and more significant issues.

The cause of the breach

The breach is likely to be of material significance to the Scheme Manager or the Pension Regulator where it is for example, caused by (but not limited to):

- Dishonesty
- Poor governance, inadequate controls resulting in deficient administration, or slow or inappropriate decision-making practices
- Incomplete or inaccurate advice
- Acting (or failing to act) in deliberate contravention of the law

A breach will not normally be regarded as materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances.

The effect of the breach

Evidence in relation to any of the following matters is particularly important and likely to be of material significance to the Scheme Manager and the Pension Regulator:

- Local Pension Board members not having the appropriate degree of knowledge and understanding
- Local Pension Board members having a conflict of interest
- Adequate internal controls not being established and operated
- The right money/contributions not being paid to the scheme at the right time

- Internal Dispute Resolution Procedures (IDRP) not having been made and/or implemented
- Information about benefits and other information about scheme administration not being disclosed to scheme members and others
- Information about Local Pension Boards not being published
- The scheme not being administered properly
- Appropriate records not being maintained
- Local Pension Board members having misappropriated any assets of the scheme or being likely to do so
- Repeated miscalculations or incorrect payment of benefits which have a detrimental impact on scheme members

The reaction to the breach

Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the Pension Regulator will not normally deem it to be materially significant.

A breach is likely to be of concern and material significance to the Pension Regulator where a breach has been identified and those involved:

- Do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence.
- Are not pursuing corrective action to a proper conclusion or
- Fail to notify affected scheme members where it would have been appropriate to do so.

Submitting a report to the Scheme Manager

All reports of possible breaches must be submitted in writing to the Scheme Manager. However, if the matter is considered particularly serious by the reporter it can be preceded by a telephone call, (if appropriate).

Reporting more serious concerns

Where sufficiently serious concerns exist, or where a concern has been raised with the Pension Committee and the LPB consider that the Pension Committee have not taken appropriate action to rectify the issue it may be more appropriate for the LPB to report these directly, to the Pensions Regulator. Such concerns could include (but are not limited to) fundamental breaches of the Regulations or a fundamental failure by Croydon Council to ensure the effective governance of the fund.

In such situations reports should be made directly to the Governance and Compliance Manager who will then take the appropriate action and may refer the matter to the Pensions Regulator.