



LONDON FIRE BRIGADE

Decision title

Local Pension Board – Terms of Reference and Membership

Recommendation by
General Counsel

Decision Number
LFC-0240-D

Protective marking: **NOT PROTECTIVELY MARKED**

Publication status: Published in full

Summary

Following a review and recent resignations from the Local Pension Board (LPB) LFC-0240 sets out the proposed revised membership of the LPB within an amended Terms of Reference.

Decision

The London Fire Commissioner approves:

1. The amended Local Pension Board Terms of Reference set out in Appendix 2 of LFC-0240, which includes a provision for the creation of a Vice-Chair position.
2. That the individuals listed in Appendix 3 of LFC-0240 are appointed to the Local Pension Board in compliance with the membership requirements.

Dany Cotton QFSM
London Fire Commissioner

Date 25-09-2019

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Report title

Local Pension Board – Revised Membership and Terms of Reference

Report to

Commissioner's Board
London Fire Commissioner

Date

11 September 2019

Report by

Head of Governance

Report number

LFC – 0240x

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Summary

Following a review and recent resignations from the Local Pension Board (LPB) this report sets out the proposed revised membership of the LPB within an amended Terms of Reference.

Recommendation

That the London Fire Commissioner approves:

1. The amended Local Pension Board Terms of Reference set out in Appendix 2, which includes a provision for the creation of a Vice-Chair position.
2. That the individuals listed in Appendix 3 are appointed to the LPB in compliance with the membership requirements.

Background

1. The Policing and Crime Act 2017 reformed the governance arrangements for the London Fire Brigade, abolishing the London Fire and Emergency Planning Authority (LFEPA) and establishing the London Fire Commissioner as the fire authority for London from 1 April 2018.
2. The London Fire Commissioner is the Scheme Manager for the Firefighters Pension Scheme (FPS) for LFB; has a duty under the Public Service Pensions Act 2013 to establish legally compliant arrangements for the good governance of the Scheme; and is responsible for appointing LPB members.
3. Following the abolition of LFEPA, the London Fire Commissioner approved the re-establishment of the LPB on 24 September 2018 (decision LFC-0055-D). That report established the Terms of Reference for the LPB, made appointments and described the roles and responsibilities of the LPB.
4. For public service pension schemes, the Scheme Manager is responsible for the pension

scheme. Local Pension Boards advise Scheme Managers, but they are not decision-making bodies.

5. This report sets out the revised Terms of Reference of the Local Pension Board; and the amended appointments for the membership of the LPB.

Local Pension Board – Terms of Reference

6. In fulfilling the roles and responsibilities required by the London Fire Commissioner for the execution of their role as Scheme Manager, the revised Terms of Reference at Appendix 2 for the Local Pension Board are proposed for approval.
7. On 6 February 2019, the Local Pension Board asked that consideration be given to amending the Terms of Reference created by LFC-0055-D to create the position of Vice-Chair. The proposed draft amended Terms of Reference attached as Appendix 2 to this report, which the LPB were consulted on at the last meeting on 1 May 2019, seeks to address this request, as well as making some further minor clarification amendments.
8. In accordance with the recommendation of the LPB, the proposal is that the Vice-Chair will be appointed from one of the employer representatives when the Chair is an employee representative and vice versa. It is proposed that the Vice Chair will chair LPB meetings in the Chair's absence.
9. Additional detail on the proposed changes to the Terms of Reference can be found in Appendix 1, which contains a tracked changes version of the document.

Composition and Membership of the Local Pension Board

10. The London Fire Commissioner as Scheme Manager must determine:
 - a. the membership of the Local Pension Board;
 - b. the manner in which members of the Local Pension Board may be appointed and removed;
 - c. the terms of appointment of members of the Local Pension Board.
11. The proposed amendments to the Terms of Reference also seek to clarify the arrangements for the employer and employee LPB member appointments, as well as that of substitute members. Appendix 3 of this report provides details of the recommended LPB composition.
12. No officer of the London Fire Commissioner who is responsible for the discharge of any function under the regulations (apart from any function relating to the Local Pension Board or the Firefighters Pension Scheme Advisory Board) may be a member of the Local Pension Board of the London Fire Commissioner and the London Fire Commissioner must be satisfied that any person to be appointed as a member of a Local Pension Board does not have a conflict of interest.
13. The LFC's Local Pension Board will continue to include an equal number of five employer representatives and five employee member representatives, in line with best practice guidance from The Pensions Regulator. The recommended membership of the Board is detailed in Appendix 3.

Finance comments

14. The Chief Finance Officer has reviewed this report and has no comments.

Workforce comments

15. The relevant recognised Trades Unions (FBU, FOA and Prospect) have been consulted on the Terms of Reference of the proposed Local Pension Board.

Legal comments

16. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office. Section 1 of the Fire and Rescue Services Act 2004 states that the Commissioner is the fire and rescue authority for Greater London.
17. Under section 327D of the Greater London Authority Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
18. By direction dated 1 April 2018, the Mayor set out those matters for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor"). Paragraph (b) of Part 1 of the said direction requires the Commissioner to seek the prior approval of the Mayor before "[b] Approval of the final proposed text of the draft London Safety Plan (or any revision of it) for the purposes of sending it to the Assembly under section 327G(2) of the GLA Act 1999".
19. The Local Pension Board was established under the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015. The Public Service Pensions Act 2013 introduces the framework for the governance and administration of public service schemes and provides an extended regulatory oversight by the Pension Regulator. The Pension Regulator's Code of Practice No. 14 (Governance and administration of public service pension schemes) sets out the legal requirements for public service pension schemes as well as the standards of conduct and practice of the Local Pension Board. The information within this report is in accordance with the legislation and associated Code of Practice.

Sustainability implications

20. There are no sustainability implications arising from the report.

Equalities implications

21. The Public Sector Equality Duty applies to the London Fire Brigade when it makes decisions. The duty requires us to have regard to the need to:
 - a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Equality Act 2010.. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
22. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for

(b) or (c) although it is relevant for (a).

23. An equality impact assessment was undertaken as part of the preparation of this report. The assessment identified that consideration had been made to encourage diverse composition of the Board to mitigate potential negative impacts. A strong and effective governance system ensures that decisions are taken in accordance with the law, and that includes due regard to and compliance with the Equality Act 2010.

List of Appendices to this report:

- Appendix 1 – LFC Local Pension Board Terms of Reference – Original with Tracked changes
- Appendix 2 – LFC Local Pension Board Terms of Reference - Revised
- Appendix 3 – LFC Local Pension Board Membership

Appendix 1

Local Pension Board – Terms of Reference – Original with Tracked changes

Purpose

1. The purpose of the Local Pension Board ('the Board') is to assist the London Fire Commissioner ('the Commissioner'), in their role of Scheme Manager:
 - a. To secure compliance with legislation relating to the governance and administration of the firefighters' pension schemes (the schemes), and any requirements imposed by the Pensions Regulator in relation to the firefighters' pension schemes; and
 - b. To ensure the effective and efficient governance and administration of the firefighters' pension schemes.
2. The 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, e.g. (1) request relevant information from the Commissioner's officers responsible for the administration of the schemes; (2) make recommendations in respect of the administration of the schemes.
3. The Board has no executive authority in respect of the administration of the firefighters' pension schemes.

Membership

4. The membership of the Board will be:
 - a. Five employer representatives, comprising officers of the Commissioner who are members of the Top Management Group, appointed by the Commissioner. Employer representatives must have the capacity and understanding to represent the Commissioner's role as an employer on the Board.
 - b. Five employee representatives, comprising three nominated by the Fire Brigades Union, one nominated by the Fire Officers Association, and one nominated by Prospect, all appointed by the Commissioner. Employee representatives must have the capacity and understanding to represent all scheme members on the Board.
5. Board members may be represented by a previously named substitute at Board meetings when necessary. Substitutes for employee representatives must be members of the corresponding trade union, and employer representatives must be members of the Commissioner's Top Management Group. The number of named substitutes available will be no greater than the number of Board members for which the category of Board member has nomination rights on the Board. Named substitutes must comply with the Board's Terms of Reference provisions in relation to Conflicts of Interest, and when fulfilling duties in relation to the Board as a substitute they are subject to the same obligations as Board members. Amendments to Board members or the named substitutes must be approved by the Commissioner.
6. Board members must act at all times in the interests of the schemes, and not seek to promote the interests of any stakeholder group above another.

7. The Chair shall be appointed from within the Board members. In the first year, the Chair of the Board will be nominated from one of the employer representatives; in the second year the Chair will be nominated from one of the employee representatives; and the Chair will rotate annually in this manner thereafter.
8. The Board shall appoint from within the Board members, a Vice-Chair from the employer representatives when the Chair is a employee representative and vice versa. In the absence of the Chair the meeting shall be chaired by the Vice-Chair.
9. The Director of Corporate Services, the Assistant Director People Service, the General Counsel, and the Director of Pensions of the London Pensions Fund Authority, or their nominated representatives, will be standing advisers to the Board.
10. The term of office of Board members shall be three years, which may be renewed. Nominations for membership must be received by the Commissioner one month before a member's tenure expires. The Commissioner shall have the power to replace Board members between appointments. A Board member may be replaced as a result, for example, of a conflict of interest, or no longer being available to carry out the functions of a Board member.
11. Board members are subject to, and must abide by, relevant codes of conduct. Board members must maintain appropriate confidentiality in respect of any matter related to their duties.
12. Board members will be entitled to claim reasonable out-of-pocket expenses incurred through discharging their Board responsibilities.

Knowledge and Understanding (including Training)

13. Knowledge and understanding must be considered in light of the role of the Board to assist the Commissioner as detailed above. The Board will designate a person to establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to Board members. The 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.
14. 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.
15. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

Conflict of interest

16. No Board member shall have a conflict of interest, i.e. a financial or other interest which is likely to prejudice the member's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).
17. All members of the Board must declare to the Commissioner 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.

18. On appointment to the Board and following any subsequent declaration of potential conflict, the Commissioner shall ensure that any potential conflict is effectively managed in line with both their internal procedures and the requirements of the pensions regulator's codes of practice on conflict of interest for Board members.

Frequency and conduct of meetings

19. The Board will meet four times a year. The Chair may call other meetings as necessary.
20. The meeting will only be quorate when at least 50 per cent of the employer representatives, and at least 50 per cent of the employee representatives are present.
21. The Board should aim to reach decisions by consensus. Where consensus is not achieved, this should be accurately recorded by the Chair, reflecting the outcome of the debate.

Amendment to the Terms of Reference

22. These terms of reference may be amended by regulation or in consultation with the Board by the Scheme Manager.

Appendix: 2

Local Pension Board – Terms of Reference

Purpose

1. The purpose of the Local Pension Board ('the Board') is to assist the London Fire Commissioner ('the Commissioner'), in their role of Scheme Manager:
 - a. To secure compliance with legislation relating to the governance and administration of the firefighters' pension schemes (the schemes), and any requirements imposed by the Pensions Regulator in relation to the firefighters' pension schemes; and
 - b. To ensure the effective and efficient governance and administration of the firefighters' pension schemes.
2. The 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, e.g. (1) request relevant information from the Commissioner's officers responsible for the administration of the schemes; (2) make recommendations in respect of the administration of the schemes.
3. The Board has no executive authority in respect of the administration of the firefighters' pension schemes.

Membership

4. The membership of the Board will be:
 - a. Five employer representatives, comprising officers of the Commissioner who are members of the Top Management Group, appointed by the Commissioner. Employer representatives must have the capacity and understanding to represent the Commissioner's role as an employer on the Board.
 - b. Five employee representatives, comprising three nominated by the Fire Brigades Union, one nominated by the Fire Officers Association, and one nominated by Prospect, all appointed by the Commissioner. Employee representatives must have the capacity and understanding to represent all scheme members on the Board.
5. Board members may be represented by a previously named substitute at Board meetings when necessary. Substitutes for employee representatives must be members of the corresponding trade union, and employer representatives must be members of the Commissioner's Top Management Group. The number of named substitutes available will be no greater than the number of Board members for which the category of Board member has nomination rights on the Board. Named substitutes must comply with the Board's Terms of Reference provisions in relation to Conflicts of Interest, and when fulfilling duties in relation to the Board as a substitute they are subject to the same obligations as Board members. Amendments to Board members or the named substitutes must be approved by the Commissioner.
6. Board members must act at all times in the interests of the schemes, and not seek to promote the interests of any stakeholder group above another.

7. The Chair shall be appointed from within the Board members. In the first year, the Chair of the Board will be nominated from one of the employer representatives; in the second year the Chair will be nominated from one of the employee representatives; and the Chair will rotate annually in this manner thereafter.
8. The Board shall appoint from within the Board members, a Vice Chair from the employer representatives when the Chair is a employee representative and vice versa. In the absence of the Chair the meeting shall be chaired by the Vice Chair.
9. The Director of Corporate Services, the Assistant Director People Service, the General Counsel, and the Director of Pensions of the London Pensions Fund Authority, or their nominated representatives, will be standing advisers to the Board.
10. The term of office of Board members shall be three years, which may be renewed. Nominations for membership must be received by the Commissioner one month before a member's tenure expires. The Commissioner shall have the power to replace Board members between appointments. A Board member may be replaced as a result, for example, of a conflict of interest, or no longer being available to carry out the functions of a Board member.
11. Board members are subject to, and must abide by, relevant codes of conduct. Board members must maintain appropriate confidentiality in respect of any matter related to their duties.
12. Board members will be entitled to claim reasonable out-of-pocket expenses incurred through discharging their Board responsibilities.

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17. All members of the Board must declare to the Commissioner 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.
18. On appointment to the Board and following any subsequent declaration of potential conflict, the Commissioner shall ensure that any potential conflict is effectively managed in line with both their

internal procedures and the requirements of the pensions regulator's codes of practice on conflict of interest for Board members.

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Amendment to the Terms of Reference

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Appendix 3 – London Fire Commissioner Local Pension Board Membership

London Fire Commissioner Local Pension Board Membership	
London Fire Commissioner Employer Representative	Deputy Assistant Commissioner Lee Drawbridge
London Fire Commissioner Employer Representative	Deputy Assistant Commissioner Charlie Pugsley
London Fire Commissioner Employer Representative	Assistant Commissioner Jonathan Smith
London Fire Commissioner Employer Representative	Deputy Assistant Commissioner Keeley Foster
London Fire Commissioner Employer Representative	Deputy Assistant Commissioner Paul Jennings
Trade Union Employee Representative (Fire Brigades Union)	Joe McVeigh
Trade Union Employee Representative (Fire Brigades Union)	Dave Shek
Trade Union Employee Representative (Fire Brigades Union)	Gareth Beeton
Trade Union Employee Representative (Fire Officers Association)	Matthew Herrington
Trade Union Employee Representative (Prospect)	Deputy Assistant Commissioner Paul Trew

Substitutes	
London Fire Commissioner Employer Representative	Assistant Commissioner Jane Philpott
London Fire Commissioner Employer Representative	Deputy Assistant Commissioner Pat Goulbourne
Trade Union Employee Representative (Fire Brigades Union)	Steve White
Trade Union Employee Representative (Fire Brigades Union)	Greg Edwards
Trade Union Employee Representative (Fire Officers Association)	Frazer Ferguson
Trade Union Employee Representative (Prospect)	Deputy Assistant Commissioner Adrian Fenton