

# Scheme Advisory Board

Meeting of the Board 21<sup>st</sup> September 2015

ITEM 6 PAPER [G]

## Local Pension Boards

### Background

1. Under the provisions of section 5 of the Public Service Pensions Act 2013 and regulation 106 of the LGPS Regulations 2013 (as amended) Local Pension Boards were to be established by 1<sup>st</sup> April 2015. To assist in the establishment of these Boards the Shadow Scheme Advisory Board (SSAB) developed guidance on the creation and operation of Local Pension Boards for Administering Authorities.
2. The Board's (SAB) role with regard to Local Pension Boards is advisory, and it has issued guidance in this capacity. However, in its advisory role to the Secretary of State, there is a case for monitoring individual funds and highlighting where administering authorities may not be complying with regulations.
3. In April 2015, administering authorities were contacted to request confirmation that their Pension Board had been established and request copies of their Terms of Reference. The full regulation wording and assessment criteria are given in [Annex 1](#).
4. Further to the report on [Local Pension Boards](#) given at the Board meeting on 1<sup>st</sup> June 2015, the secretariat has continued to gather information on Local Pension Boards and Terms of Reference. This report sets out to highlight individual fund Local Pension Boards established by 1<sup>st</sup> April 2015, and the extent to which regulatory requirements have been met.
5. The guideline timescale for Local Pensions Boards to be up and running was four months from 1<sup>st</sup> April 2015 (i.e. by September 2015).
6. An analysis of the Terms of Reference against the Board's guidance will be commenced in due course.

### General comments

The vast majority of Local Pension Boards were established by 1<sup>st</sup> April 2015. Whilst anecdotally, there have been reports of difficulties in populating Local Boards, there has been a large number (58) of first meetings held within the four month guideline. Most Local Pension Boards have been set up using similar systems as council committees on Administering Authority websites, and are therefore utilising tried and tested processes for transparency.

### Scheme Advisory Board Secretariat

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There appears to be a high level of usage of the SAB issued guidance and template Terms of Reference document.

Many Local Pension Boards have planned and documented training for members.

There are areas of concern over the comprehensiveness of some Terms of Reference. To assess these against guidance will be the next step following the Boards decision on course of action on regulation.

## Work completed to date

### The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 106 (1)

*(1) Each administering authority shall no later than 1st April 2015 establish a pension board ("a local pension board")*

7. The number of Funds appearing to have established Local Boards, thereby adhering to [The LGPS \(Amendment\) \(Governance\) Regulations 2015](#), Local pension boards: establishment 106 (1) was **84** (of 91 Funds in E&W).
8. There were seven funds identified as not appearing to have established a Local Board by 1<sup>st</sup> April 2015:

Pension Fund Name	Compliance Reg 106 (1)
Pension Fund 1	Late (22 days)
Pension Fund 2	Late (8 days)
Pension Fund 3	(May 2015) The Pension Fund Investment and Administration Panel agreed to the establishment (in March 2015) of new local Pension Board.
Pension Fund 4	Late (15 days)
Pension Fund 5	Late (13 days)
Pension Fund 6	No evidence of LB establishment before 1 <sup>st</sup> April
Pension Fund 7	Joint LB from June 2015

9. There were a small minority of Local Pension Boards (4) established late (by 8, 13, 15 and 22 days) a joint board approval in June, and other funds (2) without clear, online evidence, of establishing a Local Pension Board.

10. The guideline for having Local Boards meet was four months from 1<sup>st</sup> April 2015. There were **62** meetings falling within this timeframe. For information, the first meeting date range was as follows:

Date of first meeting (2015)	Number of Funds
April	1
June	7
July	50
August	4

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September (met or planned meeting)	5
No evidence of meeting or planned meeting	24

## Public Service Pensions Act 2013 (PSPA) Section 6, Pension Board: information

11. Compliance with PSPA Section 6 is important for transparency as without this information it is difficult to confirm compliance for all funds with Regulations 106 – 109.
12. The number of funds that appear to have complied with the [Public Service Pensions Act 2013](#) (PSPA) Section 6, Pension Board: information, was **58** (of 91 Funds in E&W):

PSPA 6(a) who the members of the board are	68
PSPA 6(b) representation on the board of members of the scheme or schemes	61
PSPA 6(c) the matters falling within the boards responsibility	89
All of the above	58

## The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 106 (2)

*“(2) Where the Scheme manager is a committee of a local authority the local pension board may be the same committee if approval in writing has been obtained from the Secretary of State.”*

13. This has been the case for Hampshire and Haringey Pension Funds. The Environment Agency is a special case as it is not a local authority.

## The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 106 (3)

*“(3) Where the administration and management of a Scheme is wholly or mainly shared by two or more administering authorities, those administering authorities may establish a joint local pension board if approval in writing has been obtained from the Secretary of State.”*

14. Approval for South Yorkshire was granted September 2015 and is pending for West Midlands Transport Funds; the Environment Agency is again a special case as it maintains two funds, active and closed.

## The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 106 (7)

*“(7) Except where a local pension board is a committee approved under paragraph (2), no member of a local pension board shall have a right to vote on any question unless that member is an employer representative or a member representative (60).”*

15. There are 8 instances of Terms of Reference not explicitly setting out voting rights.

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## **The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 107 (1)**

*“(1) Subject to this regulation each administering authority shall determine—  
(a) the membership of the local pension board;  
(b) the manner in which members of the local pension board may be appointed and removed;  
(c) the terms of appointment of members of the local pension board”*

16. Work in progress; initial observations are that membership and manner of appointment have been determined, however, in some cases terms of reference do not specify terms of removal.

## **The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 107 (2)**

*“(2) An administering authority must appoint to the local pension board an equal number, which is no less than 4 in total, of employer representatives and member representatives and for these purposes the administering authority must be satisfied that—  
(a) a person to be appointed to the local pension board as an employer representative has the capacity to represent employers; and  
(b) a person to be appointed to the local pension board as a member representative has the capacity to represent members.”*

17. For information, the range of Local Board membership numbers is shown below:

Number of representatives (equal employer/employee)	Number of funds
2 (2 + 2 = 4, minimum)	31
3	34
4	14
5	3
6	3
Other/shared/specified as range (eg. 2 or 3)/not specified	6

18. There are several areas of concern around Local Board membership; as of September 2015, there were employer and employee seats still vacant and meetings have still been held;  
There are several cases (which fall under PSPA) where representatives' names have been listed, but employer/employee status has not been given.

## **The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 107 (3)**

*“(3) Except where a local pension board is a committee approved under regulation 106(2) (committee that is a Scheme manager is also local pension board)—  
(a) no officer or elected member of an administering authority who is responsible for*

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*the discharge of any function under these Regulations (apart from any function relating to local pension boards or the Local Government Pension Scheme Advisory Board) may be a member of the local pension board of that authority; and  
(b) any elected member of the administering authority who is a member of the local pension board must be appointed as either an employer representative or a member representative.”*

19. There are a couple of areas of concern around compliance with 106(2)(a):

Pension Fund (i)	All members also on Pension Committee
Pension Fund (ii)	One board member is S151 officer

### **The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 107 (4)**

*“(4) Where a local pension board is a committee approved under regulation 106(2) (committee that is a Scheme manager is also local pension board) the administering authority must designate an equal number which is no less than 4 in total of the members of that committee as employer representatives and member representatives and for these purposes the administering authority must be satisfied that—*

*(a) a person to be designated as an employer representative has the capacity to represent employers; and*

*(b) a person to be designated as a member representative has the capacity to represent members.”*

20. As above, this applies to Hampshire, Haringey and Environment Agency Pension Funds.

### **The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 108 (1) & (2)**

*“(1) Each administering authority must be satisfied that any person to be appointed as a member of a local pension board does not have a conflict of interest*

*(2) An administering authority must be satisfied from time to time that none of the members of a local pension board has a conflict of interest.”*

21. Conflict of interest policies in place, but the following may be at risk if conflict is deemed to include a scheme manager role in another fund or involvement in another local board:

Pension Fund A	Ind chair is involved with another fund
Pension Fund B	Ind chair is involved with another fund
Pension Fund C	Ind chair is involved with another fund, one board member is S151 officer
Pension Fund D	Ind chair is appointed as Joint Ind LPB chair
Pension Fund E	Ind chair is appointed as Joint Ind LPB chair
Pension Fund F	Ind chair is involved with another fund

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Pension Fund G	Ind chair is involved with another fund
Pension Fund H	Ind chair is involved with another fund
Pension Fund I	Ind chair is involved with another fund
Pension Fund J	Ind chair is involved with another fund

## **The LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment 109**

*“An administering authority must have regard to guidance issued by the Secretary of State in relation to local pension boards.”*

22. Not applicable at present.

### **Discussion and decisions for the Board**

1. The Board are asked to consider possible actions to take where there appears to be no evidence of funds following PSPA Reg 6, options include:
  - i. Publishing the collated Local Board information on the SAB website
  - ii. Writing to authorities and Local Boards
  
2. The Board are asked to consider the action that may be taken in future where Local Boards appear compliant with legislation and regulation, but do not appear to be operating within the spirit (i.e. potential or perceived conflicts on representation), options include:
  - i. Discussions with the Pensions Regulator
  - ii. Reporting findings to DCLG

### **Next Steps**

The secretariat will take action following the Board decision, above, and continue to examine Terms of Reference, analysing against guidance as a next step.

Board secretariat  
September 2015

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## Annex 1

### Regulation wording and means of assessment

<b>PSPA 2013 Section 6</b>	<b>Assessment criteria/source/evidence</b>
(1) The scheme manager for a scheme under section 1 and any statutory pension scheme that is connected with it must publish information about the pension board for the scheme or schemes (and keep that information up-to-date). (2) That information must include information about -	
(a) who the members of the board are,	Names published on website
(b) representation on the board of members of the scheme or schemes, and	Published on website/Specified in Terms of reference (equal in number to employer representation)
(c) the matters falling within the board's responsibility.	Specified in Terms of Reference (published on website)

<b>LGPS (Amendment) (Governance) Regulations 2015, Local pension boards: establishment</b>	<b>Assessment criteria/source/evidence</b>
106(1) (1) Each administering authority shall no later than 1st April 2015 establish a pension board ("a local pension board") responsible for assisting it— (a) to secure compliance with— (i) these Regulations, (ii) any other legislation relating to the governance and administration of the Scheme and any connected scheme(59), and (iii) any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme; and (b) to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.	Response to emails sent to Fund Administering Authorities in April 2015 requesting update on LB progress, establishment and Terms of Reference.  Search of authority websites for evidence in committee meeting papers.
106(2) (2) Where the Scheme manager is a committee of a local authority the local pension board may be the same committee if approval in writing has been obtained from the Secretary of State.	Is there evidence of this on the authority web pages?
106(3) (3) Where the administration and management of a Scheme is wholly or mainly shared by two or more	Is there evidence of this on the authority web pages?

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	administering authorities, those administering authorities may establish a joint local pension board if approval in writing has been obtained from the Secretary of State.	
106(7)	(7) Except where a local pension board is a committee approved under paragraph (2), no member of a local pension board shall have a right to vote on any question unless that member is an employer representative or a member representative <b>(60)</b> .	Are voting rights set out as such in the Local Board's Terms of Reference?
106(9)	(9) The expenses of a local pension board are to be regarded as part of the costs of administration of the fund held by the administering authority.	N/A
107(1)	(1) Subject to this regulation each administering authority shall determine—	Is membership detail determined in the Local Board's Terms of Reference?
	(a) the membership of the local pension board;	
	(b) the manner in which members of the local pension board may be appointed and removed;	
	(c) the terms of appointment of members of the local pension board	
107(2)	(2) An administering authority must appoint to the local pension board an equal number, which is no less than 4 in total, of employer representatives and member representatives and for these purposes the administering authority must be satisfied that—	Are membership numbers set out as such in the Local Board's Terms of Reference?
	(a) a person to be appointed to the local pension board as an employer representative has the capacity to represent employers; and	
	(b) a person to be appointed to the local pension board as a member representative has the capacity to represent members.	
107(3)	(3) Except where a local pension board is a committee approved under regulation 106(2) (committee that is a Scheme manager is also local pension board)—	Is this information disclosed in meeting minutes?

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	(a) no officer or elected member of an administering authority who is responsible for the discharge of any function under these Regulations (apart from any function relating to local pension boards or the Local Government Pension Scheme Advisory Board) may be a member of the local pension board of that authority; and	
	(b) any elected member of the administering authority who is a member of the local pension board must be appointed as either an employer representative or a member representative.	
107(4)	(4) Where a local pension board is a committee approved under regulation 106(2) (committee that is a Scheme manager is also local pension board) the administering authority must designate an equal number which is no less than 4 in total of the members of that committee as employer representatives and member representatives and for these purposes the administering authority must be satisfied that—	As above 106 (2)
	(a) a person to be designated as an employer representative has the capacity to represent employers; and	
	(b) a person to be designated as a member representative has the capacity to represent members.	
108(1)	(1) Each administering authority must be satisfied that any person to be appointed as a member of a local pension board does not have a conflict of interest	Are conflicts of interest policies set out in the Local Board's Terms of Reference, or a separate conflicts document?
108(2)	(2) An administering authority must be satisfied from time to time that none of the members of a local pension board has a conflict of interest.	