



Local Pension Board

19 November 2019

Title	Compliance with TPR Code of Practice 14
Report of	Director of Finance
Wards	N/A
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Draft compliance checklist Appendix B – TPR report on engagement with public sector pension schemes.
Officer Contact Details	George Bruce, Head of Treasury & Pensions 0208 359 7126 george.bruce@barnet.gov.uk

Summary

Members of the Board requested that the agenda include a commentary on compliance with the Pensions Regulator's (TPR) Code of Practice 14 on the Governance and administration of public service pension schemes (TPR Code14). Attached is a high-level compliance checklist and Barnet's position on the requirement of the code. A detailed review of compliance is required. Included is a note from TPR discussing their findings from recent engagement with public sector schemes that highlights best practice in compliance.

Officers Recommendations

1. That the Local Pension Board note the Review of Compliance with TPR Code of Practice 14.

1. WHY THIS REPORT IS NEEDED

- 1.1 In April 2015 the Pensions Regulator's powers were extended to include oversight of some aspects of the governance and administration of public services pension schemes. The Local Government Pension Scheme (LGPS) falls within this group. The Pensions Regulator's oversight does not include the funding and investments of the scheme.
- 1.2 Code of Practice no. 14 was issued by TPR in April 2015, to provide practical guidance and to set out the standards of conduct and practice expected from Authorities that manage public service pension schemes, pensions committees, pensions boards and officers involved in administering the schemes. The code states that it is particularly aimed at Scheme Managers and members of the pension boards.
- 1.3 Since the introduction of the code, Barnet has informally monitored compliance with the provisions of the code and acted to tackle departure e.g. the approval of a breaches policy, but has not provided a fully comprehensive and detailed checklist of the requirement of the code and Barnet's position regarding each provision. A high-level checklist is attached (appendix A) discussing compliance and in particular the areas that require additional review to determine whether we are fully compliant. A deeper review of the detail of compliance will also be helpful to ensure that all aspects of the code are considered.
- 1.4 Also attached is a note prepared by TPR setting out their findings on scheme governance following engagement with a sample of ten public sector schemes. The note can also be found using the link below.

<https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/governance-and-administration-risks-in-public-service-pension-schemes-an-engagement-report>

- 1.5 The note provides useful insights into TPR's expectations and the findings will be factored into the deeper review discussed in paragraph 1.3 above.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Consideration of compliance with TPR's Code of Practice is an essential step to demonstrate good governance standards for the Pension Fund.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None - statutory function

4. POST DECISION IMPLEMENTATION

- 4.1 A more detailed review of compliance with the code will be undertaken with the findings reported to the Board.

5. IMPLICATIONS OF DECISION

- 5.1 **Corporate Priorities and Performance**

5.1.1 Compliance with the TPR code plays a key role in providing assurance that the Pension Fund's financial risks are managed in an environment of sound stewardship and control.

5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 N/A.

5.3 **Social Value**

5.3.1 Contributing to the Pension Fund ensures that contributing members have a secured income on retirement.

5.4 **Legal and Constitutional References**

5.4.1 The Board's Terms of Reference include "ensuring the effective and efficient governance and administration of the LGPS for the LBB Pension Fund".

5.5 **Risk Management**

5.5.1 Failure to comply with the code carries the risk of adverse financial and/or reputational consequences.

5.6 **Equalities and Diversity**

5.6.1 Pursuant to the Equality Act 2010, the Council is under an obligation to have due regard to 1) eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; 2) advancing equality of opportunity between persons who share a relevant 'protected characteristic' and those who do not share it; and 3) fostering good relations between persons who share a relevant 'protected characteristic' and persons who do not share it. The 'protected characteristics' are: age, disability, gender reassignment, pregnancy, and maternity, race, religion or belief, sex and sexual orientation. The Council also has regard to the additional protected characteristic of marriage and civil partnership even though this does not apply to parts 2) and 3) (above) of the public-sector equality duty.

5.7 **Corporate Parenting**

5.7.1 Not applicable in the context of this report.

5.8 **Consultation and Engagement**

5.8.1 Not required.

5.8 **Insight**

5.8.1 N/A.

6. **BACKGROUND PAPERS**

6.1 N/A.

Review of Compliance with TPR Code of Practice 14

Reference	Legal Requirement	Barnet Response
Knowledge and Understanding	<p>A member of the pension board of a public service pension scheme must be conversant with:</p> <ul style="list-style-type: none"> - the rules of the scheme, and -any document recording policy about the administration of the scheme which is for the time being adopted in relation to the scheme 	<p>Training needs assessments have been undertaken and Board members are supported in identifying training opportunities. Training is provided at Board meetings and occasionally shared with the Pension Fund Committee. The training needs assessment should be updated.</p>
	<p>A member of the pension board must have knowledge and understanding of:</p> <ul style="list-style-type: none"> - the law relating to pensions, and -any other matters which are prescribed in the regulations 	<p>As above. All Board members have completed the TPR public sector toolkit.</p>
	<p>The degree of knowledge and understanding required is that appropriate for the purposes of enabling the individual to properly exercise the functions of being a member of the pension board.</p>	<p>as above</p>
Conflicts of Interest	<p>The Public Service Pensions Act 2013 sets out the legal requirements for scheme managers and pensions boards for conflicts of interest. In relation to the pension board, scheme regulations must include provision requiring the scheme manager to be satisfied:</p> <p>scheme regulations must require each member or proposed member of a pension board to provide the scheme manager with such information</p>	<p>Members are asked to disclose conflicts of interest at each meeting.</p>

	as the scheme manager reasonably requires for the purpose of meeting the requirements referred to above.		
	<p>Scheme regulations must include provision requiring the pension board to include employer representatives and member representatives in equal numbers</p> <ul style="list-style-type: none"> -that a person to be appointed as a member of the pension board does not have a conflict of interest, and -from time to time, that none of the members of the pension board has a conflict of interest. 		The Board's ToR provides for three employer and three employee members. We have been short of one employer representative for some time.
Publishing Information about Schemes	<p>The scheme manager for public service schemes must publish information about the pension board for the scheme(s) and keep that information up to date. The information must include:</p> <ul style="list-style-type: none"> - who the members of the pension board are - representation on the board of members of the scheme(s), and - the matters falling within the pension board's responsibility 		Information on the members of the Local Pension Board, its terms of reference, minutes and papers from previous meetings are published on the Council web site. It is recognised that this is not easily located and a scheme web site is currently being launched that will contain a greater level of information.

Management Risk	<p>The scheme manager must establish and operate internal controls that adequately ensure the scheme is administered and managed. In accordance with the requirements of the law. Internal controls are defined in the legislation as:- arrangements and procedures to be followed in the administration and management of the scheme- systems and arrangements for monitoring that administration and management-arrangements and procedures to be followed for the safe custody and security of the assets of the scheme. The legal requirements apply equally where a scheme outsources services connected with the running of the scheme.</p>	<p>While periodic reviews by internal and external audit have identified strengths and weaknesses in internal controls, there is no single source to indicate controls in place and how these are verified. It is planned to undertake an independent review of administration controls and better documentation of these and controls around investments, banking, governance etc are required.</p>
Scheme Record Keeping	<p>Scheme managers must keep records of information relating to:</p> <ul style="list-style-type: none"> - member information - transactions, and - pension board meetings and decisions <p>The legal requirements are set out in the Public Service Pensions (record keeping and miscellaneous amendments) Regulations 2014.</p>	<p>Regular reviews of the information held by the administrator are undertaken. A further review is in progress as part of the submission of the Scheme Annual Return. The prior year review identified a considerable number of data gaps with the most significant being resolved during 2019. The outcome of the current common and conditional data reviews will be reported to the Board.</p>

Maintaining Contributions	<p>Employer contributions must be paid to the scheme in accordance with any requirement in the scheme regulations.</p> <p>Where employer contributions are not paid on or before the date they are due under the scheme, and the scheme manager has reasonable cause to believe that failure is likely to be of material significance to the regulator in the exercise of any of its functions, the scheme manager must give written report of the matter to the regulator as soon as reasonably practicable.</p>	<p>Improved monitoring of the timeliness of payments and comparison of contributions received with prior months has recently been implemented together with monthly reporting of the findings to the Council. Further consideration is being given to the procedures required to ensure contributions are consistent with the rates set by the Actuary.</p>
	<p>Where employee contributions are deducted from a member's pay, the amount deducted must be paid to the managers of the scheme at the latest by the 19th day of the month following the deduction, or by the 22nd day of the month if paid electronically (the 'prescribed period') or earlier if required by scheme regulations. References to 'days' means all days.</p> <p>References to 'working days' do not include Saturdays, Sundays, or Bank Holidays.</p>	<p>See above.</p>

<p>Providing Information to Members and Others</p>	<p>The law requires schemes to disclose information about benefits and scheme administration to scheme members and others. This includes requirements relating to benefit statements and certain other information which must be provided under the requirements of the 2013 Act, HM Treasury directions and the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 ('the Disclosure Regulations 2013'). In addition to these duties, there are other legal requirements relating to the provision of information to members and others under other legislation.</p>	<p>Exceptions and errors in the provision of annual benefit statements are being monitored. Omissions in providing pension saving statements have been identified. The administration performance statistics also identifies departures from providing members with timely information. A review of compliance is required.</p>
<p>Internal Dispute Resolution</p>	<p>Scheme managers must make and implement dispute resolution arrangements that comply with the requirements of the law and help resolve pension disputes between the scheme manager and a person with an interest in the scheme. The act states that a person has an interest in the scheme if they:</p> <ul style="list-style-type: none"> - are a member or beneficiary - are a prospective member - have ceased to be a member, beneficiary or prospective member - claim to be any of the above and the dispute related to this claim 	<p>An IDR process is in place. There are surprisingly few IDR cases, which has raised concerns with the notification of the availability of IDR when a complaint is received. The reporting of ongoing cases should be improved.</p>

Reporting Breaches of Law	<p>Certain people are required to report breaches of the law to the regulator where they have reasonable cause to believe that:</p> <ul style="list-style-type: none"> - a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with - the failure to comply is likely to be of material significance to the regulator in the exercise of its functions 	<p>A breaches policy is in place and several breach reports have been sent to TPR. The identification of breaches and reporting to the Council of these appears to be weak and consequently the consideration of the significance to the Regulator of each breach is also weak.</p>