

# Governance and Standards

## Sub-Committee

### Item 3 - Review of recent activity on Local Pension Boards

The following paper provides a quick summary of recent activity.

Review of recent activity:

- a. Governance Regulations
- b. SSAB Guidance on Local Pension Boards (including response document)
- c. Template terms of reference
- d. TPR code of practice number 14
- e. TPR published draft compliance and enforcement policy for public service pension schemes
- f. TPR educational material and website

### Update

#### A. Governance Regulations

On 28 January 2015 [the Local Government Pension Scheme \(Amendment\) \(Governance\) Regulations 2015 \(SI 2015/57\)](#) were laid before Parliament. These regulations include provisions for new local pension boards and the Scheme Advisory Board at national level as well as provisions for the employer cost cap.

There were some key differences between the final laid regulations and those issued for consultation late last year.

In summary these key differences for Local Pension Boards include:

- **Joint Pension Boards** - New regulation 106(3) provides for the establishment of a joint local pension board where the administration and management of a Scheme is wholly or mainly shared by two or more administering authorities. Approval for such a Board would have to be obtained from the Secretary of State.
- **Voting rights** - New regulation 106(7) provides that voting rights only apply to members of a Board who are either an employer or a member representative. In effect this means that 'other members' of a Board do not have voting rights. This amendment to regulations appears to chime with the spirit of the Public Service Pensions Act 2013 which only makes specific reference to employer and member representatives on the Board. Although that Act is silent on other members it would appear that this regulation now aligns with the principles of the Public Service Pension Act 2013.
- **Removal of the requirement for 'relevant experience' for those individuals to be appointed to a local pension board as a member or employer representative** - There is now no requirement in regulations (either regulation 107(2)(a) or 107(2)(b)) for a person who is appointed to a local pension board to have relevant experience. The requirement for capacity is retained.
- **Clarification that only officers or elected members of the administering authority relating to the local pension board are precluded from being members of that local pension board** - Regulations now confirm that officers or elected members of Administering Authority A could be members of the Board of Administering Authority B but cannot be members of the Board for Administering

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Authority A unless that Board is a committee approved by the Secretary of State under regulation 106(2).

- **Inclusion of new regulation 107(3)(b)** - Regulations now state that any elected member of the Administering Authority may only be appointed to the Board as either an employer or member representative. This additional regulation dovetails with new regulation 106(7) which restricts voting rights to employer and member representatives and avoids the potential confusion of elected members being construed as having voting rights through other legislation applying to council bodies.
- **Inclusion of new regulation 107(4)** - This regulation provides further clarification on the constitution of a combined board and committee as provided for through regulation 106(2).

### **B. SSAB Guidance on Local Pension Boards (including response document)**

The guidance was issued on 28 January 2015. Following a minor amendment to paragraph 10.2 an updated version was issued on 4 February 2015. It is anticipated that the guidance will be updated and modified by the SSAB as required in the future. It is also expected that the Statutory Scheme Advisory Board (once created) will adopt this guidance. If so, the guidance will fall under the provisions of section 7(3) of the Public Service Pension Act 2013 which requires that scheme managers (i.e. administering authorities) and Boards must have regard to it.

As already noted the guidance is designed to assist Administering Authorities in the creation and operation of Boards. This guidance does not supersede the requirements on Administering Authorities under legislation and in particular section 5 of the Public Service Pensions Act 2013 'Pension Board' and regulation 106 to 109 of the LGPS Regulations 2013 (as amended). It remains the responsibility of the Administering Authority to ensure all relevant legislation has been complied with in the creation and operation of the Board.

The guidance was accompanied by a document detailing the responses to the consultation on the guidance which took place in October and November 2014. It also makes reference to amendments to the guidance required as a result of changes made to draft versions of the regulations covering Boards and that the guidance has been reviewed in line with the Pension Regulator's code of practice number 14.

No comments have been received by the Secretariat on the guidance or the response document to date.

Both documents are available from <http://www.lgpsboard.org/index.php/about-the-board/board-guidance>.

### **C. Template terms of reference**

In addition to the guidance a template terms of reference was published on 28 January 2015. This is designed to assist Administering Authorities as they formulate

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the terms of reference for their Board. We indicated in that this must be read in conjunction with the guidance, the provisions of both the Public Service Pension Act 2013 and the LGPS Regulations 2013.

No comments have been received by the Secretariat on the template terms of reference to date.

Terms of reference is available from <http://www.lgpsboard.org/index.php/about-the-board/board-guidance>.

**Question: Do members of the sub-committee have any comments which they have or that have been fed into them on any of the documents issued by the SSAB as mentioned above?**

### **D. TPR code of practice number 14**

The Pensions Regulator presented an updated draft code of practice number 14 to Parliament on the 12 January 2015 which must lie in draft for forty days during which time the House of Commons or House of Lords may resolve that the code is not made. The expectation is however that this version of the code of practice issued 12 January 2015 will be confirmed in February 2015 and the guidance from the SSAB on Boards has been updated in line with its contents. Please see the consultation response from [the Regulator](#) for further information on the changes they have made.

Changes made to the guidance as a result of the amendments to code of practice number 14 include:

- The code no longer makes reference to a requirement for schemes to provide additional support and training to Board members in the first few months of their taking up the role of Board member. Guidance has been updated to reflect this change.
- The code no longer makes reference to individuals who are appointed to the Board for their specific expertise and skills therefore the guidance has also removed reference to this information.
- In the code of practice 'information about conflict of interest' a number of references to 'dual interests' have been replaced with references to 'interest' and this minor amendment has been made to the guidance.

The following documents are all available on TPR's website

(<http://www.thepensionsregulator.gov.uk/public-service-schemes/regulating-public-service-pension-schemes.aspx>):

- Code of Practice number 14 (draft)
- Response to consultation on the Code of Practice number 14
- Short Essential Guide to public service code of practice number 14
- Regulatory Strategy

Access to TPRs automated mailing list of public service specific news by email and updates is available from <https://secure.thepensionsregulator.gov.uk/psNews.aspx>

Shadow Advisory Board Secretariat

Local Government House, Smith Square, London SW1P 3HZ T 020 7187 7344 E [Elaine.english@local.gov.uk](mailto:Elaine.english@local.gov.uk) [www.local.gov.uk](http://www.local.gov.uk)

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### **E. TPR published draft compliance and enforcement policy for public service pension schemes**

On 9 February 2015 TPR published a draft compliance and enforcement policy for public service pension schemes which can be found at:

<http://www.thepensionsregulator.gov.uk/doc-library/compliance-and-enforcement-policy-for-public-service-pension-schemes.aspx>. This document follows on from TPR's regulatory strategy which was published last month. The consultation on this document is open until the 5 March 2015.

The public service strategy sets out TPRs objectives in regulating public service schemes, the compliance and enforcement policy sets out more detail on how TPR intend to achieve this and what those being regulated can expect from them.

In broad terms it sets out:

- how TPR identify and assess risk in public service schemes and how this forms the basis for their operational activity
- their approach to monitoring public service schemes through reactive and proactive sources
- how a public service scheme may be investigated by a TPR case team, and
- the enforcement options available to TPR and other enablement and educative interventions that may be used.

### **F. TPR educational material and website**

TPR launched an online e-learning programme aimed at those who are involved in running public service pension schemes including scheme managers and local pension board members.

This e-learning programme is aimed at all public service pension schemes and as a result of this it's not anticipated that undertaking this e-learning course alone would meet with the Knowledge and Understanding requirements for members of Local Pension Board's in the LGPS.

**Question 2: Do members of the sub-committee have any comments on the information from TPR as noted in D-F above?**

**Question 3: What training opportunities are members of the sub-committee aware of in addition to the e-learning facility being offered by TPR?**

**Question 4: What further work, if any, should the sub-committee consider as part of reviewing the Code of Practice number 14 to assist LGPS Administering Authorities?**

Board Secretariat  
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Shadow Advisory Board Secretariat

Local Government House, Smith Square, London SW1P 3HZ T 020 7187 7344 E [Elaine.english@local.gov.uk](mailto:Elaine.english@local.gov.uk) [www.local.gov.uk](http://www.local.gov.uk)