

## REPORT OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

### The Pensions Regulator Code of Practice Compliance Checklist

Pensions Board - 28<sup>th</sup> July 2015

Classification  
**PUBLIC**

Ward(s) affected

**ALL**

Enclosures  
Two

**AGENDA ITEM NO.**

**8**

## 1. INTRODUCTION

- 1.1 From 1<sup>st</sup> April 2015 the Pensions Regulator (TPR) has assumed responsibility for public service pension schemes with a range of oversight powers as well as a requirement to put in place codes of practice for public service pension schemes covering a number of areas relating to the management of schemes. The new Code of Practice for Public Service Pension Schemes came into force from 1<sup>st</sup> April and all schemes must now consider whether they comply with the Code.
- 1.2 In addition the Pensions Regulator issued a policy to cover compliance and enforcement for public sector pension schemes which sets out their approach to compliance with the Code and how they will support, monitor and enforce compliance where appropriate.

## 2. RECOMMENDATIONS

### 2.1 The Pensions Board is recommended to:

- **Note the contents of the Code of Practice and the measures in place to comply with the requirements under the Code and where further work is required and being undertaken.**

## 3. RELATED DECISIONS

- 3.1 Pensions Committee 14<sup>th</sup> January 2015 – Approval of Training Policy
- 3.2 Council 25<sup>th</sup> February 2015 – Approval of Establishment of Pensions Board
- 3.3 Pensions Committee 31<sup>st</sup> March 2015 – Conflicts of Interest Policy
- 3.4 Pensions Committee 31<sup>st</sup> March 2015 – TPR Code of Compliance Checklist
- 3.5 Pensions Committee 24<sup>th</sup> June 2015 – Risk Management and Internal Controls Policy, Reporting Breaches Procedure and the Pensions Regulator Code of Practice and Compliance

## 4. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE & RESOURCES

- 4.1 In recent years there has been much greater focus on whether the governance of LGPS pension funds is appropriate. The introduction of local Pension Boards and requirements to demonstrate appropriate levels of knowledge and skills from those charged with governance of the Pension Fund are just two areas where this focus has been seen. The TPR's greater legal powers of oversight extend this further and the Code of Practice is a useful means to understand what good practice looks like in these areas.
- 4.2 A good standard of governance is crucial in minimising the key risks involved in managing the Pension Fund. Although there are clear benefits for many schemes

of the greater oversight powers that have been given to TPR, ensuring compliance with these areas and the much greater focus on governance results in additional work for officers and advisers of the Fund. Any costs associated with delivering the requirements of this Code and the related legal changes are immaterial in the context of the Pension Fund and any such costs are recharged to the Pension Fund.

- 4.3 The Pensions Regulator's Policy on compliance and enforcement sets out his powers and the consequences of not meeting the requirements under the Code which could have financial consequences and could in extreme cases lead to financial penalties.

## **5. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES**

- 5.1 The responsibilities given to the Pensions Committee, Pension Board members and senior officers in respect of the management of the Pension Fund are both broad and onerous. The responsibilities are exercised in a legal framework that is both complex and changing.

- 5.2 The extended powers of TPR and his Code of Practice for Public Service Pension Schemes require a high standard of governance in the management of the Fund and it is appropriate that a procedure is put in place to ensure we adhere to these requirements. The compliance checklist that has been developed will assist in this regard and allow the Pensions Board to monitor the requirements on an ongoing basis.

- 5.3 Not adhering to the overriding legal requirements could impact on meeting the ongoing objectives of the Pension Fund. In addition, where scheme managers or pension boards fail to address poor standards and non-compliance with the law, TPR will consider undertaking further investigations and taking regulatory action, including enforcement action.

- 5.4 There are no immediate legal implications arising from this report.

## **6. BACKGROUND/TEXT OF THE REPORT**

- 6.1 Whilst the Code of Practice and the Fund's review of its compliance with the Code have been reviewed by the Pensions Committee and form part of the Committee papers which have been provided the Pensions Board, the significance of the Code for the Pensions Board should not be underestimated. The Compliance checklist will assist the Pension Board in gauging how well the Fund is meeting a range of regulatory requirements and help it fulfil its role to assist the Scheme Manager in ensuring compliance with the regulations.

- 6.2 TPR finalised its 14th Code of Practice in January following a consultation with interested parties on the original draft and the Regulator's new powers under the Public Services Pensions Act 2013 (the 2013 Act).

- 6.2 Although following the code itself is not a regulatory requirement, should TPR identify a situation where the legal requirements are being breached, he will use the code as a core reference document when deciding appropriate action.

- 6.3 The matters covered by Code 14 are:
- knowledge and understanding for members of pension boards;
  - conflicts of interest;
  - publication of information about pension boards, governance and administration;
  - internal controls;
  - record-keeping;
  - late payment of employer and employee contributions;
  - information about member benefits and disclosure of information to members;
  - internal dispute resolution, and
  - reporting breaches of the law.
- 6.4 Given the legal powers that have now been placed on TPR and the increasing focus on the governance of public service pension schemes, it is appropriate to consider whether the management of the London Borough of Hackney Pension Fund meets the overriding legal requirements and the recommended ways of working outlined in TPR's Code of Practice. Indeed there are a number of areas, where the Fund is only able to confirm compliance with the first meeting of the Pensions Board, for example whether Pension Board Members have been provided with key documents, do they understand their responsibilities in respect of training and understanding of the Pension Fund. It is anticipated that following the meeting of the Pensions Board, the compliance checklist can be further updated to provide more areas where the Fund is able to demonstrate compliance.
- 6.5 The compliance checklist has been completed with reference to the London Borough of Hackney and Members are able to identify from the checklist where the Administering Authority and the Pension Fund are able to demonstrate compliance with the Code. There remain a number of areas currently under development or where further improvements are required. The full checklist is attached for review by the Board. As can be seen in most areas, the Fund is able to demonstrate high levels of compliance with the Code and these are highlighted in green. There are a few areas which are showing as amber meaning that there remains some further work to do to reach compliance. At this stage there is only one area where the Fund is failing to meet the Code and this is shown as red on the checklist and this relates to developing a formalised escalation process for late contributions, where the practice is that these are chased by Equiniti and only passed to Hackney after Equiniti have failed to get a response. This process will now be formalised with a clear policy setting out the process. Members will also note that in some instances there are issues with obtaining information from employers including the Council. The Pensions team within Financial Services works hard to liaise with employers and to emphasise the importance of timely notification of scheme member changes, including new joiners and leavers and accurate contribution information. The introduction of the new LGPS 2014 led to some significant issues in terms of additional complexity both for employers and for the pension administrators and this has led to additional problems. We are aware that this is not an issue specific to the London Borough of Hackney Pension Fund and that the introduction of the new Scheme has led to significant backlogs in other funds. We continue to work hard with employers to resolve issues and ensure that scheme membership data is accurate and up to date.
- 6.6 Also attached to this report is tPR's compliance and enforcement policy for public sector pension schemes issued at the start of June, which takes immediate effect

and applies to the LGPS as well as other public sector schemes and underlines the fact that tPR is now a full time scrutiniser of the LGPS Funds. In terms of ensuring compliance this regime sets out the areas covered by the Code as being areas that the Regulator wants to ensure that funds are compliant with. The Regulator is now able to investigate any issues and is likely to conduct surveys and will also pick up on other sources to review including fund data, scheme returns, media analysis and reports. The policy makes clear that the Regulator now has real powers to investigate and intervene in funds where standards are seen as not complying with the regulations.

- 6.7 The Pensions Board will be provided with a further update on the progress for the compliance checklist at its meeting in January and it is intended to keep the checklist under review on an annual basis.
- 6.8 Given the importance of the Code and the increased role of the Pensions Regulator in respect of public sector schemes, it was felt appropriate to include this as a separate paper for the Pensions Board to highlight its importance to the Board and to help the Board in being able to demonstrate compliance with the regulations.

Ian Williams  
**Corporate Director of Finance & Resources**

**List of appendices:**

**Appendix 1-** The Pensions Regulator's Code of Practice – Compliance Checklist

**Appendix 2-** The Pensions Regulator's Compliance and Enforcement Policy for Public Service Pension Schemes

**Background papers: None**

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