

REPORT OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

The Pensions Regulator Code of Practice Compliance Checklist	Classification PUBLIC	Enclosures One AGENDA ITEM NO.
	Ward(s) affected ALL	
Pensions Committee 12th September 2018		

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

3. RELATED DECISIONS

- Pensions Committee 4th December 2017 – Pension Fund Risk Register
- Pensions Committee 11th September 2017 – TPR Code Compliance Checklist
- Pensions Committee 27th June 2017 - Employer Data Audit

4. COMMENTS OF THE GROUP DIRECTOR OF FINANCE & 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 OF LEGAL AND GOVERNANCE

- 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 September 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 improved from the previous update, largely due to the appointment of new members to the Pension Board. There are still a number of areas associated with the Pensions Board showing as amber – in many cases these are areas associated with training, as the implementation of the training policy is currently under review by the Pensions Committee to improve the depth and breadth of training on offer. There are also other areas highlighted as amber, where further work need to be undertaken to reach full compliance.
- 6.6 There are two areas where the Fund is failing to meet the requirements of the Code, one of which relates to the issuance of Annual Benefits Statements to active scheme members. Statements to deferred members were submitted by the deadline of 31st August. 625 statements to actives were issued by the deadline, whilst nearly 7000 have yet to be issued. 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 vast majority of active statements for other employers were sent out by the deadline. The issue has been highlighted in the quarterly report on breaches and a formal breach report will be submitted to TPR.
- 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 and serious problem for the Council. The Council has changed its payroll supplier in 2017 which, whilst offering the prospect of improved reporting relative to the previous supplier, has resulted in significant medium term disruption to regular processes. 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 its reporting capabilities. Equiniti, the Council's Third Party Administrator, have made numerous changes to their own report specification during this period which has further delayed resolution of this issue.
- 6.8 The second issue related to monitoring of contributions – in this case, the incorrect ongoing payment of AVC contributions by an employer to Equiniti, resulting in those contributions not being invested in a timely fashion. Whilst only one member is known to have been affected, the significant time period over which the incident took place and the potential financial implications for the member if not addressed means this issue will need to be reviewed and processes put in place to prevent recurrence.

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Appendices

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