



Cheshire
Pension Fund

Local Pension Board

Terms of Reference

SCHEDULE

LOCAL PENSION BOARD

TERMS OF REFERENCE

1. Introduction

- 1.1 The purpose of this document is to set out the terms of reference for the establishment of a Local Pension Board. Administering Authorities are now required to establish a new body to be known as the Local Pension Board (“**the Board**”) to assist Cheshire West and Chester Borough Council (“**the Council**”) in its role as Administering Authority and Scheme Manager of the Cheshire Pension Fund. This requirement stems from the provisions of the Public Service Pensions Act 2013 (“**the 2013 Act**”) and Regulation 106 of the Local Government Pension Scheme Regulations 2013 (“**LGPS Regulations**”). Other relevant documents are the Pension Regulator’s Codes of Practice, and the LGPS Scheme Advisory Board’s “Guidance on the Creation and Operation of Local Pension Boards in England and Wales” (“**the Guidance**”). The Board is not intended as a replacement for the present Cheshire Pension Fund Committee (“**CPFC**”). The Board’s functions, listed below at Paragraph 2.1-2.5, should complement those of the CPFC.
- 1.2 The Cheshire Pension Fund is part of a nationwide pension scheme called the Local Government Pension Scheme (“**LGPS**”). The pension fund administers the LGPS for the local authorities in Cheshire together with a number of other bodies who participate in the fund, including colleges, academies and housing trusts. The fund is administered by the Council and its Chief Operating Officer (“**COO**”) is ultimately responsible for its affairs with powers delegated by Council. In this capacity the COO is known as the Scheme Manager. The COO appointed an advisory panel known as the Cheshire Pension Fund Committee. That committee is convened as necessary by and to advise the Chief Operating Officer on matters relating to the administration of the fund that they require advice on. Its functions are described within paragraph 9.20 of Part 1 of the Council’s constitution.

2. Function and Role

- 2.1 The role of the Board is defined by sections 5(1) and (2) of the 2013 Act and related legislation and Regulations. The Board’s aim is to assist the Administering Authority to ensure the effective and efficient governance and administration of the LGPS, including;
- 2.1.1 Securing compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the LGPS;
- 2.1.2 Securing compliance with requirements imposed in relation to the LGPS by the Pensions Regulator;
- 2.1.3 Such other matters as the LGPS Regulations may specify.

- 2.2 The Board will ensure it effectively and efficiently complies with the Guidance and may determine the areas it wishes to consider including:
 - 2.2.1 Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations by the Committee.
 - 2.2.2 Monitor complaints and performance on the administration and governance of the scheme.
 - 2.2.3 Review the implementation of revised policies and procedures following changes to the Scheme.
 - 2.2.4 Review the arrangements for the development of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme.
 - 2.2.5 Review the exercise of employer and administering authority discretions.
 - 2.2.6 Review the outcome of internal and external audit reports, review draft accounts and scheme annual report.
 - 2.2.7 Any other area within the core function (i.e. assisting the Administering Authority) the Board deems appropriate.
- 2.3 The Board will also help ensure that the Cheshire Pension Fund is managed and administered effectively and efficiently and complies with the Codes issued by the Pension Regulator.
- 2.4 The Board will assist the Scheme Manager to be satisfied that a person to be appointed as a member of the Board does not have a conflict of interest, and to be satisfied from time to time that none of the members of the Board have a conflict of interest.
- 2.5 The Board will assist the Administering Authority to include undertaking work requested by the Administering Authority for the purposes of scrutiny of Scheme Manager and CPFC decisions including funding and investments. However, the Board does not replace the Administering Authority or make decisions which are the responsibility of the Scheme Manager or the CPFC.
- 2.6 The Board shall not:
 - 2.6.1 Counter or alter investments decisions that have or have not been made by the Scheme Manager other than to review that due process has been followed when making decisions;
 - 2.6.2 Amend the statements, strategies and reports prepared in compliance with regulations 57 to 61 of the LGPS Regulations;
 - 2.6.4 Enter into contracts on behalf of the Scheme Manager;
 - 2.6.5 Dismiss any members of the CPFC;

2.6.3 Become involved in any internal dispute resolution appeals;

2.6.6 Be used to act on behalf of a particular constituency or Pension Fund Member in general or in relation to a specific complaint at any time.

Save that the above shall not prevent a member of the Board from bringing a complaint or becoming involved in an internal dispute resolution appeal in their individual capacity, either on their own behalf or as a representative of another member of the Fund.

3. Membership and Appointment Process

3.1 Subject to paragraph 3.2 below, the Board shall consist of 6 voting members and 1 non-voting member and be constituted as follows:

3.1.1 3 employer representatives, of whom:

- 1 shall be nominated by Cheshire West and Chester Borough Council. Where they are elected members or officers, they shall meet the requirements of the relevant Regulations in relation to avoidance of conflict with the Council's role as Administering Authority. No officer or elected member of an Administering Authority who is responsible for the discharge of any function under the Regulations may be a member of the Board within the authority they represent or are employed by. An elected member presently sitting on the Pension Committee may not be a member of the Board;
- 2 shall be nominated by agreement between the representative employer bodies who are employers within the Cheshire Pension Fund. Such appointment will only be made following an openly advertised competition for the role.

Employer member selection can be assisted and advised by the Scheme Manager.

3.1.2 3 Scheme member representatives (who may be elected members) of whom;

- 1 shall be appointed by the recognised Trade Unions representing active members of the Cheshire Pension Fund;
- 2 shall be appointed following an openly advertised competition for the role.

3.1.3 1 independent member selected by the Scheme Manager who shall be appointed as a non-voting independent Chair of the Board. The appointment will only be made following an openly advertised competition for the role and the appointee must demonstrate that they have the requisite knowledge, skills and independence to adequately fulfil the role of Chair as set out in these Terms of Reference.

3.2 There shall be an equal number of employer representative and scheme member representative Board members. If from time to time it has not been practicable to appoint

either 3 employer representatives or 3 scheme member representatives in accordance with paragraphs 3.1.1 or 3.1.2 respectively, there shall be 4 voting members instead of 6 until such time as a third employer representative or scheme member representative can be appointed. During any such period the provisions of paragraph 4.5 below shall apply.

- 3.3 The appointment of substitutes for any Board members shall not be permitted.
- 3.4 The Board may, with the approval of the Scheme Manager, co-opt other persons who are not members of the Board to serve on the Board as non-voting members, particularly where this would assist the other Board members to gain appropriate knowledge and understanding of the Board's functions and duties in the context of the Administering Authority and the Pension Committee. The maximum number of members to be co-opted to the Board will be 2. These potential members may include access to an agreed pool of senior pension fund officers from other (possibly neighbouring) authorities where such advice and assistance will not prevent a conflict of interest or breach of confidentiality.
- 3.5 Subject to any applicable regulation and legislation in force appropriate advisors shall include but not be limited to:
 - 3.5.1 The Fund's Actuary;
 - 3.5.2 The Fund's legal advisor;
 - 3.5.3 The Fund's investment advisor(s);
 - 3.5.4 Other external advisors, so approved by the Scheme Manager.
- 3.6 The methodology for appointing employer and member representatives is not prescribed by the Regulations. It therefore falls to each Administering Authority to establish an appropriate process. All Board members will be formally appointed by the Scheme Manager in accordance with the appointment process to be settled by the Scheme Manager. Recognised trade unions, scheme employers and members of the scheme are being asked to nominate representatives for appointment to the board. The Scheme Manager will establish a formal selection process in the event that the number of nominees exceeds the available places. The selection process will assess relevant experience, capacity to represent scheme members and their knowledge and understanding of the Local Government Pension Scheme. The Administering Authority must be satisfied that a person to be appointed as an employer or scheme member representative has the capacity to represent employers or scheme members. Proposed appointments will be ratified by the Audit and Governance Committee.
- 3.7 A Board member should not have a conflict of interest as defined under the Act and the relevant Regulations, The Localism Act 2011 and the Nolan Principles on conduct in public office. However, a financial or other conflict of interest will not arise merely by virtue of a member of a Board being a member of the LGPS and/or Fund.
- 3.8 A "conflict of interest", in relation to a person, means a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the Board.

- 3.9 The Scheme Manager should obtain confirmation from the appointee in the form of a written undertaking that they understand the requirements of the role and to commit to those requirements, by:
- 3.9.1 Disclosing all interests and responsibilities which have the potential to become conflicts of interest;
 - 3.9.2 Committing to attend a minimum number of meetings a year;
 - 3.9.3 Committing to undertake development to increase knowledge and understanding; and
 - 3.9.4 Undertaking to abide by the Board's terms of reference and wider constitutional documents.
- 3.10 The Board will provide the Scheme Manager with such information as he or she requires in order to ensure that any member of the Board or person to be appointed to the Board can show they do not have a conflict of interest.

4. Term of Office

- 4.1 Each employer representative and scheme member representative so appointed shall serve for a fixed 3-year period which can be extended for further period(s) subject to re-nomination.
- 4.2 Each Board member should endeavour to attend all Board meetings.
- 4.3 In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Scheme Manager and the other Board members may vote to remove the non-attending Board member and re-appoint their successor.
- 4.4 Other than by ceasing to be eligible as set out above, and subject to paragraph 4.5 below, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all of the other voting members. The removal of an independent member requires the consent of the Scheme Manager.
- 4.5 In the event that there are to be 4 voting Board members instead of 6, in accordance with paragraph 3.2 above:
- 4.5.1 the representative employer bodies shall, as necessary, remove or suspend from office 1 employer representative Board member, and
 - 4.5.2 the Scheme Manager shall (after consulting the Trade Unions representing active members of the Cheshire Pension Fund), as necessary, remove or suspend from office 1 member representative Board member,
- in either case, and for only so long as is necessary, so that there are an equal number of employer representative and scheme member representative Board members.

5. Quorum

- 5.1 A quorum will comprise 2 of which at least one shall be an Employer representative and one a scheme member representative.

6. Voting Rights

- 6.1 Each member representative and employer representative will have one vote. This excludes other members including any independent member, co-opted member, and advisor. There shall be no casting vote in the event of a tie of votes such that the debate and voting must continue until a majority is reached, or the item of business deferred.

7. Termination

- 7.1 Termination will arise at the expiry of a member's term of office.
- 7.2 The Board may also make a decision to terminate a member's term of office for the following:
- 7.2.1 A member discloses or it is determined that they have a conflict of interest which cannot be managed in accordance with the Board's code of conduct policy;
 - 7.2.2 A member dies or becomes incapable of acting;
 - 7.2.3 A member who is a Councillor of the Administering Authority is appointed to a Pensions Committee;
 - 7.2.4 A member is appointed to the role of an officer of the Administering Authority with responsibility for the discharge of functions under the Regulations;
 - 7.2.5 A member wishes to resign; and
 - 7.2.6 A representative member ceases to represent his constituency, for example if an employer representative leaves the employment of his employer and therefore ceases to have the capacity to represent the Fund's employers.

8. Remuneration of Board Members

- 8.1 Members of the Board shall be reimbursed for reasonable subsistence and travel expenses in accordance with relevant policies held by the Administering Authority.
- 8.2 Although the appointments to the Board fall outside the provisions of the Local Government Act and therefore are not strictly subject to the Council's established remuneration procedures, the Administering Authority should still clearly make reference to any appropriate Council policies and principles.
- 8.3 All members of the Board shall be reimbursed for travel and subsistence expenses they have actually and necessarily incurred in the conduct of their duties as a member of the Board, including attendance at relevant training and development activities. Rules in relation to the production of receipts and other financial procedures will apply.

- 8.4 In relation to members of the Board who are not elected members and are in employment, their employer may be able to reclaim a sum equivalent to salary, employers' national insurance contributions and employers' pension contributions, in respect of time spent by the individual in fulfilling their duties as a member of the Board during normal working hours of their employer's business, including attendance at relevant training and development activities.
- 8.5 These measures attempt to ensure that no member of the Board will be out of pocket as a result of their membership and seeks to remove potential disincentives to membership while not providing a solely financial incentive to take part in the work of the Board.
- 8.6 For elected members who are appointed to the Board the role would be part of the various council appointments they participate in in accordance with the relevant approved Members Allowance Scheme.
- 8.7 The Board must seek written consent from the Scheme Manager (such consent not to be unreasonably withheld) for:
- 8.7.1 The allocation of a Budget;
 - 8.7.2 Instructing the Pension Fund actuary to provide a report;
 - 8.7.3 Request any external advisor to attend a meeting of the Pension Board which shall require remuneration;
 - 8.7.4 Incurring a cost to the Scheme Manager;

9. Chair

- 9.1 An independent non-voting Chair of the Board will be appointed in accordance with paragraph 3.1.3 above. The independent Chair does not have a casting vote.”.
- 9.2 It shall be the role of the Chair to:
- 9.2.1 Ensure that all members of the Board show due respect for process, that all views are fully heard and considered and that decisions are democratically made where consensus cannot be reached.
 - 9.2.2 To uphold and promote the purpose of the Board and to interpret its Terms of Reference when necessary.
 - 9.2.3 Ensure that the Board members have relevant knowledge and skills and maintain a training record where appropriate.
 - 9.2.4 Liaise with the administrator from the Administering Authority who supports the Board and agree the agenda and minutes for each Board meeting.
 - 9.2.5 Ensure an attendance record is maintained along with advising the Scheme Manager on remuneration and expenses to be paid.
 - 9.2.6 Advise the Scheme Manager on an appropriate budget for the Board.

- 9.2.7 Write reports required by Scheme Manager on the performance of the Board.
- 9.2.8 Liaise with the Scheme Manager on the requirements of the Board, including advanced notice for Officers to attend and arranging dates and times of Board meetings.
- 9.2.9 To annually review and report on the performance of the Board.
- 9.3 The decision of the Chair on all points of procedure and order and the Chair's interpretation of the Protocol shall be final.
- 9.4 The Chair will accept appointment as the chair of the Cheshire Pension Fund's Pension Employer Forum ("**PEF**"), if and for so long as required to do so under the PEF's terms of reference.

10. Knowledge, Skills and Training

- 10.1 To be appointed as a member of the Board a person must be conversant with:
 - 10.1.1 The legislation and associated guidance of the LGPS; and
 - 10.1.2 Any document recording policy about the administration of the LGPS which is adopted by the Cheshire Pension Fund.
- 10.2 In addition, a member of the Board must have knowledge and understanding of:
 - 10.2.1 The law relating to pensions, and
 - 10.2.2 Any other matters which are prescribed in regulations.
- 10.3 Individual Pension Board members should 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 Pension Board.
- 10.4 To ensure that the knowledge and understanding requirements are met:
 - 10.4.1 The Board should adopt a knowledge and understanding policy and framework
 - 10.4.2 The Board should designate a person to take responsibility for ensuring that the knowledge and understanding policy and framework is developed and implemented.
 - 10.4.3 The 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.
 - 10.4.5 Advisors to the Board should have regard to the Guidance (Schedule B, Part 2) as it contains detailed information regarding sources and information required to achieve applicable levels of knowledge and understanding.

10.4.6 Appropriate records should be kept of the learning activities of members and the Board as a whole.

11. Board Review Process

- 11.1 The Board will undertake a formal review process each year to assess the performance of the Board's functions in order to seek continuous improvement.
- 11.2 The Board may vary these terms of reference and adopt revised terms following approval from Audit and Governance Committee.

12. Meetings

- 12.1 The Scheme Manager shall give notice to all Board members of every meeting of the Board, and shall ensure that all papers are published on the Cheshire Pension Fund website at least 5 working days prior to each meeting. These may be edited at the discretion of the Scheme Manager 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.
- 12.2 The Scheme Manager shall ensure that a formal record of Pension Board proceedings is maintained. Subsequent to each meeting the Chair will be asked to approve the minutes for publication as a draft and circulation to all members of the Board.
- 12.3 The Pension Board shall on an annual basis produce a report on both the nature and effect of its activities for consideration by the Administering Authority. The contents of this annual report will be subject to consideration and agreement at a meeting of the Board, but should include, inter alia:
 - 12.3.1 Details of the attendance of members of the Board at meetings;
 - 12.3.2 Details of skills and development activities provided for members of the Board and attendance at such activities;
 - 12.3.3 Details of any recommendations made by the Board to the Scheme Manager and the Scheme Manager's response to those recommendations; and
 - 12.3.4 Details of the costs incurred in the operation of the Board.
- 12.4 The Board in considering items of business at its ordinary meetings shall in relation to each item consider whether it wishes to make a recommendation to the Scheme Manager, to which the Scheme Manager shall respond at the subsequent meeting.
- 12.5 The Board shall meet at least four times a year and may call additional meetings if the need arises.
- 12.6 An extraordinary meeting will be called when the Chair considers this necessary and/or in circumstances where the Chair receives a request in writing by 50% of the voting membership of the Board.

13. Decision making

13.1 Each voting member of the Board will have an individual voting right but it is expected that the Board will, as far as possible, reach a consensus.

14. Standards of conduct and conflicts of interest

- 14.1 The Board should cultivate a culture of openness and transparency.
- 14.2 All members of the Board are expected to act in accordance with the Member Code of Conduct described in the Administering Authority's Constitution (Part 4 Section 6), and any other requirements provided for in associated government guidance and relevant legislation, where applicable.
- 14.3 Following the establishment of the Board the Administering Authority may prepare and approve a conflicts policy for the Board to adopt. The conflicts policy should cover issues relating to the identification, monitoring and management of potential conflicts of interest (including adviser conflicts). Once adopted, the Board should keep this policy under regular review.
- 14.4 The conflicts policy should include as a minimum examples of scenarios giving rise to conflicts of interest how a conflict might arise specifically in relation to a member of the Board and the process to be followed by members of the Board and the Administering Authority to address a situation where members are subject to a potential or actual conflict of interest.
- 14.5 As the function and role of the Board develops, a review should be undertaken after Year 1 to assess whether Board members require a supplementary or separate code of conduct owing to their duties under the Pension Act 2004 and Regulations. This would be in addition to member duties under the Local Government Acts as defined in the Administering Authority's Code of Conduct.
- 14.6 In accordance with s5 (5) Public Service Pension Act 2013, a Board member must not have a financial or other interest that could prejudice them in carrying out their Board duties.
- 14.7 The Scheme Manager shall not appoint as a member, a person who has an existing conflict of interest.
- 14.8 Where a member encounters a conflict of interest during their appointment, they shall inform the Scheme Manager without delay and their tenure shall end with immediate effect.
- 14.9 Where a member has been removed from the Board under this clause they may be entitled to be reappointed once the conflict has been resolved at the Board's discretion.
- 14.10 Such reappointment shall be made by the Board, only where written approval from the Scheme Manager (advised by the Monitoring Officer) has been provided.

14.11 The role of Board members requires the highest standards of conduct and therefore should have regard to the 'Seven Principles of Public Life' (known as the Nolan Principles):

Selflessness Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

Honesty Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership Holders of public office should promote and support these principles by leadership and example.

15. Publication

- 15.1 The Board's method of reporting shall be in accordance with established Committee rules procedures as prescribed in the Administering Authority's Constitution (Part 4 Section 1). Its reports shall be taken to the Council's Audit and Governance Committee.
- 15.2 Where the Board considers reports or information should be communicated for additional scrutiny, the Board will refer to matters to the Council's scrutiny process.
- 15.3 The annual review shall be published on the Cheshire Pension Fund website and made available in hard copy upon request.
- 15.4 The minutes of Board meetings shall be published on the Cheshire Pension Fund website and made available in hard copy upon request.
- 15.5 The minutes may, at the discretion of the Scheme Manager 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 2018.

15.6 Up to date information will be posted on the Cheshire Pension Fund website showing:

- The names and information of the Board members
- How the scheme members are represented on the Board
- The responsibilities of the Board as a whole
- The full terms of reference and policies of the Board and how they operate
- The Board appointment process
- Who each individual Board member represents
- Any specific roles and responsibilities of individual Pension Board members.

16. Wider Board Reporting Duties

16.1 The Board will be accountable to report under the relevant provisions of the Pension Act 2004, the 2013 Act and the relevant LGPS Regulations.

16.2 In accordance with section 70 of the 2004 Act, certain individuals, including persons involved in advising trustees or managers of pension schemes, must report to the Regulator as soon as reasonably practicable where that individual has reasonable cause to believe that:

16.2.1 A duty which is relevant to the administration of the LGPS, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with by:

- any CPFC member;
- the CPFC collectively;
- any Board Member;
- the Board collectively;
- the Scheme Manager;
- any Fund officer

16.2.2 The failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions.

16.3 The Board will liaise with and notify the Scheme Manager and CPFC if any formal report is to be referred to the Regulator, Council or other interested parties.

17. Data Protection, Confidentiality and Freedom of Information

17.1 The Board will initially incorporate the Administering Authority's own codes in respect of Data Protection, Confidentiality and Freedom of Information. The Board will assess whether it requires adoption of separate Board codes to enable the performance of its functions.

18. Assessment and adoption of policies

18.1 The Board will assess the requirement to adopt the following policies to be appended to these Terms of Reference

17.2.1 A code of conduct, in accordance with paragraph 14.5 above;

17.2.2 A conflicts policy, in accordance with paragraph 14.3 above;

17.2.3 Policies dealing with information security, acceptable use (and monitoring) and subject access request, in accordance with paragraph 17.1 above.