

# **NORFOLK PENSION FUND PENSIONS OVERSIGHT BOARD TERMS OF REFERENCE & DELEGATED AUTHORITIES**

## **1) Introduction**

This document sets out the terms of reference for the Local Pension Board of the Norfolk Pension Fund (“NPF”) as required under the Local Government Pension Scheme Regulations 2013 (“the Regulations”).

The NPF is maintained and administered by Norfolk County Council (“the Council”) in its capacity as the ‘administering authority’ for the purposes of the Regulations and the ‘scheme manager’ for the purposes of section 4 of the Public Service Pensions Act 2013 (“PSPA13”) and the Council is referred to in these terms of reference as “the Administering Authority” when acting in those capacities.

The Local Pension Board for the NPF will be called the ‘Norfolk Pension Fund Pensions Oversight Board’ and known colloquially as the ‘Pensions Oversight Board’. The Pensions Oversight Board is not a committee of the Council but will in its functions and actions assist the Administering Authority and its Pension Committee in its administration management, decision making and governance.

The Pensions Oversight Board is established by the Administering Authority and will operate independently of the Pension Committee as set up by the Council under the powers of section 101 of the Local Government Act 1972. 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 Council apply to the Pensions Oversight Board unless expressly included in this document.

## **2) Role of the Pensions Oversight Board**

The role of the Pensions Oversight Board (as defined by Regulation 106 of the Regulations), is to:

- Assist the Administering Authority to secure compliance with:
  - the Regulations and any other legislation relating to the governance and administration of the Local Government Pension Scheme (‘LGPS’);
  - requirements imposed in relation to the LGPS by the Pensions Regulator (tPR); and
  - such other matters as the LGPS regulations may specify.
- Assist the Administering Authority to ensure the effective and efficient governance and administration of the NPF;
- Provide the Administering Authority with such information as it requires ensuring that any member of the Pensions Oversight Board or person to be appointed to the Pensions Oversight Board does not have a conflict of interest.

The Pensions Oversight Board will also help ensure that the NPF is managed and administered effectively and efficiently and complies with the Code of Practice (“the Code”) on the governance and administration of public service pension schemes issued by tPR.

The creation of the Pensions Oversight Board does not change the core role of the Administering Authority nor the way it delegates its pension functions to the Pensions Committee. The Pensions Oversight Board does not replace the Administering Authority nor make decisions which are the responsibility of the Administering Authority under both the Regulations and other relevant legislation.

The Pensions Oversight Board will only have the power to oversee decisions made by the Administering Authority and to make recommendations to improve the efficient and effective administration and governance of the pensions function, including funding and investments. The Administering Authority will however reasonably facilitate the discharge of the Pensions Oversight Board’s functions.

The Pensions Oversight Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively.

### **3) Appointment of members of the Pensions Oversight Board**

The Pensions Oversight Board shall consist of 7 members and be constituted as follows:

- 3 employer representatives (with voting rights) made up from the following groups of employers in the NPF:
  - 1 from the Council;
  - 2 from the other employers including District Councils, Borough Councils, Police, Fire, Parish and Town Councils, Academies, Colleges and Admitted Bodies.

The employer representatives may be elected members or officers of the authorities mentioned (except the Council).

- 3 scheme member representatives (with voting rights) of which 1 will be nominated by the trade unions and the rest drawn from the total NPF membership (actives, deferreds and pensioners);
- 1 independent Chairman (with no voting rights).

The Board may appoint a Vice Chairman from its membership (with no voting rights when in the Chair).

No substitutes will be permitted.

Employer and scheme member representatives will be appointed through an open and transparent process but the appointment mechanism will be dealt with separately as determined by the Administering Authority. The independent

Chairman will be appointed by the Administering Authority subject to ratification by the Pensions Board.

Each member of the Pensions Oversight Board will be responsible for the oversight of the overall effective and efficient governance and administration of the NPF and will not act solely in the interest of the constituent group (s)he is representing.

No officer of the Administering Authority who is either responsible for discharging any function in relation to the Regulations or has delegated decision making authority in relation to LGPS matters may be a member of the Pensions Oversight Board.

No member of the Pensions Oversight Board will be a member of the Pensions Committee. All members of the Pensions Oversight Board may attend the meetings of the Pensions Committee. However, the Pensions Oversight Board will appoint 1 representative as official observer to the Pensions Committee. The observer may be appointed by rotation at the discretion of the Pensions Oversight Board and will be required to report back to the Pensions Oversight Board.

#### **4) Quorum**

The Pensions Oversight Board shall have a formal quorum of 3 which will require the Chairman, 1 employer representative and 1 scheme member representative to be present.

#### **5) Conflicts of Interest**

A policy for identifying conflicts of interest for the Pensions Oversight Board shall be set out in a separate policy document.

#### **6) Pensions Oversight Board Review Process**

The Pensions Oversight Board will undertake each year a formal review process to assess how well it and its members are performing with a view to seeking continuous improvement in the Pensions Oversight Board's performance. The first review will take place no later than 1 October 2016.

#### **7) Knowledge and Skills**

Pensions Oversight Board members will comply with the NPF training policy, and training opportunities will as far as possible be shared with the Pensions Committee.

Each member of the Pensions Oversight Board will be responsible for complying with the knowledge and understanding requirements of section 248A of the Pensions Act 2004.

## **8) Pensions Oversight Board Meetings**

Meetings will be held during working hours at offices of the Administering Authority as notified prior to each meeting.

The Administering Authority shall give reasonable notice to all Pensions Oversight Board members of every meeting of the Pensions Oversight Board. The Administering Authority shall ensure that a formal record of Pensions Oversight Board proceedings is maintained. Following the approval of the minutes by the Chairman of the Pensions Oversight Board, they shall be circulated to all members of the Pensions Oversight Board for agreement at the next meeting.

There will be at least 2 Pensions Oversight Board meetings a year.

## **9) Remit of the Pensions Oversight Board**

The Pensions Oversight Board must assist the Administering Authority with such other matters as the Regulations may specify. It is for Regulations and the Administering Authority to determine precisely what the Pensions Oversight Board's role entails.

The Pensions Oversight Board will:

- be a 'critical friend' to the Pensions Committee;
- assist the Pensions Committee (in accordance with the Regulations) in meeting the NPF's compliance requirements with legislation, regulations, guidance and the Code;
- provide oversight of decisions made by the Pensions Committee to ensure that due process has been followed.

The Pensions Oversight Board will report any concerns over a decision made by the Pensions Committee or any officer with the relevant delegated authority. The concern will in the first place be reported to the relevant party in relation to that decision, where at least 2 of the employer representatives and at least 2 of the scheme member representatives believe that one or more of the following has happened:

- 1 Under the Council's Scheme of Delegation, the Pensions Committee or officer did not have the power to make the decision in question;
- 2 The decision was in breach of legislation and/or the Regulations;
- 3 The decision maker(s) did not follow professional advice given (or didn't take professional advice) and it is believed that this could result in a materially bad outcome for the NPF;

- 4 The approach to making the decision did not follow one or more of the following principles:
  - The decision-maker(s) did not ask themselves the right questions;
  - The decision-maker(s) did not direct themselves correctly in law; in particular did not adopt a correct interpretation of the legislation and regulations relevant to the NPF;
  - The decision-maker(s) did not take into account all relevant facts and disregard any irrelevant facts;
  - The decision-maker(s) arrived at a perverse decision (i.e. a decision to which no reasonable body of decision-makers would have reached).
- 5 A new material factor has come to light that had it been known at the time of the decision, might have resulted in a different outcome provided that the original decision has not yet been irrevocably implemented.

If the Pensions Oversight Board is dissatisfied with the response or resolution to the concern raised, it will seek the advice of the Director of NPF. Where the decision-maker in question is the Director of NPF or the Pensions Oversight Board remains dissatisfied with the response or resolution from the Director of NPF, the concern will be escalated within the Administering Authority as far as possible before seeking the advice of the Scheme Advisory Board.

Pensions Committee may invite the Pensions Oversight Board to reduce Pensions Committee's workload and allow / enable Pensions Committee to focus on strategic issues and decision making at the discretion of the Pensions Committee.

This may include (but is not limited to) by asking the Pensions Oversight Board to look at:

- the risk management process e.g. detailed review of risks and detailed review of the risk register whilst noting that the Pensions Committee remains responsible for the identification and management of those risks;
- review administration standards to ensure fit-for-purpose, review administration performance and review efficacy of scheme member and employer communications;
- review published policies to ensure they remain fit for purpose and are complete;
- review NPF annual reports;
- be considered an integral 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;
- discuss strategic matters such as communications where requested by the Pensions Committee.

## **10) Standards of Conduct**

The Pensions Oversight Board shall have a code of conduct to which all members will abide.

The role of Pensions Oversight Board members requires the highest standards of conduct and therefore the “seven principles of public life<sup>1</sup>” will be applied to all Pensions Oversight Board members and embodied in their code of conduct.

These are:

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty;
- Leadership.

## **11) Decision making**

Pensions Oversight Board members’ entitlement to vote will be as stated at paragraph 2 (Role of the Pensions Oversight Board) and in accordance with the Regulations.

Each employer and member representative of the Pensions Oversight Board will have an individual voting right but it is expected the Pensions Oversight Board will as far as possible reach a consensus.

If consensus is not reached in respect of any business requiring a decision, the Administering Authority will be informed of the business discussed and the differing views expressed by the Pensions Oversight Board and decide on the action (if any) to be taken. This will then be communicated to the Pensions Oversight Board as soon as is reasonably practical for their consideration.

## **12) Publication of Pensions Oversight Board information**

Information in accordance with LGPS legislation and Regulations will be posted on the NPF website ([www.norfolkpensionfund.org](http://www.norfolkpensionfund.org)).

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<sup>1</sup> Standards Matter: a review of best practice in promoting good behaviour in public life”, Committee on Standards in Public Life, January 2013

### **13) Reporting Breaches**

The Pensions Oversight Board shall have a policy statement on reporting breaches in line with the Code. The Director of NPF should be consulted to obtain clarification on whether a breach has occurred, to determine the facts, to establish materiality and to deal with difficult cases. Serious breaches must be reported to tPR promptly, taking the advice of the Director of NPF as appropriate. All breaches, even if they're not reported to tPR should be recorded, for example to establish if there is any pattern. TPR should be alerted directly to events involving theft, suspected fraud or other serious offences if discussion would otherwise alert those implicated or impede the actions of the police or a regulatory authority.

### **14) Budget**

The Pensions Oversight Board will have access to a budget for seeking professional advice, training for members, accommodation costs or meeting the costs of any claim for expenses. If additional finance is required, agreement, which will not reasonably be withheld, will be sought from the Director of NPF before incurring additional expenditure.

### **15) Board Support**

The Pensions Oversight Board will be supported in its role and responsibilities by the NPF officers and may finalise a business plan that the Administering Authority will be responsible for ensuring complies with the Regulations and which is achievable in agreement with the Director of NPF and the Chair of Pensions Committee.

The Pensions Oversight Board, with the agreement, of the Chair of Pensions Committee and the Director of NPF, may from time to time co-opt membership for the sole purpose of supplementing their experience and / or knowledge and skills (this could include co-option to working groups of sub committees). Co-opted members will have no voting rights.

The Pensions Oversight Board will have full and unrestricted access to:

- Any reports produced by or for the Pensions Committee and / or NPF officers where they directly relate to the governance and administration of the NPF;
- The NPF's annual reports;
- The NPF's performance and administration information;
- Actuarial reports and valuations of the NPF; and
- Published NPF policies.

In addition, the Pensions Oversight Board may requisition a report from the Director of NPF on any aspect of the NPF's governance, management or administration which must be provided in a reasonable time.

Where any item being reviewed by the Pensions Oversight Board has been a restricted agenda item of the Pension Committee, it will also be a restricted matter for the Pensions Oversight Board and any members of the press and public will be excluded from the meeting during consideration of the item.

Any material previously treated as confidential cannot subsequently appear in the public domain by virtue of being business discussed by the Pensions Oversight Board unless expressly authorised by the Director of NPF (see also section 12 of the terms of reference "Publication of Pensions Oversight Board information").

External advisers to the Pensions Oversight Board will not use or disclose any information (verbal or written) gained in assisting the business or as an attendee of the Pensions Oversight Board, for personal, commercial or political gain.

## **16) Accountability**

The Pensions Oversight Board will be collectively and individually accountable to the Administering Authority.

## **17) Expense reimbursement**

Allowances and expenses will be in accordance with established practice for the committees of the Council. It is expected that employers will facilitate reasonable paid absence to allow Pensions Oversight Board members to fulfil their role.

### Version control

Version 1	These Terms of Reference were reviewed by Eversheds on 17 February 2015, approved by Pensions Committee on 24 February 2015
	Endorsed by Norfolk County Council on 13 April 2015 and by the Pensions Oversight Board on 14 July 2015.
Version 2	Agreed by Pensions Committee June 27 2017 and Pensions Oversight Board January 18 2018.
Version 3	Head of NPF updated to Director of NPF Approved by the Director of the Norfolk Pension Fund on 7 January 2020

## **ANNEX TO PENSIONS OVERSIGHT BOARD PROPOSED TERMS OF REFERENCE & DELEGATED AUTHORITIES**

### **Clarification notes and initial arrangements on setting up the Pensions Oversight Board from 1 April 2015**

#### **A) Appointment of members of the Pensions Oversight Board (Paragraph 3)**

Each member of the Pensions Oversight Board will have an initial 2 year term of office to be extended to up to 4 years subject to the review after the first 18 months.

The independent Chairman will in the first term of the Pensions Oversight Board be the Director of the Essex Pension Fund whilst there is a reciprocal arrangement for the Head of the Norfolk Pension Fund to chair Essex Pension Fund's local pension board.

It will be the role of the Chairman to ensure that all members of the Board show due respect for process, that all views are fully heard and considered and to determine when consensus has been met.

Proposed employer and member representatives will initially be shortlisted to determine capacity and suitability by a panel consisting of at least 3 of the following – The Head of the Norfolk Pension Fund, the Chair of the Pension Committee, the 151 Officer, the Monitoring Officer for the Council and an independent panel members at the discretion of the Administering Authority (e.g. other officers of the Administering Authority or professional advisers to the NPF).

Employer representative vacancies will be decided by a vote of all active employers participating in the NPF.

Other than the 1 member representative who will be nominated by the trade unions the other member representatives drawn from the total NPF membership will ideally but need not be spread across the types of scheme member (e.g. 1 from active, 1 from deferreds and pensioners).

Each Pensions Oversight Board member should endeavour to attend all Pensions Oversight Board meetings and commit to maintaining their level of knowledge and skills to carry out their role effectively. In the event of non-attendance at two successive Pensions Oversight Board meetings without an explanation deemed reasonable by the majority of the Board or the failure of a member to attain the required knowledge and skills measurements as set out in the training policy, then the tenure of that membership should be reviewed by the other Pensions Oversight Board members in liaison with the Administering Authority.

Other than by ceasing to be eligible as set out above, a Pensions Oversight Board member may only be removed from office during a term of appointment by the unanimous agreement of all of the other members of the Pensions Oversight Board. The removal of the independent Chairman requires the consent of the Administering Authority.

Although there will be a nominated observer from the Pensions Oversight Board attending the meetings of the Pensions Committee, there is an expectation this will be reciprocal and members of the Pensions Committee will be welcome to observe the meetings of the Pensions Oversight Board.

## **B) Conflicts of Interest (Paragraph 5)**

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 Pensions Oversight Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the LGPS .

Any conflict of interest has to be seen in the light of the role of the Pensions Oversight Board in that it is not making direct decisions in respect of the NPF.

## **C) Knowledge and Skills (Paragraph 7)**

In accordance with the requirements of the Pensions Act 2004, a member of the Pensions Oversight Board must be conversant with:

- The legislation and associated guidance of the LGPS;
- Any document recording policy about the administration of the LGPS which is for the time being adopted by the NPF.

A member of the Pensions Oversight Board must have knowledge and understanding of:

- The law relating to pensions, and
- Any other matters which are prescribed in regulations.

It is for individual Pensions Oversight Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pensions Oversight Board.

In line with this requirement Pensions Oversight Board, members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pensions Oversight Board members are therefore required to maintain a documented record of relevant training and development.

Pensions Oversight Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

## **D) Publication of Pensions Oversight Board information (paragraph 12)**

Scheme members and other interested parties will want to know that the NPF is being efficiently and effectively managed. They will also want to be confident that the Pensions Oversight Board is properly constituted, trained and competent in order to comply with the Regulations, the governance and administration of the LGPS and requirements of tPR.

Information will be provided showing:

- The names and information of the Pensions Oversight Board members including who they represent;
- The responsibilities of the Pensions Oversight Board as a whole;
- The full terms of reference and policies of the Pensions Oversight Board and how the Board operates;
- The Pensions Oversight Board appointment process;
- Who each individual Pensions Oversight Board member represents; and
- Any specific roles and responsibilities of individual Pensions Oversight Board members.

The Pensions Oversight Board will produce an annual report in accordance with any regulatory requirements.

Pensions Oversight Board papers, agendas and minutes of meetings will be published on the NPF website. These may at the discretion of the Administering Authority 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.

Where any item being reviewed by the Pensions Oversight Board has been a Part II agenda item of the Pension Committee, it will also be a Part II matter for the Pensions Oversight Board and not necessarily be published in full.

Where personal scheme member information is being discussed, it will be published in a manner that does not lead to identifying such scheme member.

Information records created or obtained by the Pensions Oversight Board may be accessible from it, or any part of the NPF in accordance with the Freedom of Information Act 2000.

The Administering Authority will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and to promote a culture of openness and transparency.

Any uncertainty or ambiguity or interpretation required relating to any matters contained in this document shall be resolved by reference to the Director of NPF.

Version control

Version 1	This Annex to the Terms of Reference were reviewed by Eversheds on 17 February 2015, approved by Pensions Committee on 24 February 2015
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Version 2	Section D - Head of NPF updated to Director of NPF Approved by the Director of the Norfolk Pension Fund on 7 January 2020