

REPORT OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

The Pensions Regulator Code of Practice Compliance Checklist and TPR Survey

Pensions Committee - 26th January 2016

Classification
PUBLIC

Ward(s) affected

ALL

Enclosures

Two

AGENDA ITEM NO.

8

1. INTRODUCTION

- 1.1 From 1st April 2015 the Pensions Regulator (TPR) assumed responsibility for public service pension schemes and put in place codes of practice for public service pension schemes covering a number of areas relating to the management of schemes. The Code of Practice for Public Service Pension Schemes came into force from 1st April and all schemes must now consider whether they comply with the Code.
- 1.2 This report covers an updated Compliance Checklist for the London Borough of Hackney Pension Fund.

2. RECOMMENDATIONS

- 2.1 **The Pensions Board is recommended to:**
 - **Note the updated Code of Compliance Checklist and where further work is required and being undertaken.**
 - **Note TPR survey**

3. RELATED DECISIONS

- 3.1 Pensions Committee 13th January 2016 – Pension Fund Risk Register for noting
- 3.2 Pensions Committee 13th January 2016 and Pensions Board 26th January 2016 – Pension Administration Audits for noting
- 3.3 Council 25th February 2015 – Approval of Establishment of Pensions Board
- 3.4 Pensions Committee 31st March 2015 – Conflicts of Interest Policy and TPR Code of Compliance Checklist
- 3.5 Pensions Committee 24th June 2015 – Risk Management and Internal Controls Policy; Reporting Breaches Procedure

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 focus on increased training are just two areas which we have seen. 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. For example, as quasi-trustees of the Pension Fund, they would owe a fiduciary duty to fund members and participating employers, which imposes the highest standard of care in equity and law. Further, the Pensions Board has a legal duty to assist the Scheme Manager in ensuring compliance against the regulations. 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 is being developed will assist in this regard and allow us 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 TPR finalised its 14th Code of Practice in January 2015 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. The Committee and Board were provided with an initial Compliance Checklist in June showing where the Fund was able to demonstrate Compliance with the Code. At that time there were a considerable number of areas which were awaiting the establishment and first meeting of the Pensions Board, which took place on 16th July 2016.
- 6.5 The full updated checklist is attached for review by the Pensions 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. This has improved significantly from the initial Compliance Checklist provided to Committee at its June meeting. There remain a few areas which are showing as amber meaning that there remains some further work to do to reach compliance. There are 2 areas where the Fund is failing to meet the requirements of the Code, both of which relate to the issue of data.
- 6.6 The first red area is one previously highlighted regarding a formal escalation procedure for late payments of contributions and if and when these need to be formally reported as breaches to the Regulator. These are currently being reported to the Pensions Committee as part of its regular quarterly monitoring. However, as noted previously a formal escalation procedure will be included in the updated Pensions Administration Strategy Statement which is due to be reviewed by Pensions Committee at its March meeting and will be reviewed by the Pensions Board as part of their role for ensuring compliance.
- 6.7 The second red area relates to the issuance of Annual Benefits Statements to active scheme members. It has previously been reported to Pensions Committee that the Fund along with a large number of other LGPS funds missed the deadline for issuing ABS's by the 31st August 2015, due to the introduction of the new LGPS 2014 CARE Scheme, which has led to some issues with collating the correct data. The Fund was able, as previously reported, to issue the majority of statements to scheme members by the end of September 2015. There remain around 1,400 which are being issued in January, although there are currently around 100 where there is no data in order to issue ABSs. Officers of the Fund are working with the pension administrators to try to resolve the queries in respect of the last 100 so that these may also be issued in due course. The Fund has been unable to obtain accurate data in particular payroll data for a large section of the membership, which would enable the Statements to be issued with any real accuracy. Work has been ongoing to try to clear as many queries as possible, but it has to be recognised that some statements will inevitably be issued which could contain some inaccuracies, although it is hoped that issues will be resolved in time for the next ABS issuance. The issue has been highlighted in the quarterly report on breaches and a letter now

been sent to TPR. Whilst not denigrating the importance of this to individual scheme members, this is not an issue which has been confined to the London Borough of Hackney Pension Fund and we are aware that other Fund have also reported themselves to TPR.

- 6.8 Whilst there are a number of areas in the Code which are showing as amber at this stage, particularly in the area of Knowledge & Skills of the Pensions Board, this is not unsurprising given the newness of the Board and also the requirement to assess their progress in developing the requisite knowledge.
- 6.9 Over the summer, TPR issued a survey to all public sector pension funds to assess how they are meeting the governance and administration legal requirements and the standard to which they are being run. The survey reflected the key tools and processes we consider to be benchmarks for good practice, as set out in the 'practical guidance' sections of our code, and could be used as a tool for the schemes to identify areas where action may be needed.
- 6.10 Around 48% of all public sector schemes responded to the survey with a slightly higher proportion of LGPS responding at 52%. Officers can confirm that the London Borough of Hackney Pension Fund participated in the survey. A summary of the outcome of the survey and the full survey results are attached as appendices to this report.
- 6.11 The survey considered 10 areas and reflected the key tools and processes considered to be benchmarks for good practice, as set out in the 'practical guidance' sections of TPR code:
- Action – Activity undertaken to ensure compliance with the new requirements
 - Knowledge and understanding required by pension board members
 - Conflicts of interest and representation
 - Publishing information about schemes
 - Internal controls
 - Scheme record-keeping
 - Maintaining contributions
 - Providing information to members
 - Internal dispute resolution
 - Reporting breaches of the law
- 6.12 As the updated Code of Compliance attached as appendix one shows, the London Borough of Hackney Pension Fund was in most instances able to provide positive responses to TPR's survey.
- 6.13 Key results from the survey showed that 90% of respondents had a Pension Board in place, but only 28% had a plan in place to ensure compliance against the regulations. Only 44% have reviewed their scheme against the practical guidance and standards set out in TPR Code of Practice. Only 45% of schemes have measured themselves against the requirements of the record-keeping regulations and only 27% have as a result undertaken a data cleansing exercise. More generally, only 71% have conducted a data review exercise in the last year. While 76% of schemes have procedures in place to manage risk, and 82% report having a risk register, only 56% assess their risks either quarterly or monthly.

- 6.14 TPR has expressed concern that failure by 52% of schemes to respond means that they may not in fact be compliant. In addition TPR has indicated that they will be launching a self-assessment tool in 2016 and that they expect schemes to use these tools to help them identify any problems and take swift action to make improvements. They have stressed that they expect all schemes to respond to requests for information.
- 6.15 In spring 2016, TPR has indicated that he will check how schemes are doing and that they expect them to have made significant progress. Further ahead, TPR plans to publish an annual assessment of governance and administration standards and practices in public service schemes in order to bring greater transparency to the progress being made.
- 6.16 Whilst early days in terms of the new role for TPR in public sector pension schemes, it is clear that there will be ongoing additional requirements for funds to ensure they are monitoring and putting policies in place to ensure compliance with TPR requirements and that this is likely to place additional pressure on resources to respond.

Ian Williams

Corporate Director of Finance & Resources

Report originating officers: Jill Davys ☎020-8356 2646

Financial considerations: Michael Honeysett ☎020-8356 3332

Legal comments: Stephen Rix ☎020-8356 6122

Background papers: None

List of appendices:

Appendix 1 – The Pensions Regulator’s Code of Practice – Updated Compliance Checklist

Appendix 2 – TPR Public Sector Pensions Survey Summary of results

Appendix 3 – TPR Public Sector Pensions – Public Service Governance and Administration Research