

LOCAL PENSION BOARD OF MIDDLESBROUGH COUNCIL

TERMS OF REFERENCE

Introduction

1. This document sets out the terms of reference of the Local Pension Board of Middlesbrough Council (the 'Administering Authority') a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Teesside Pension Board (hereafter referred to as 'the Board') is established in accordance with Section 5 of that Act and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).
2. The Board is established by the Administering Authority and operates independently of the Committee. Relevant information about its creation and operation are contained in these Terms of Reference.
3. The Board is not a committee constituted under Section 101 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly included in this document.
4. Except where approval has been granted under regulation 106(2) of the Regulations the Board shall be constituted separately from any committee or sub-committee constituted under Section 101 of the Local Government Act 1972 with delegated authority to execute the function of the Administering Authority.

Interpretation

5. The following terms have the meanings as outlined below:

'the Act'	The Public Service Pensions Act 2013.
'Administering Authority'	means Middlesbrough Borough Council as administrator of the Teesside Pension Fund.
'the Board Secretary'	refers to the Officer considered most appropriate by the Administering Authority.
'Chief Finance Officer'	means under Section 151 of the Local Government Act 1972 an officer the Administering Authority is required to have who has a statutory responsibility to ensure the proper arrangement of the authorities financial affairs.

'the Code'	means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes.
'the Committee'	means the committee who has delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972.
'the Fund'	means the Fund managed and administered by the Administering Authority.
'the Guidance'	means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board.
'Monitoring Officer'	means the officer of the Administering Authority as required under section 5 of the Local Government and Housing Act 1989 as amended by schedule 5 para 24 of the Local Government Act 2000.
'the Regulations'	means the Local Government Pension Scheme Regulations 2013 (as amended from time to time), the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time) including any earlier regulations as defined in these regulations to the extent they remain applicable and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time).
'Relevant legislation'	means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to the Administering Authority and the Board notwithstanding that the Codes of Practice are not legislation.
'the Scheme'	means the Local Government Pension Scheme in England and Wales.
'Scheme Manager'	means Middlesbrough Borough Council as Administering Authority of the Teesside Pension Fund from whom delegated powers have been provided to the Chief Finance Officer, employed by Middlesbrough Borough Council as the lead responsible officer for the Teesside Pension Fund.

Statement of purpose

6. The purpose of the Board is to assist the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:
 - (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme; and
 - (b) to ensure the effective and efficient governance and administration of the Scheme.

Duties of the Board

7. The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of this duty Board members should be subject to and abide by the code of conduct for Board members. The Board will adopt Middlesbrough Borough Council's code of conduct for this purpose.

Establishment

8. The Board is established on 1st April 2015, as approved by Middlesbrough Borough Council on 1st April 2015.

Membership

9. The Board shall consist of six voting members, as follows:
 - (a) Three Employer Representatives; and
 - (b) Three Member Representatives.
10. There shall be an equal number of Member and Employer Representatives.

Employer representatives

11. Employer representatives shall be elected members of the district council scheme employers of the Fund. No elected member of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board.
12. Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.
13. Substitutes shall not be appointed.
14. A total of three employer representatives shall be appointed to the Board from the following sources:
 - (a) In the first year of the board
 - i. One employer representatives shall be appointed by the Administering Authority.

- ii. One employer representative shall be appointed from the Councils of Hartlepool, Redcar and Cleveland, and Stockton-on-Tees.
- iii. One employer representative shall be chosen from all of the other scheme employers of the Teesside Pension Fund.

(b) Thereafter

- i. Two employer representatives shall be appointed from the Councils of Hartlepool, Middlesbrough, Redcar and Cleveland, and Stockton-on-Tees.
- ii. One employer representative shall be chosen from all of the other scheme employers of the Teesside Pension Fund.

Member representatives

- 15. Member representatives shall either be scheme members or have capacity to represent scheme members of the Fund.
- 16. Member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.
- 17. Substitutes shall not be appointed.
- 18. A total of three member representatives shall be appointed from the following sources:
 - (a) Two member representatives shall be appointed from the recognised trade unions representing employees who are scheme members of the Fund.
 - (b) One member representative shall be appointed from the pensioner members of the Fund
- 19. The member representatives shall represent *all* active, deferred and pensioner members irrespective of the trades unions affiliation, or lack of it.

Other members

- 20. Other members may be appointed to the Board by the agreement of both the Administering Authority and the Board.
- 21. Other members do not have voting rights on the Board.

Appointments

- 22. Subject to meeting the arrangements in paragraphs 35 to 36 below a Chair, Deputy Chair and other Board members shall be appointed for the Board.
 - (a) Initially, the Chair of the Pension Board will be appointed by the Scheme Manager. The Deputy Chair will be appointed from the scheme membership representatives by the Chair of the Pension Board and the Scheme Manager.
 - (b) The other Local Board Members will be appointed by the Chair and Deputy Chair of the Board, subject to meeting the arrangements in paragraphs 14 and 18.

- (c) The role of Chair will be rotated on an annual basis with the Deputy Chair. Each of the posts will be held by one employer representative and one scheme member representative.
- (d) After the first year and subject to meeting the arrangements in paragraph 22(c) above, the Chair and Deputy Chair will be appointed by the employer and member representatives of the Board from amongst their own number.

Duties of chair

23. The Chair of the Board:

- (a) Shall ensure the Board delivers its purpose as set out in these Terms of Reference,
- (b) Shall ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered, and
- (c) Shall seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached.

Notification of appointments

24. When appointments to the Board have been made the Administering Authority shall publish the name of Board members on Middlesbrough Council's website, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

Terms of Office

- 25. The term of office as a member of the Board is three years. The role of Chair and Deputy Chair shall rotate on an annual basis outlined in 22(c) above.
- 26. Extensions to terms of office may be made by the Administering Authority with the agreement of the Board.
- 27. A Board member may be appointed for further terms of office using the methods set out in paragraphs 14 and 18.
- 28. Board membership may be terminated prior to the end of the term of office due to:
 - (a) A member representative appointed on the basis of their membership of the scheme no longer being a scheme member in the Fund¹.
 - (b) A member representative no longer being a scheme member or a representative of the body on which their appointment relied.
 - (c) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.

¹ This includes active, deferred and pensioner members.

- (d) A Board member no longer being able to demonstrate to the administering authority their capacity to attend and prepare for meetings or to participate in required training.
- (e) The representative being withdrawn by the nominating body and a replacement identified.
- (f) A Board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.
- (g) A Board member who is an elected member becomes a member of the Committee.
- (h) A Board member who is an officer of the Administering Authority becomes responsible for the discharge of any function of the Administering Authority under the Regulations.

Conflicts of interest

- 29. All members of the Board must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.
- 30. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.
- 31. On appointment to the Board and following any subsequent declaration of potential conflict by a Board member, the Administering Authority shall ensure that any potential conflict is effectively managed in line with both the internal procedures of the Board's conflicts policy and the requirements of the Code.

Knowledge and understanding (including Training)

- 32. Knowledge and understanding must be considered in light of the role of the Board to assist the Administering Authority in line with the requirements outlined in paragraph 6 above. The Board shall establish and maintain a Knowledge and Understanding Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.
- 33. Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's Knowledge and Understanding Policy and Framework.
- 34. Board members shall adhere to the Training and Knowledge Policy document agreed by the Board and amended as necessary.

Meetings

- 35. The Board shall as a minimum meet two times each year.

36. The Chair of the Board with the consent of the Board membership may call additional meetings.

Quorum

37. A meeting is only quorate when at least 1 board member representing each member and employer side is present.
38. A meeting that becomes inquorate will be rearranged at a time and date that will ensure sufficient members to allow it to be quorate.

Decision making and voting

39. It is expected that the Board will act collectively to reach a consensus.
40. Should it be required that a matter should be put to a vote, each Board member will have an individual voting right on any matter to be decided. A motion is passed at a meeting of the Board if a majority of voting members are in favour of the motion.
41. A voting member of the Board is not permitted to appoint another voting member as their proxy.
42. The Chair will have a second or casting vote in the case of equality of votes.
43. The results of any voting outcomes will be reported in the Board minutes via reference to the number split of the vote.

Board administration

44. The Chair shall agree with the Board Secretary an agenda prior to each Board meeting.
45. The agenda and supporting papers will be issued at least five working days (where practicable) in advance of the meeting except in the case of matters of urgency.
46. Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board Members within fifteen working days after the meeting and subject to formal agreement by the Board at their next meeting. Any decisions made by the Board should be noted in the minutes.
47. The minutes may with the agreement of the Board, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.
48. The Board Secretary shall ensure that Board members meet and maintain the knowledge and understanding as determined in the Board's Knowledge and Understanding Policy and Framework and other guidance or legislation.
49. The Board Secretary shall arrange such advice as is required by the Board subject to such conditions as are listed in these Terms of Reference for the use of the budget set for the Board.

50. The Board Secretary shall ensure an attendance record is maintained along with advising the Administering Authority on allowances and expenses to be paid under these terms.
51. The Board Secretary shall liaise with the Administering Authority on the requirements of the Board, including advanced notice for officers to attend and arranging dates and times of Board meetings.

Public access to Board meetings and information

52. The Board meetings can be open to the general public (unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public).
53. The following will be entitled to attend Board meetings in an observer capacity:
 - (a) Members of the Committee,
 - (b) Any person requested to attend by the Board.
54. Any such attendees will be permitted to speak at the discretion of the Chair.
55. In accordance with the Act the Administering Authority shall publish on the Middlesbrough Borough Council website information about the Board to include:
 - (a) The names of Board members and their contact details.
 - (b) The representation of employers and members on the Board.
 - (c) These Terms of Reference.
56. The Administering Authority shall also publish on the Middlesbrough Borough Council website other information about the Board including:
 - (a) Agendas and minutes
 - (b) Training and attendance logs
 - (c) An annual report on the work of the Board to be included in the Fund's own annual report.
57. All or some of this information may be published using the following means or other means as considered appropriate from time to time:
 - (a) On the Middlesbrough Borough Council website.
 - (b) On the Teesside Pension Fund website.
 - (c) As part of the Fund's Annual Report.
 - (d) As part of the Governance Compliance Statement.
58. Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

Expenses and allowances

59. The Administering Authority shall meet the expenses of Board members in line with a scheme as considered by the Scheme Manager to be appropriate for the particular needs of the board.

Budget

60. The Board is to be provided with adequate resources to fulfil its role. In doing so the budget for the Board will be met from the Fund and the Board will seek approval from the Chief Finance Officer for any expenditure it wishes to make.

Core functions

61. The first core function of the Board is to assist the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- (a) Review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code.
- (b) Review the compliance of scheme employers with their duties under the Regulations and relevant legislation.
- (c) Monitor complaints and performance on the administration and governance of the scheme.
- (d) Review the arrangements for the training of Board members.
- (e) Review the complete and proper exercise of employer and administering authority discretions.
- (f) Review the compliance of particular cases, projects or process on request of the Committee.

62. The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- (a) Assist with the development of improved customer services.
- (b) Monitor performance of administration, against key performance targets and indicators.
- (c) Review the risk register as it relates to the Scheme Manager function of the authority.
- (d) Assist in the development and monitoring of process improvements on request of Committee.

63. In support of its core functions the Board may make a request for information to the Scheme Manager with regard to any aspect of the Administering

Authority's function. Any such request should be reasonably complied with in both scope and timing.

64. In support of its core functions the Board may make recommendations to the Scheme Manager which should be considered and a response made to the Board on the outcome within a reasonable period of time.

Scheme Manager Consents

65. The Teesside Pension Board shall not:

- (a) Question what investments decisions have or have not been made by the Administering Authority or its Boards, for the avoidance of doubt these shall include but not be limited to financial investment decisions and property related investment decisions.
- (b) Amend or question the statements, strategies and reports prepared in compliance with Sections 57 to 61 of the LGPS Regulations.
- (c) Consider or become involved in any internal dispute resolution appeals or the process itself.
- (d) Enter into contracts on behalf of the Administering Authority.
- (e) Dismiss any members of the Administering Authority.
- (f) Use the Teesside Pension Board to act on behalf of a particular constituency or Pension Fund member in general or in relation to a specific complaint at any time.
- (g) Compromise the Administering Authority's ability to comply with its fiduciary duty to the Pension Fund and its members.

66. The Teesside Pension Board must seek written consent from the Scheme Manager before it:

- (a) instructs the Pension Fund actuary to provide a report of any kind;
- (b) requests any external advisor to attend a meeting of the Teesside Pension Board which shall require any remuneration of any level;
- (c) incurs a cost to the Pension Fund;
- (d) can amend this constitution.

Reporting

67. The Board should in the first instance report its requests, recommendations or concerns to the Committee via an official committee report. In support of this any member of the Board may attend a Committee meeting as an observer.

68. Requests and recommendations should be reported under the provisions of paragraphs 63 and 64 above.

69. The Board should report any concerns over a decision made by the Committee or the Scheme Manager to the Committee subject to the agreement of the majority of Members present.

70. On receipt of a report under paragraph 67 above the Committee should, within a reasonable period, consider and respond to the Board.

71. Where the Board is not satisfied with the response received it may request that a notice of its concern be placed in the Board's minutes and in the Fund's annual report.
72. Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee under paragraph 67 and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.
73. The appropriate internal route for escalation is to the Monitoring Officer and/or the Chief Finance Officer (as appropriate).
74. The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.
75. Board members are also subject to the requirements to report breaches of law under the Act and the Code [and the whistleblowing provisions set out in the Administering Authority's whistle blowing policy].

Review of terms of reference

76. These Terms of Reference shall be reviewed on each material change to those parts of the Regulations covering local pension boards and at least every three years.
77. These Terms of Reference are adopted on 28 July 2015.

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