

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

<b>The Pensions Regulator Code of Practice Compliance Checklist</b>	<b>Classification</b> <b>PUBLIC</b>	<b>Enclosures</b> <b>One</b> <b>AGENDA ITEM NO.</b>
	Ward(s) affected  <b>ALL</b>	
<b>Pension Board</b> <b>20<sup>th</sup> March 2017</b>		

**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 Pension Board 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 19<sup>th</sup> September 2016 2016 – TPR Code Compliance Checklist
- 3.2 Council 25<sup>th</sup> February 2015 – Approval of Establishment of Pensions Board
- 3.3 Pensions Committee 24<sup>th</sup> June 2015 – Risk Management and Internal Controls Policy; Reporting Breaches Procedure

**4. COMMENTS OF THE GROUP DIRECTOR, FINANCE AND CORPORATE 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 assists in this regard and allows us to monitor the requirements on an ongoing basis.
- 5.3 Failure to adhere 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 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. Given the changes to the membership of the Board, it is anticipated that following this and subsequent meetings, the checklist can be further updated to reflect more areas where the Fund is able to demonstrate compliance.

- 6.5 An updated checklist as at March 2017 is attached for review by the Board. 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. Two areas stand out as having more amber items than others; Knowledge and Understanding and Providing Information to Members and Others. The amber items on Knowledge and Understanding relate largely to the provision of key information and training to new members. These are in progress as at 1<sup>st</sup> March 2017 and it is hoped that many can be updated following the Board meeting on 20<sup>th</sup> March.
- 6.6 A number of amber items can also be found in Section H: Providing Information to Members and Others. Most are in progress and relate to the format of information; however, there remains one area where the Fund is failing to meet the requirements of the Code. This 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. Equiniti initially committed to producing these by 31<sup>st</sup> October but required a further extension to 31<sup>st</sup> December 2016. The primary cause of the breach in both instances was a failure by the Council, as the Fund's main employer, to submit year end data of suitable quality in line with agreed timescales. A formal breach report was submitted to TPR in each instance; no action has been taken on this occasion but it is crucial that statements are produced on time for 2016/17. The Fund has now been required to report to the Regulator 2 years running; it is unlikely that a 3<sup>rd</sup> consecutive failure will be tolerated.
- 6.7 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 the Council to develop new reports to the Fund's specifications
- 6.8 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. The payroll contract holder has been formally notified of the importance of receiving an adequate year end report for 2016/17, as well as ensuring that appropriate legacy data arrangements are in place to permit resolution of previous errors.

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

**List of appendices:**

Appendix 1- The Pensions Regulator's Code of Practice – Compliance Checklist (March 2017)

Report Originating Officers: Rachel Cowburn ☎020-8356 2630  
Financial considerations: Michael Honeysett ☎020-8356 3332  
Legal comments: Stephen Rix ☎020-8356 6122