

# Croydon Council

<b>REPORT TO:</b>	<b>Pension Board 15 October 2020</b>
<b>SUBJECT:</b>	<b>Pension Board Remuneration Strategy</b>
<b>LEAD OFFICER:</b>	<b>Nigel Cook Head of Pensions Investment and Treasury</b>

## 1. RECOMMENDATION

- 1.1 The Board is asked to note the contents of this report, and to add any comments it may wish to make.

## 2. EXECUTIVE SUMMARY

- 2.1 This report sets out the arguments for and against the payment of an allowance to certain members of the Pension Board. This allowance would be a charge on the Pension Fund. The Board is not a decision making body but its function is to support the Scheme Administrator, who is the Director of Finance and Resources, the S.151 Officer.

## 3. DETAIL

- 3.1 The responsibility of the Board, 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 in relation to the following matters:
- To secure compliance with the Scheme Regulations and other legislation relating to the governance and administration of the Local Government Pension Scheme, (the Scheme);
  - To secure compliance with requirements imposed in relation to the Scheme by the Pensions Regulator; and
  - In such other matters as the Scheme regulations may specify.
- 3.2 In several important regards the work of the Pension Board is different from the work of other Boards and Panels which rely on volunteers to function. This report sets out the argument for and against recognising that distinction with an appropriate remuneration strategy. It is also acknowledged that much of the Pensions Regulator's focus in its guidance for Public Service Pensions focusses on the role of the Pension Board. This report suggests that an appropriate remuneration would be an annual allowance of £1,000 for each Board member who is not otherwise remunerated by an employer, a Trades Union, or by the Council, should this option be adopted.
- 3.3 In these several regards the Local Pension Board differs from other constitutional bodies: it was established to assist the Scheme Manager; secure compliance with

regulations and requirements relating to the Scheme; secure effective and efficient governance and administration of the Scheme for the Fund; and to provide the Scheme Manager with such information as is required to ensure any member of the LBP or person to be appointed to the LPB does not have a conflict of interest. This goes far beyond the specific requirements of the Pension Committee and is, by any reckoning, a demanding role to fulfil. Indeed, as constituted the Board assists the Scheme Manager, secures compliance with the regulations and manages conflicts of interest. This scope is unique and this has been recognised by the LGPS Scheme Advisory Board, (the SAB).

- 3.4 The SAB has issued guidance on the creation and operation of Local Pension Boards and this guidance makes reference to the option for an authority to have allowances and expenses for Board members. Section 9.2 of the guidance addresses this point.

*Consideration should be given by the Administering Authority to whether or not members of the Local Pension Board are paid allowances or reimbursed expenses. One option would be to set levels of allowance in a similar way to the elected members' allowances scheme, perhaps with regard to allowances for co-opted members, and in accordance with established processes for declaring allowances which have been received in an open and transparent way. In deciding whether to award an allowance, and if so how much, the Administering Authority may wish to consider some or all of the following matters:*

- *whether the Board members are carrying out duties (including preparation and/or training) during personal time or whether it is during a period of authorised paid absence,*
- *whether a Board member who has taken on the role of Chair is carrying out a range of additional responsibilities that merit additional payment,*
- *whether an annual or per meeting allowance is more appropriate, and how a per meeting allowance should be extended to attendance at training; and*
- *whether employers whose staff sit on a Local Pension Board and spend work time on Local Pension Board matters wish to reclaim that cost from the Local Pension Board through allowances/expenses.*

- 3.5 Croydon Council's current policy is clear. Part 6D of the Constitution, the Scheme of Co-option, states Co-opted Members will not receive an allowance or salary. So, as far as the SAB guidance referenced above is concerned, non-payment is consistent with the Council's Constitution and the Scheme Guidance. However, the Constitution is not consistent as co-optees to the Adoption Panel are paid an allowance so this cannot be considered to be an inflexible application of the principle. Additionally it should be noted that this is Croydon's policy as an employer, albeit the most significant employer in the Fund, and not necessarily in their role as an Administering Authority. This issue is discussed in more detail in para 3.10 below.

- 3.6 Addressing the criteria set out above, there are currently only two members of the Board who fall into this category of potentially being eligible – one an employer representative and the other an employee representative. Other members are union representatives, elected Councillors or employed by one of the admitted or

scheduled bodies and hence attending during authorised paid absence. These two Board members are carrying out these duties, which do include significant time spent preparing and training, during their own personal time.

- 3.7 The question of the amount of training and the assessment of knowledge and skills is possibly key to this issue. The requirement of each Board member is to be conversant with the rules of the LGPS, other regulations governing the LGPS (including the Transitional Regulations, earlier regulations and the Investment Regulations); and any document recording policy about the administration of the Fund which is for the time being adopted in relation to the Fund, and, moreover, have knowledge and understanding of the law relating to pensions; and such other matters as may be prescribed. This is a particularly onerous requirement and the guidance recognises this, when it says, *'A Local Pension Board member should be aware that their legal responsibilities begin from the date they take up their role on the Board and so should immediately start to familiarise themselves with the documents [referred to above] and the law relating to pensions. ... the knowledge and understanding requirement applies to every individual member of a Local Pension Board rather than to the members of a Local Pension Board as a collective group.'* These requirements do not apply to the Pensions Committee.
- 3.8 It could be argued that this requirement represents a compelling argument for a Board Member's contribution to be recognised with an allowance. Each Board member is required to be **conversant** with the regulations covering each of the four versions of the Scheme, as well as each of the suite of policy documents that exist within the governance arrangements for the LGPS. This level of knowledge is unusual and the requirement for the Board that supports the Scheme Administrator to be more knowledgeable than the Committee that provides guidance on the management of the Fund is probably a unique structure.
- 3.9 On the other hand, to argue against the award of an allowance, such a move would set a precedent. As noted above, the Constitution is somewhat compromised in the consistency of its approach in that allowances are paid to members of one panel although otherwise generally prohibited.
- 3.10 However, in this regard, Croydon is an administering body, not an employer. Counsel's opinion obtained by the SAB in December 2015 found that local pension boards are constituted entirely under the Public Service Pensions Act 2013 and therefore are not local authority committees for the purposes of section 101 of the Local Government Act 1972 (except where the Secretary of State has specifically approved that the pensions committee can also be the local pension board under regulation 106(2) of the Local Government Pension Scheme Regulations 2013 (the "LGPS Regulations")). Thus, avoiding the contradiction inherent in the Constitution and not setting a precedent.
- 3.11 Although the practices of other administering authorities are not necessarily compelling, it is worth noting that there are 6 other authorities in the South East who do pay an allowance.
- 3.12 Finally, it could be said that an arrangement that pays an allowance to Board members but not co-optees to the Pension Committee is inherently unbalanced. However, as described above, there are significant differences in the level of responsibility and knowledge.

3.13 Any allowance would be paid from the LGPS Pension Fund, currently valued at £1.3 billion. Ultimately, as the Board exists to support the Scheme Administrator, it is that officer, presently the Director of Finance and Resources, S. 151 Officer, who would be able to disburse these allowances.

#### **4 DATA PROTECTION IMPLICATIONS**

4.1 Will the subject of the report involve the processing of 'personal data'?

No.

**Approved by:** Lisa Taylor, Director of Finance, Investment and Risk, S151 Officer

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#### **BACKGROUND DOCUMENTS:**

None