

The Local Government Pension Scheme (LGPS) - Questions and Answers on Local Pension Boards

March 2015

*The LGPS Shadow
Scheme Advisory
Board - Questions
and Answers on
Local Pension
Boards*

Introduction

Local Pension Boards (or 'Boards') must be established by the 1 April 2015 under the provisions of section 5 of the Public Service Pensions Act 2013 and regulation 106 of the LGPS Regulations 2013 (as amended) (hereafter referred to as 'the Regulations'). To assist in the establishment of these Boards the Shadow Scheme Advisory Board (SSAB) has developed guidance for Administering Authorities. This guidance, published 28 January 2015 is designed to assist Administering Authorities in the creation and operation of Local Pension Boards and is available from <http://www.lgpsboard.org/index.php/about-the-board/board-guidance>.

In addition to the guidance noted in paragraph 1 above it was agreed by the SSAB that a template terms of reference and a questions and answers document on Local Pension Boards be made available to further assist Administering Authorities. The template terms of reference is available from <http://www.lgpsboard.org/index.php/about-the-board/board-guidance> and this document is the questions and answers document on Boards.

In the main the questions and answers contains signposts to the relevant information within the guidance noted above. In addition questions have been added where the answers provide additional information to that which is contained within the guidance. These questions and answers do 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 Regulations. 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.

These questions and answers must be read in conjunction with the SSAB's [guidance on the creation and operation of Local Pension Boards](#).

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Answers

Establishment

1. **When must a Local Pension Board be established and then be operational?**

Local Pension Boards must be established no later than 1 April 2015. See [paragraph 3.2 and section 5](#) of the guidance for more details.

2. **What date is a Local Pension Board established?**

A Local Pension Board must be established no later than 1 April 2015. Given that regulation 106(1) of the Regulations comes into force on 1 April 2015 all Local Pension Boards must have an establishment date of 1 April 2015. Where full approval has been granted for the establishment of the Local Pension Board prior to this date then the terms of reference for the Board should indicate that the date the Board is established is with effect from 1 April 2015 as provided for in the Regulations.

3. **What happens if an Administering Authority does not establish a Local Pension Board by 1 April 2015?**

The establishment of a Local Pension Board and the ongoing exercising of its role are statutory requirements under legislation which must be adhered to. See [paragraphs 5.42 and 5.43](#) of the guidance for details. In addition the new role for the Pensions Regulator covering public service pension schemes from April 2015 provides them with a role in the compliance and enforcement of the new governance framework; see their [draft compliance and enforcement policy](#) for further information.

4. What information should be contained in the Terms of Reference for a Local Pension Board?

Details of the information which should be included in the Terms of Reference for a Local Pension Board can be found in [paragraphs 5.34 to 5.36](#) of the guidance. In addition the SSAB has issued a [template terms of reference](#) to assist Administering Authorities when establishing their Local Pension Board.

5. With the establishment of a Local Pension Board will the Fund's governance compliance statement need to be updated?

Yes, see [paragraphs 3.15.5, 3.16 and 8.34 to 8.36](#) of the guidance for further information. The Administering Authority will firstly need to consult with such persons as it thinks necessary about the revised statement before it is published. The Administering Authority will firstly need to consult with such persons as it thinks necessary about the revised statement before it is published.

Membership

6. How many members must be on a Local Pension Board?

For information on how many members must be on a Local Pension Board see [paragraph 5.7](#) of the guidance. When considering the most appropriate size for the Local Pension Board see information in [paragraph 5.11](#) of the guidance. Members other than employer and member representatives can be appointed to the Local Pension Board. For more information see [paragraphs 5.21 to 5.24](#) of the guidance.

7. Who is precluded from being a member of a Local Pension Board?

For information on those precluded from membership of the Board please see [paragraphs 5.8 to 5.10](#) of the guidance.

In addition, before appointing a person to be a member of the Local Pension Board the Administering Authority must be satisfied that they do not have a conflict of interest were they to undertake that role, see [section 7 of the guidance](#) for more information on conflicts of interest. A Local Pension Board member must also have the capacity to represent their constituents, to attend and to undertake training as well as to prepare for and attend meetings (see [paragraphs 5.16 to 5.20 of the guidance](#) for more details).

8. How can individuals be encouraged to take part in the Local Pension Board as an employer or member representative?

Having a role on a Local Pension Board requires an individual to have the capacity to represent employers and members respectively and in doing so to undertake the necessary training required to ensure they have the required level of Knowledge and Understanding to undertake the role.

Consideration should be given by employers to reasonable time off or 'facilities time' to allow employees who are members of the Local Pension Board to effectively carry out their role, see [paragraph 5.18](#) of the guidance for more information.

For more information on whether to consider paying allowances or expenses to Board members see [paragraph 9.10](#) of the guidance.

Whilst no member of the Board should be better or worse off by undertaking a role on the Local Pension Board the Administering Authority should encourage policies which enable active participation on the Board and therefore help in developing an effective Board.

Selection and appointment of Local Pension Board members

9. What process must be followed when selecting and appointing members for the Local Pension Board?

There is no prescribed methodology in scheme regulations for appointing employer and member representatives. It will therefore fall to each Administering Authority to establish an appropriate process. See [paragraphs 5.25 to 5.27](#) in the guidance for further information.

Administering authorities should also have regard to their duties under the Equalities Act 2010 including [public sector Equality Duties](#) when appointing members to the Local Pension Board.

10. What information should be made available when a member is appointed to the Local Pension Board?

Information from the appointee to the Administering Authority:

- The Administering Authority should obtain confirmation from the appointee that they understand the requirements of the role, see [paragraph 5.28](#) in the guidance for more information.
- The Administering Authority should also satisfy itself that Local Pension Board members do not have conflicts of interest on appointment (or whilst they are members of the Board) see [paragraphs 7.19 to 7.24](#) for more information on identifying conflicts of interest.

Information to be published about appointments:

- Information about appointments should also be published on the Local Pension Board area of the Administering Authority's website.

Chair

11. Is it mandatory for a Local Pension Board to have a Chair?

There is no regulatory requirement for a Local Pension Board to have a Chair. However, it would appear to be best practice that each Local Pension Board did have a chair to ensure the effective running of Board meetings, enabling the Board to

reach consensus and also ensure that decisions are properly put to a vote (where required). Further information about potential methods of appointing a Chair can be found in [paragraphs 5.37 to 5.40 of the guidance](#).

Where a Chair is appointed by the Administering Authority (from outside the Board's employer or member representatives) then such a member would be considered an 'other representative' and therefore would not have a vote on the Local Pension Board.

12. If the Board is required under their terms of reference to pass a motion to approve the appointment of a Chair to the Board and this is unsuccessful what should happen?

The SSAB is currently considering how best to deliver a review process for the constitution and establishment of local pension boards and is in consultation with the Department for Communities and Local Government (DCLG) on this matter. Further details on this review process to follow after the next SSAB meeting on 23 March 2015.

Knowledge and Understanding

13. What are the Knowledge and Understanding requirements for Local Pension Board members?

The legal requirements for every member of a Local Pension Board are noted in [paragraphs 6.1 to 6.3](#) of the guidance as is the link within the guidance to [TPR's code of practice number 14](#) (see [paragraph 6.11](#) of the guidance). In addition section 6 provides information on the degree of Knowledge and Understanding needed ([paragraphs 6.12 to 6.21](#)), how Knowledge and Understanding can be acquired, reviewed and updated ([paragraphs 6.22 to 6.35](#)) and the records and information which should be held to demonstrate Knowledge and Understanding ([paragraph 6.36](#)).

Meetings

14. Does the Local Pension Board have to meet separately from the Pension Committee (where both are separate entities)?

In the case of a Local Pension Board which is separate from the Pension Committee, it is anticipated that the Board will meet separately from the Committee to consider its own agenda and workplan.

Should both bodies choose to meet at the same time to consider the same agenda, the terms of reference for the Local Pension Board (and equally the terms of reference for the Pension Committee) should specify how those concurrent meetings are chaired as well as acknowledging that the statutory roles and function of the Pension Committee and the Board are separate. In such cases it would be expected

that the Chair of the Pension Committee would chair the concurrent meeting. This joint meeting would need to ensure that the Board's role is effectively carried out in addition to the traditional business of the already established Pension Committee.

15. Should the Local Pension Board have full access to papers and information that have been attended to by the Pension Committee but for reasons of confidentiality were excluded from publication?

The role of the Local Pension Board is to 'assist' the Administering Authority. To ensure that the Local Pension Board can effectively undertake its role it would be expected that all papers considered by the Pension Committee (including papers that were considered confidential) are made available to the Local Pension Board. If, in exceptional circumstances, the Administering Authority considered this was not possible then the Local Pension Board should be fully informed as to the reason why that decision was taken.

Information which a Board must publish

16. What information about a Local Pension Board or by a Local Pension Board will need to be published?

When appointments to the Board have been made the Administering Authority must publish the name of Board members, their contact details and whether they represent employer, member (or other) representatives. In addition the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board should also be published.

The terms of reference including the role of the Board must also be published.

The following documents are also required for a Local Pension Board and should be published:

- Knowledge and Understanding policy and framework
- Code of conduct for Board members
- Conflicts Policy (Board must have regard to Administering Authority policy)
- Register of interests for its members (Board must have regard to Administering Authority policy)

In respect of the work of the Board the Administering Authority should also publish the following information:

- Agenda and minutes
- Training and attendance logs
- An annual report on the work of the Board to be included in the Fund's own annual report.

It would seem appropriate that much of the above information would be available on the Administering Authority's website. Where relevant it should also be included in the Fund's Annual Report and appropriate changes should be made the Fund's Governance Compliance Statement.

Role of a Local Pension Board

17. What is the role of a Local Pension Board?

Regulation 106(1) specifies that each Administering Authority shall establish its own Local Pension Board with responsibility for assisting the Administering Authority to secure compliance with the Regulations, other legislation relating to the governance and administration of the LGPS and the requirements imposed by the Pensions Regulator in relation to the LGPS. In addition it must ensure the effective and efficient governance and administration of the LGPS.

The Local Pension Board does not replace the Administering Authority as scheme manager or make decisions which are the responsibility of the Administering Authority in that role and have been properly delegated to a Pension Committee or officer. The role of the Board should be interpreted as covering all aspects of governance and administration of the LGPS including funding and investments.

The remit of the Local Pension Board can be as wide or as narrow as is decided upon locally. However, it should be borne in mind that under regulation 106(8) of the Regulations, the Local Pension Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

There are many areas of work which a Local Pension Board may be the most appropriate place for that work to take place, consider for example the requirements of the new code of practice no. 14 from the Pensions Regulator. The Local Pension Board could be tasked with reviewing whether the Administering Authority is compliant with the requirements of that code. For a list of potential activities which a Local Pension Board could be tasked with please see [schedule A of the guidance](#).

18. Does the Local Pension Board replace the role of the existing audit committee with regard to pensions?

The introduction of the new statutory Local Pension Board does not replace the role of the audit committee. The audit committee is a statutory function and remains so. The role of the Board is to 'assist' the scheme manager as defined in regulation 106(1) of the Regulations, not to audit the scheme manager.

Reporting

19. How will a Local Pension Board report concerns about a decision made by a Pension Committee?

The Board should report any concerns over a decision made by the Pensions Committee to that Committee (or to the relevant officer if a decision has been delegated to that officer). In the view of members of the SSAB this would require the agreement of at least 50% of the voting Board members (providing the meeting was quorate).

Concerns would then need to be considered by the Pensions Committee (or the relevant officer where appropriate) within a reasonable period of time and then a response provided to the Board.

If the Board is satisfied that there was a breach in regulations as part of the concern which was raised and this has not been rectified within a reasonable period of time then the Board is under an obligation to escalate the breach (through the Board's agreed escalation process).

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].

For example take the process around the preparation and approval of the Fund's accounts which helps develop the Annual Report for the Fund. The accounts would be approved by the Pension Committee/Section 151 officer and sent to the audit committee or relevant scrutiny function before being signed off by the Council. These agreed figures would then be used as part of the preparation for the Annual Report. It would be decisions taken around the development of the Annual Report which the Board could report a concern over rather than the earlier process of agreeing the accounts which would go through its mandatory process for approval (this would not preclude the Local Pension Board from reporting any concerns that the Board became aware of earlier in that process).

For more information on Reporting see [section 8 of the guidance](#).

Budget

20. What options are available when considering how to set the Local Pension Board's budget?

Regulation 106(9) of the Regulations specifies that the expenses of a Local Pension Board shall be regarded as part of the costs of administration of the Fund. For information on funding the Local Pension Board and considering how to set its budget, see [paragraphs 5.35.18 and 9.5 to 9.10](#) of the guidance.

21. Who approves the Local Pension Board's budget?

Given that the role of the Local Pension Board is to assist the Administering Authority the Administering Authority should approve the budget for the Local Pension Board. Under the powers of delegation available to the Administering Authority this approval could be delegated to the Pension Committee or an officer with delegated responsibility for the pension function or the Local Pension Board.

Conflicts of Interest

22. What legal requirements are placed on Administering Authorities and Local Pension Board members in respect of conflict of interest?

There are various legal requirements which need to be considered to make sure that sound governance principles are followed, and in particular that conflicts of interest are properly managed. Comprehensive information on the topic of conflicts of interest can be found in [section 8](#) of the guidance.

Combined and Joint Boards

23. The term combined board, what does that mean?

For information on combined pension boards see [paragraphs 10.1 to 10.9 and schedule C](#) of the guidance.

DCLG have asked any Administering Authorities who are considering this option to get in touch to ensure they have sufficient resources in place to deal with the requests.

24. The term joint board, what does that mean?

For information on joint pension boards see [paragraphs 10.10 to 10.15](#) of the guidance.

This is a cross border Local Pension Board where the administration and management of a Scheme is wholly or mainly shared by two or more Administering Authorities. Such Administering Authorities may establish a joint local pension board, with the approval of the Secretary of State (as provided for through regulation 106(3) of the Regulations). Such approval may also be withdrawn if the Secretary of State considers it is no longer appropriate for the Local Pension Board to be a Joint Pension Board.

The Secretary of State will need to be convinced that the majority if not all of the decision making, management, administration, investment and operation of the scheme manager functions of the constituent authorities have been properly delegated to a single body (for example a lead authority or joint committee).

It would **not, for example**, be possible to evidence to the Secretary of State that the requirements of regulation 106(3) were met by the following:

- Combining of just the treasury management function across Administering Authorities
- Combining the administration function only across Administering Authorities
- Combining the investment management of the pension function only across Administering Authorities.

In practice there are no current situations which the SSAB are aware of which meet the requirement of regulation 106(3).

Contacts

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