

REPORT OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

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| The Pensions Regulator Code of Practice Compliance Checklist | Classification PUBLIC | Enclosures One AGENDA ITEM NO. |
| | Ward(s) affected | |
| Pension Board 25th October 2017 | ALL | |

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 Pension Board is recommended to:
- Note the Code of Compliance Checklist and where further work is required and being undertaken.

3. RELATED DECISIONS

- Pensions Committee 27th June 2017 - Employer Data Audit
- Pensions Committee 24th January 2017 – Pension Fund Risk Register
- Pensions Committee 19th September 2016 – TPR Code Compliance Checklist

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

- 4.1 In recent years there has been much greater focus on the standard of governance within LGPS funds. This increased focus can be seen in The Pensions Regulator’s (TPR) recently introduced powers of oversight, as well as in the introduction of local pension boards. TPR’s Code of Practice no. 14, for public service pension schemes, is a useful guide to the standards of governance expected by the Regulator; measuring the Fund’s compliance with it on a regular basis helps to ensure that good practice is understood and maintained.
- 4.2 A good standard of governance is crucial in minimising the key risks involved in managing the Pension Fund. Although the greater powers of oversight granted to TPR should ultimately benefit schemes through driving improvements in governance, ensuring compliance with the updated requirements results in additional work for officers and advisers of the Fund. Whilst delivering the requirements of the Code of Practice and the related legal changes are therefore associated with increased costs,

these are immaterial in comparison with the risks of failing to ensure that scheme governance is of a high standard and compliant with all necessary regulation and guidance.

- 4.3 The risks of non-compliance include both financial penalties issued by TPR, which can be considerable, and the longer term costs to the Council likely to ensue in the event of poor management of the Pension Fund, including a potentially increased employer contribution rate.

5. COMMENTS OF THE INTERIM DIRECTOR, LEGAL

- 5.1 The Public Service Pensions Act (2013) introduces a legal framework for the governance and administration of public service pension schemes and provides for extended regulatory oversight by TPR. The 2013 Act requires TPR to issue one of more Codes of Practice setting out the legal requirements in respect of the management of the schemes; the Regulator has discharged this duty by issuing the Code of Practice for Public Service Pension Schemes.
- 5.2 The Code of Practice is not a statement of the law and there is no penalty for failing to comply with it. However, any alternative approach to that appearing in the Code will need to meet the underlying legal requirements of the Public Service Pensions Act 2013 and a penalty may be imposed by the Regulator if those requirements are not met.
- 5.3 The Code of Practice contains practical guidance and sets out standards of conduct and practice expected of those who exercise functions in relation to those legal requirements. It is therefore appropriate for both the Pensions Committee and the Pension Board to consider the Hackney Pension Fund's adherence to the Code of Practice at regular intervals.
- 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 powers of oversight granted to TPR and the increased focus on the governance of public service pension schemes, it is appropriate to assess if the management of the London Borough of Hackney Pension Fund meets the requirements of the Public Service Pensions Act 2013 and the recommended ways of working outlined in TPR's Code of Practice. The Board were last provided with the completed checklist in March 2017, showing where the Fund was able to demonstrate Compliance with the Code.
- 6.5 The full updated checklist 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. This has improved from the previous update, thanks to greater frequency of review resulting in small improvements across several categories. There are still a number of areas associated with the Pensions Board showing as amber – in many cases these are areas associated with training, where the replacement of 3 out of 4 original Board members has resulted in an increased training requirement. 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 related to the administering authority's Internal Dispute Resolution Procedure (IDRP). The authority's current process guide does not highlight or consider whether or not a dispute is exempt under Section 50 – this has been flagged and the guide is now due to be updated
- 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 31st August, with 4341 statements for active members sent on 4th September 2017. A further 783 statements were sent w/c 2nd October, whilst the remaining 2,400 statements to actives have not yet been issued. The Fund has worked with Equiniti to draw up a plan for producing these statements, with target dates for issue ranging from 6th November to 31st December. 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, along with timescales for issuing the remaining statements.
- 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 has recently changed its payroll supplier and, whilst this does not immediately resolve the issue, 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.

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List of appendices:

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

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