

# Essex Pension Fund Advisory Board

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## **Background & Constitution**

As part of the [Public Sector Pension Act 2013](#) there was a requirement for each LGPS Pension Fund to establish local Pension Boards that would assist the Pension Fund in securing compliance with LGPS regulations and other legal and regulatory requirements.

Local Pension Boards were established in April 2015 and included representation from Employers and LGPS Members of the Pension Fund.

In accordance with the regulations the Essex Pension Fund Advisory Board (PAB) was made up of equal numbers of Employer and LGPS Member representatives. Members of the Board are voting members with each member having one vote.

**Four Employer representatives** were drawn from the following groups and appointment was made by nomination:

- the County Council;
- Borough, City and District Councils;
- Unitary Councils; and
- Smaller employers

**Four scheme member representatives:**

- one nominated by the Trade Unions; and
- the other three members drawn from the three categories of scheme membership, i.e. Active, Deferred and Pensioner members.

There was also **an independent non-voting chairman**

## **The role of the Essex Pension Fund Advisory Board**

The Essex Pension Fund Advisory Board has become part of the governance arrangements for the Essex Pension Fund as an oversight body supporting Essex County Council in their role as the Administering Authority or Scheme Manager.

Governance responsibilities are delegated to the Essex Pension Fund Strategy Board which is made up of Members of the County Council and representatives of other fund employers and of scheme members.

The Essex Pension Fund Advisory Board is responsible for assisting the Administering Authority or Scheme Manager in securing compliance with:

- the Local Government Pension Scheme Regulations;
- any other legislation relating to the governance and administration of the Pension Fund;

- requirements imposed by The Pensions Regulator in relation to the Pension Fund; and
- to ensure the effective and efficient governance and administration of the Pension Fund.

## **Job Specification**

### **Role and responsibilities of the Essex Pension Fund Advisory Board member**

As a member of the Essex Pension Fund Advisory Board you will help ensure that the Essex Pension Fund is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

### **Main Duties and Responsibilities**

As a Member you will be expected to:

- commit to undertake the role for a period of 4 years;
- have the capacity to attend up to four Board meetings per year;
- attend and participate constructively in meetings of the Board;
- have Financial and Investment awareness;
- undertake training and development appropriate to your role;
- approach matters before the Essex Pension Fund Advisory Board with an open and independent mind avoiding any pre-determination or bias;
- have the confidence to challenge, influence and engage; and
- operate within the Essex Pension Fund Advisory Board's Terms of Reference and Code of Conduct and in line with the seven principles of public life.

## **Qualities required for the role of a Pensions Board member**

To be considered, you must be able to demonstrate that you have the qualities and skills to meet all the essential criteria for appointment, specifically:

- you must be a member of the Essex Pension Fund or represent an active employer body;
- you should have a good knowledge of public sector pensions and the capacity/ability to undertake additional learning specifically with regards to the Local Government Pension Scheme;
- you should be aware of the requirements of The Pension Regulator's public service schemes Code of Practice;
- you should be able to comprehend financial reports and data;

- you must be able to act impartially in the interests of both employers and members;
- you must be able to act prudently, responsibly and honestly;
- you must be an effective communicator and team player to promote excellent working relationships within the Essex Pension Fund Advisory Board and gain the confidence of its stakeholders including the Scheme Manager;
- you must be able to commit to a term of membership of four years; and
- You must be able to attend up to four meetings each year and up to four training sessions each year (in practice, training sessions are likely to take place on the same day as Board meetings).

## The Essex Pension Fund Advisory Board – Terms of Reference

### 1. Introduction

The Essex Pension Fund Advisory Board is appointed by Essex County Council as its Local Pensions Board in accordance with section 5 of the Public Service Pensions Act 2013 and Part 3 of the Local Government Pension Scheme Regulations 2013. It is referred to in these terms of reference as ‘the Board’.

In these terms of reference:

“CoP” means any Code of Practice on Governance issued by tPR

“EPF” means the Essex Pensions Fund

“ISC” means the Investment Steering Committee

“LGPS” means the Local Government Pension Scheme

“PSB” means the Essex Pension Fund Strategy Board”

“Scheme Manager” means Essex County Council

“tPR” means the Pensions Regulator

### 2. Remit of the Board

The Board has the following remit:

(A) To assist the Scheme Manager:

to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS

to secure compliance with requirements imposed in relation to the LGPS by the (tPR)

(B) To secure the effective and efficient governance and administration of the LGPS for the EPF

(C) To help ensure that the EPF is managed and administered effectively and efficiently and complies with the CoP.

(D) To assist the Scheme Manager with such matters as the scheme regulations may specify.

(E) To be a “critical friend” to the PSB and the ISC.

To provide oversight of decisions made by the PSB to ensure that due process has been followed.

(F) The Board may review any decision made by or on behalf of the Scheme Manager.

Stage 1: The Board may refer a decision to the original decision maker if at least 3 employer representatives and 3 scheme member representatives believe that one or more of the following applies:

1. the decision maker was not authorised to make the decision in question;
2. the decision was in breach of legislation and/or regulations;
3. the decision maker did not follow professional advice given (or did not take professional advice) and it is believed that this could result in a materially bad outcome for the EPF;

4. the approach to making the decision did not follow one or more of the following principles:
  - (i) the decision-maker did not ask themselves the right question(s);
  - (ii) the decision-maker did not direct themselves correctly in law; in particular did not adopt a correct interpretation of the legislation and regulations relevant to the EPF;
  - (iii) the decision-maker did not take into account all relevant facts;
  - (iv) the decision-maker arrived at a perverse decision (i.e. a decision which no reasonable decision-maker could have reached).
5. New material has come to light that might have resulted in a different outcome provided that the original decision has not yet been irrevocably implemented.

Stage 2: If the Board is dissatisfied with the response of the decision maker, it will seek the advice of the Director of EPF (unless the Director was the original decision maker).

Stage 3: Where the decision-maker in question is the Director of EPF or the Board remains dissatisfied with the response or resolution from the Director of EPF it will seek the advice of the National Local Government Pension Scheme Advisory Board (and shall inform Essex County Council's section 151 Officer that it has done so).

(G) The Board will adopt a policy statement on reporting breaches identified under (F).

(H) At the invitation of the PSB, the Board may also undertake other tasks, including (but not limited to):

- assisting the PSB by reviewing aspects of the performance of the EPF– for example by reviewing the risk management arrangements within EPF (although the PSB will remain accountable for risk management);
- reviewing administration standards or performance or review efficacy of scheme member and employer communications;
- reviewing published policies to ensure they remain fit for purpose and are complete;
- reviewing EPF annual reports;
- consider producing a Board annual report in accordance with requirements, guidance and general accountability to stakeholders;
- being part of any consultation process with the purpose of adding value to that process based on, for example, their representation of employers and scheme members;
- discussing strategic matters such as communications where requested by the PSB.

(I) Appointing Observers to attend meetings of the PSB and the ISC.

### **3. Appointment and membership of the Board**

- (A) The Board shall consist of nine members and be constituted as follows:
- (i) four employer representatives made up of one from each of the following groups of employers in the EPF:
    - 1. Essex County Council (an elected member)
    - 2. the District, City and Borough Councils of Essex (an elected member)
    - 3. Southend on Sea and Thurrock Unitary Authorities (an elected member)
    - 4. all other employers
  - (ii) four scheme member representatives of which one will be nominated by the trade unions and the rest drawn from the total scheme membership (active, deferred and pensioner members)
  - (iii) one independent Chairman;
- (B) Employer and scheme member representatives will be appointed through a clear and transparent process as determined by the PSB. The Independent Chairman will be appointed by the PSB.
- (C) Where any employer, other than Essex County Council, has a representative on the PSB, that employer will not be permitted to also have a representative on the Board.
- (D) No officer of Essex County Council who is either responsible for discharging any function in relation to the LGPS regulations or has delegated decision-making authority in relation to LGPS matters may be a member of the Board.
- (E) No member of the PSB may be appointed to the Board.
- (F) The Board shall appoint a Vice Chairman annually from amongst its members at the first meeting of the Board after each annual meeting of the Council.

### **4. Meetings of the Board**

- (A) The Board shall have a quorum of 3 including the Chairman, 1 employer representative and 1 scheme member representative.
- (B) Substitutes will not be permitted.
- (C) Meetings will normally be held at the offices in County Hall and will be held in public
- (D) All Board Members will be entitled to vote unless otherwise stated in the LGPS Regulations.
- (E) In the event of an equal number of votes being cast for or against a proposal there shall be no casting vote but the proposal shall be considered to have been rejected.

- (F) The PSB may appoint observers who will normally be entitled to speak on any item at a meeting of the Board.

## **5. Standards and Conflicts of Interest**

- (A) The Board shall adopt a policy for identifying conflicts of interest.
- (B) Members of the Board must provide the Scheme Manager with such information as it requires to ensure that any member of the Board or person to be appointed to the Board does not have a conflict of interest.
- (C) The Board will comply with the EPF training policy and training opportunities will as far as possible be shared with the PSB and ISC.
- (D) The Board will, after consulting the Scheme Manager's Monitoring Officer, adopt a code of conduct by which all members will be required to abide.

## **6. Review**

- (A) The Board will undertake an annual review process to assess its performance with a view to seeking continuous improvement in the Board's performance. The first review will take place no later than 1 October 2016.
- (B) The Board will commence a review of its efficacy after the first 18 months to determine whether it is meeting the needs of EPF's stakeholders and in time for any changes to be made in May 2017.

## **7. Publication of Board information**

Information will be posted on the EPF website ([www.essexpensionfund.co.uk](http://www.essexpensionfund.co.uk))

## **Extract from LGPS Local Pension Board guidance**

### **“6. Board Knowledge and Understanding**

#### **Legal requirements**

6.1 In accordance with section 248A of the 2004 Act, every individual who is a member of a Local Pension Board must:

6.1.1 be conversant with:

6.1.1.1 the rules of the LGPS, in other words the Regulations and other regulations governing the LGPS (including the Transitional Regulations, earlier regulations and the Investment Regulations); and

6.1.1.2 any document recording policy about the administration of the Fund which is for the time being adopted in relation to the Fund, and

6.1.2 have knowledge and understanding of:

6.1.2.1 the law relating to pensions; and

6.1.2.2 such other matters as may be prescribed.

6.2 A Local Pension Board member should be aware that their legal responsibilities begin from the date they take up their role on the Board and so should immediately start to familiarise themselves with the documents as referred to in paragraph 6.1.1 and the law relating to pensions.

6.3 In accordance with section 248A, the knowledge and understanding requirement applies to every individual member of a Local Pension Board rather than to the members of a Local Pension Board as a collective group.

#### **General Principles**

6.4 Administering Authorities should also take account of this Guidance to support them in understanding the requirement and to enable them to help members of the Local Pension Board to meet their knowledge and understanding obligations.

6.5 Administering Authorities should make appropriate training available to Local Pension Board members to assist them in undertaking their role and where possible support all members of the Board in undertaking that training. Where Local Pension Board members do not demonstrate their capacity to attend and complete training then the Administering Authority may need to consider

whether that Local Pension Board member has the capacity to undertake their role on the Board. See paragraph 5.31.7 for further information.

- 6.6 Knowledge and understanding must be considered in light of the role of a Local Pension Board to assist the Administering Authority in line with the requirements set out at paragraph 3.27.
- 6.7 However, members of a Local Pension Board clearly need to understand the duties and obligations of the Administering Authority, including funding and investment matters, in order to be able to assist it.
- 6.8 Once created, a Local Pension Board should establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to its members. Where the Pensions Committee has an existing knowledge and understanding policy already in place, it may be sensible to see if this could be incorporated to cover both the Pensions Committee and the Local Pension Board to avoid unnecessary duplication. However the knowledge and understanding requirements of a Local Pension Board and a Pension Committee may differ, especially given the former's statutory requirements.
- 6.9 The Local Pension Board may wish to designate a person to take responsibility for ensuring that the knowledge and understanding framework is developed and implemented. This could be a member of the Local Pension Board or an external person, for example an officer of the Administering Authority or a professional adviser.

### **Knowledge and Understanding for Pension Committee Members**

- 6.10 The legal requirement for knowledge and understanding for members of a Local Pension Board does not apply to members of a Pension Committee. However, the requirement serves as a useful benchmark for the knowledge and understanding that a member of a decision-making Pension Committee should have.

### **The Regulator's Code of Practice**

- 6.11 The issue of knowledge and understanding is dealt with in the Regulator's Code of Practice (see paragraphs 34 to 60 of the Code of Practice). This Guidance is intended to reflect the principles of the Code of Practice and apply them in a LGPS context.

### **Degree of Knowledge and Understanding**

- 6.12 Being conversant with the rules of the LGPS and any document recording policy about the administration of the Fund means having a working knowledge (i.e. a sufficient level of familiarity) of them so that members of a Local Pension Board can use them effectively when carrying out their role of assisting the Administering Authority.

- 6.13 In particular members of a Local Pension Board should understand the rules and documents in enough detail to know where they are relevant to an issue and where a particular provision or policy may apply.
- 6.14 In order to assist the Administering Authority, it is implicit that members of a Local Pension Board understand the duties and obligations that apply to the Administering Authority as well as to themselves.
- 6.15 The rules of the LGPS would include:
- 6.15.1 the Regulations;
  - 6.15.2 the Investment Regulations; and
  - 6.15.3 the Transitional Regulations (including any earlier Regulations as defined in the Transitional Regulations to the extent they remain applicable),
- and any statutory guidance referred to in these regulations.
- 6.16 A Local Pension Board should prepare and keep updated a list of the core documents recording policy about the administration of the Fund and make sure that the list and documents (as well as the rules of the LGPS) are accessible to its members.
- 6.17 Part 1 of Schedule B of this Guidance contains a list of documents which are likely to be regarded as recording policy about the administration of a Fund. This list should not be relied upon as being definitive and actual lists are likely to vary from Fund to Fund. This Schedule has been added to this guidance to assist Administering Authorities and Local Pension Boards to quickly identify documents which record policy about the administration of a Fund.
- 6.18 Members of a Local Pension Board should also be aware of the range and extent of overriding law which applies to the LGPS and have sufficient knowledge and understanding of the content and effect of that law to recognise when and how it impacts on their role, responsibilities and duties.
- 6.19 Part 2 of Schedule B of this Guidance contains a summary of some of the key areas of law relating to pensions generally and the LGPS in particular. This summary should not be relied upon as being a definitive list of all the areas of law that members of a Local Pension Board need to know about and understand. This Schedule been added to this guidance to assist Administering Authorities and Local Pension Boards to quickly identify key areas of law that may be relevant.
- 6.20 Given the role of the Local Pension Board to assist the Administering Authority, members of a Local Pension Board should have sufficient knowledge and understanding to challenge any failure by the Administering Authority to comply with the Regulations and other legislation relating to the governance and administration of the LGPS (which should be interpreted as including the

Regulations and other legislation relating to investment and funding matters) and/or any failure to meet the standards and expectations set out the Code of Practice.

- 6.21 Members of a Local Pension Board should have a breadth of knowledge and understanding that is sufficient to allow them to understand fully any professional advice the Local Pension Board is given. Members should be able to challenge any information or advice they are given and understand how that information or advice impacts on any decision relating to the Local Pension Board's duty to assist the Administering Authority.

### **Acquiring, Reviewing and Updating Knowledge and Understanding**

- 6.22 A Local Pension Board's knowledge and understanding policy and framework should provide for the acquisition and retention of knowledge and understanding for its members.
- 6.23 Members of the Local Pension Board should commit sufficient time in their learning and development alongside their other duties. Training is an important part of the individual's role and will help to ensure that they have the necessary knowledge and understanding to effectively meet their legal obligations to assist the Administering Authority.
- 6.24 Members of the Local Pension Board must be aware that their knowledge and understanding responsibilities technically begin from the date they take up their post. Therefore, members should immediately start to familiarise themselves with the Regulations, key Fund documents and relevant pensions law.
- 6.25 The Administering Authority should offer high quality induction training and should provide relevant ongoing training for Board members. This could be included in the normal training programme for members of the Pensions Committee as well as a specific training programme for the Local Pension Board.
- 6.26 It may also be useful for the Local Pension Board to have shared training events with the Pensions Committee and/ or Pension Committees and Local Pension Boards from other Funds to share knowledge and experience.
- 6.27 There must be a practical recognition that it will take a newly appointed member a reasonable period to attain the required full level of knowledge and understanding (see paragraph 6.1). Consideration should also be given to permitting newly appointed Local Pension Board members to overlap with the outgoing member to allow them to shadow that Board member for at least one Board meeting (where possible) as well as providing them with high quality induction training.
- 6.28 A Local Pension Board's knowledge and understanding policy and framework should require its members to undertake a personal training needs analysis and

regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

- 6.29 Part 2 of Schedule B contains examples of areas of knowledge and understanding that a member of a Local Pension Board might be expected to have. These examples may assist a Board member in undertaking a personal training needs analysis.
- 6.30 A personalised training plan should then be used to document and address these promptly. This would be supported by any person the Local Pension Board has designated to implement the knowledge and understanding policy and framework.
- 6.31 Learning programmes should be flexible; allowing members of the Local Pension Board to update particular areas of learning where required and acquire new areas of knowledge in the event of any change. For example, members of the Local Pension Board who take on new responsibilities in their role will need to have knowledge and understanding which is relevant to carry out those new responsibilities.
- 6.32 Learning programmes should deliver the appropriate level of detail to ensure that Local Pension Board members have the required level of knowledge and understanding specific to the LGPS.
- 6.33 The Regulator will be providing an e-learning programme which has been developed to meet the needs of all members of public sector scheme pension boards, whether or not they have access to other learning. It is not anticipated that this e-learning module alone would provide the sufficient level of LGPS specific training required for Local Pension Board members.
- 6.34 Members of a Local Pension Board and the Administering Authority should investigate what other third party learning tools and courses are available both for initial training requirements and any ongoing training needs identified for members of the Local Pension Board. Administering Authorities and Local Pension Boards should contact relevant advisors to identify any training resources being made available. For example the LGPC Secretariat will be providing training events for Local Pension Board members with details available from their website.
- 6.35 Once a Local Pension Board is in operation and new appointments are made in the future, mentoring by existing members could also be considered. This could also help to ensure that historical and scheme specific knowledge is retained when members of a Local Pension Board change.

### **Demonstrating Knowledge and Understanding**

- 6.36 The Local Pension Board should keep appropriate records of the learning activities of individual members and the Local Pension Board as a whole. This will assist members in demonstrating their compliance, if necessary, with the

legal requirement and how they have mitigated risks associated with knowledge gaps. For example a good external learning programme will maintain records of the learning activities of individuals on the programme or of group activities, if these have taken place, which can be provided to the Local Pension Board.

**Action Points:**

- Once established a Local Pension Board should adopt a knowledge and understanding policy and framework (possibly in conjunction with the Pensions Committee if appropriate).
- A Local Pension Board should designate a person to take responsibility for ensuring that the knowledge and understanding policy and framework is developed and implemented.
- The Administering Authority should offer access to high quality induction training and provide relevant ongoing training to the appointed members of the Local Pension Board.
- A Local Pension Board should prepare (and keep updated) a list of the core documents recording policy about the administration of the Fund and make the list and documents (as well as the rules of the LGPS) accessible to its members.
- Members of a Local Pension Board should undertake a personal training needs analysis and put in place a personalised training plan.”

## **Further information and contacts**

### **Local Government Pension Scheme Advisory Board**

The Local Government Pension Scheme Advisory Board is a body set up under [Section 7 of the Public Service Pensions Act 2013](#) and [The Local Government Pension Scheme Regulations 2013](#).

The purpose of the Board is to be both reactive and proactive. It seeks to encourage best practice, increase transparency and coordinate technical and standards issues.

On 1<sup>st</sup> April 2015, the Scheme Advisory Board was established as a statutory body, and the formal membership was confirmed early in 2016 with non-voting members and advisors added in the summer of the same year. Further information can be found <https://www.lgpsboard.org/index.php>

### **The Pensions Regulator**

All public service pension schemes, including the Local Government Pension Scheme, are overseen by the Pensions Regulator. They have issued a **code of practice** which provides scheme managers and pension board members with a summary of their key governance and administration duties, standards of conduct and practice expected in relation to those duties, and practical guidance on how they can comply.

The **code of practice** can be found at <http://www.tpr.gov.uk/code14>

The Pensions Regulator has also created a free **e-learning programme** aimed at those running public service schemes, which is linked to the code of practice. You can sign up at <https://education.thepensionsregulator.gov.uk/login/signup.php>

### **Queries**

Queries about the establishment of a Local Pensions Board for the Essex Pension Fund should be sent by email to: [pensionenquiries@essex.gov.uk](mailto:pensionenquiries@essex.gov.uk)