

## REPORT OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

### THE PENSIONS REGULATOR CODE OF PRACTICE COMPLIANCE CHECKLIST

Pensions Committee  
19<sup>TH</sup> September 2016

Classification  
**PUBLIC**

Ward(s) affected

**ALL**

Enclosures

One

## 1. INTRODUCTION

- 1.1 From 1<sup>st</sup> 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 1<sup>st</sup> 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 Committee is recommended to:

- **Note the Code of Compliance Checklist and where further work is required and being undertaken.**

## 3. RELATED DECISIONS

- 3.1 Pensions Committee 13<sup>th</sup> January 2016 – Pension Fund Risk Register for noting
- 3.2 Pensions Committee 13<sup>th</sup> January 2016 – TPR Code Compliance Checklist
- 3.2 Pensions Committee 13<sup>th</sup> January 2016 – Pension Administration Audits for noting
- 3.3 Council 25<sup>th</sup> February 2015 – Approval of Establishment of Pensions Board
- 3.4 Pensions Committee 31<sup>st</sup> March 2015 – Conflicts of Interest Policy and TPR Code of Compliance Checklist
- 3.5 Pensions Committee 24<sup>th</sup> 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 DIRECTOR, LEGAL**

- 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. 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 were last provided with the completed checklist in January 2016, showing where the Fund was able to demonstrate Compliance with the Code.
- 6.5 The full updated checklist is attached for review by the Committee. As can be seen in many areas, the Fund is generally able to demonstrate good levels of compliance with the Code and these are highlighted in green. This has reduced from the previous update, largely due to the need to appoint new members to the Pension Board. There are a large number of areas associated with the Pensions Board showing as amber – in many cases these are areas where the underlying arrangements are in place, but are only partially put into practice as the Board currently has only one member. There are also other areas highlighted as amber, where further work need to be undertaken to reach full compliance.
- 6.6 There are also 2 areas where the Fund is failing to meet the requirements of the Code, one of which is the number of members on the Board. The Board requires a minimum of 4 members, but currently only has one in post. This situation has arisen as a result of resignations – both employer representatives left employment and so were no longer eligible, whilst one scheme member representative resigned his post as a Board member. A recruitment process for new members is currently underway, and the issue has also been raised with the Pensions Regulator. This has not been reported as a formal breach but, as advised by tPR when the scheme return was completed, an explanatory note has been submitted.
- 6.7 The second red area relates to the issuance of Annual Benefits Statements to active scheme members. Statements to deferred members were submitted by the deadline of 31<sup>st</sup> August, as were around 4,000 statements to active members. The remaining 3,200 statements to actives were not issued by the deadline, but Equiniti have committed to issuing these by 31<sup>st</sup> October 2016. The primary cause of the breach was a failure by the Council, as the Fund's main employer, to submit an adequate year end return. The issue has been highlighted in the quarterly report on breaches and a formal breach report submitted to TPR.
- 6.8 Whilst this is not an issue that is confined to the London Borough of Hackney, submitting good quality data to the Fund has been an ongoing problem for the Council. The Council is currently in the process of changing its payroll supplier and, whilst this does not resolve the issue in the short term, the Fund is working with the project team for the new system to ensure that reporting from the new supplier is developed in line with the Fund's requirements. Midland HR, the new supplier, has recognised that there have been difficulties in producing LGPS reporting, and is working constructively with employers to develop its reporting capabilities.
- 6.9 Improvement to the Council's reporting is therefore likely to be a long term project for the Fund. However, the year-end report for 2016/17 will still need to be produced

using the existing ResourceLink system – improvements to the specification of the existing report and interface have been made since the 15-16 year end, and it is hoped that this will permit improvements to the data for the 2016/17.

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**Appendices:**

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

**Background Papers**

None