

Cornwall Fire & Rescue Authority Local Pension Board

Terms of Reference and Delegated Authorities

1) Introduction

This document sets out the terms of reference for the Local Pension Board of the Cornwall Fire & Rescue Authority (CFRA) as required under the Public Service Pensions Act 2013 (PSPA13).

The Local Pension Board for the CFRA will be called the Cornwall Fire & Rescue Authority Local Pension Board and known colloquially as the Local Pension Board or LPB.

The LPB will meet not less than two times in each financial year.

The LPB is established by Cornwall Council as the administering authority for the CFRA and will operate independently from the Council.

For the purposes of this document the Responsible Officer is the Section 151 Officer for Cornwall Council.

2) Role of the Local Pension Board

The role of the LPB as defined by sections 5 (1) and (2) of the PSPA13, is to –

- Assist the CFRA as Scheme Manager –
 - to secure compliance with the Firefighters Pension Scheme (FPS) regulations and any other legislation relating to the governance and administration of the FPS
 - to secure compliance with requirements imposed in relation to the FPS by the Pensions Regulator
 - in such other matters as the FPS Regulations may specify.
- Secure the effective and efficient governance and administration of the FPS for the CFRA
- Provide the Scheme Manager with such information as it requires to ensure that any member of the LPB or person to be appointed to the LPB does not have a conflict of interest.

The LPB will also help ensure that the CFRA is managed and administered effectively and efficiently and complies with the code of practice (CoP) on the governance and administration of public service pension schemes issued by the Pensions Regulator.

The creation of the LPB does not change the core role of the CFRA or the way it delegates its pension functions. The LPB does not replace the CFRA or make decisions which are the responsibility of the CFRA under either the Regulations or other overriding legislation.

The LPB will only have the power to review decisions made by the CFRA or make recommendations to improve the efficient and effective administration. The CFRA will however reasonably facilitate the discharge of the functions of the LPB.

3) Appointment of members of the LPB

The LPB shall consist of 6 members and be constituted as follows:

- 3 employer representatives drawn from participating Fire & Rescue Authorities, with a minimum of 2 from the CFRA

The employer representatives may be elected members or officers of the authorities mentioned.

- 3 scheme member representatives drawn from the membership, with a minimum of 2 from the CFRA.

No substitutes will be permitted.

Employer and scheme member representatives will be appointed through a clear and transparent process but the appointment mechanism will be dealt with separately as determined by the Scheme Manager.

Each member of the LPB will be responsible for the overall effective and efficient governance and administration of the Firefighters Pension Scheme and not act solely in the interest of the constituent group he or she is representing.

No officer or elected member of Cornwall Council who is either responsible for discharging any function in relation to the FPS regulations or has delegated decision making authority in relation to FPS matters may be a member of the LPB.

4) Quorum

The LPB shall have a quorum of 2, to be drawn from either employer or scheme member representatives.

5) Conflicts of Interest

A policy for identifying and dealing with conflicts of interest for the LPB shall be set out in a separate policy document, but may form part of the Code of Conduct for the LPB.

6) LPB Review Process

The LPB 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 Board's performance. The first review will take place no later than 1 October 2016.

7) Knowledge and Skills

LPB members will comply with the FPS training policy and training opportunities will as far as possible be shared with the LGPS LPB.

8) LPB Meetings

Meetings will be held during working hours at a venue to be notified prior to each meeting.

9) Remit of the LPB

The LPB must assist the Scheme Manager with such other matters as the scheme regulations may specify. It is for scheme regulations and the Scheme Manager to determine precisely what the LPB's role entails.

The LPB will -

- be a 'critical friend' to the CFRA

- assist the CFRA (in accordance with the PSPA13) in meeting the FPS's compliance with legislation, regulations, guidance and The Pensions Regulator's CoP
- provide oversight of decisions made by the CFRA to ensure that due process has been followed.

The LPB will report any concerns over a decision made by the CFRA or any officer with relevant delegated authority. The concern will in the first place be reported to the relevant party in relation to that decision and to the Responsible Officer of the FPS. Decisions will only be reported in this way where a majority of the voting representatives present at an LPB meeting believe that one or more of the following has happened:

- 1 Under the FPS Scheme of Delegation, the CFRA or officer did not have the power to make the decision in question;
- 2 The decision was in breach of legislation and/or regulations;
- 3 The decision maker(s) did not follow professional advice given (or didn't take professional advice if it was a requirement to do so) and it is believed that this could result in a materially bad outcome for the FPS;
- 4 The decision making process 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 FPS;
 - 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 and the original decision has not yet been irrevocably implemented.

If the LPB is dissatisfied with the response or resolution to the concern raised, it will seek the advice of the Section 151 Officer of Cornwall Council. Where the decision-maker in question is the Section 151 Officer of Cornwall Council, or the LPB remains dissatisfied with the response or resolution, the concern will be escalated within the CFRA as far as possible before seeking the advice of the Scheme Advisory Board.

The fact that the LPB may have questioned a decision in this way does not affect the validity of that decision nor in any way prevent a decision from being acted upon.

At the invitation of the CFRA, the LPB may also -

- reduce the workload of the CFRA and allow/enable the CFRA to focus on strategic issues and decision making at the discretion of CFRA – examples include reviewing the risk management process, detailed review of risks and risk management framework. Regardless of the work undertaken by the LPB the CFRA remains responsible for the identification and management of those risks
- review administration standards to ensure they are 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
- produce a LPB annual report in accordance with requirements, guidance and general accountability to stakeholders
- 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 CFRA.

The above list is not exhaustive.

The LPB will commence a review of its efficacy after the first 18 months to determine whether it is meeting the needs of FPS's stakeholders and in time for any changes to be made at the 2-year anniversary.

10) Standards of Conduct

The LPB shall have a code of conduct to which all members will abide.

The role of LPB members requires the highest standards of conduct and therefore the "seven principles of public life¹" will be applied to all LPB members and embodied in their code of conduct.

These are –

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

11) Decision making

All Employer and Scheme Member Representatives of the LPB will be entitled to vote.

12) Publication of Local Pension Board information

Information in accordance with LGPS legislation and regulations will be posted on the CPF website

13) Reporting Breaches

The LPB shall have a policy statement on reporting breaches of the pensions regulatory framework in line with the Pensions Regulator's Code of Practice. CPF's Responsible Officer should be consulted in order to obtain clarification on whether a breach has occurred, determine the facts, establish materiality and deal with difficult cases. Serious breaches must be reported immediately to the Pensions Regulator, taking the advice of the Section 151 Officer of Cornwall Council and any legal opinion as appropriate. All breaches, even if not reported to the Pensions Regulator should be recorded so that

¹ Standards Matter: a review of best practice in promoting good behaviour in public life", Committee on Standards in Public Life, January 2013

corrective measures can be taken. The Pensions Regulator should be alerted directly to any events involving theft, suspected fraud or other serious offences if discussion would alert those implicated or otherwise hinder the actions of the Police or regulatory authorities.

14) Budget

The LPB will have access to a budget, from the pension fund, for seeking professional advice, training for members, accommodation costs or meeting the costs of any claim for expenses. The budget will be agreed by the Pension Committee and if additional finance is required, agreement will be sought from Pension Committee before incurring addition expenditure.

15) Board Support

The LPB will be supported in its role and responsibilities by officers of the CFRA and may finalise a business plan in agreement with the Responsible Officer for the FPS

The LPB, with the agreement of the Responsible Officer for the FPS may from time to time co-opt membership for the sole purpose of supplementing their experience and / or knowledge and skills. Co-opted members will have no voting rights.

The LPB will have full and unrestricted access to -

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

In addition, the LPB may request a report from the Responsible Officer on any aspect of the FPS's governance, management or administration which must be provided in a reasonable time.

Where any item being reviewed by the LPB has been a restricted agenda item of the CFRA, it will also be a restricted matter for the LPB 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 LPB unless expressly authorised by the Responsible Officer who is expected to take advice from the Monitoring Officer of Cornwall Council (see also section 12 of the terms of reference "Publication of Local Pension Board information").

The Responsible Officer will take appropriate steps to ensure that external advisers to the LPB will not use or disclose any information (verbal or written) gained in assisting the business or as an attendee of the LPB, for personal, commercial or political gain.

16) Accountability

The LPB will be collectively and individually accountable to the Scheme Manager.

17) Expense reimbursement

Any allowances and expenses will be paid in accordance with a scheme properly approved for that purpose. It is expected that employers will facilitate reasonable paid absence to allow LPB members to fulfil their representative role.

Annex to Local Pension Board Terms of Reference and Delegated Authorities

Clarification notes and initial arrangements on setting up the Local Pension Board from 1 April 2015

A) Appointment of members of the LPB (Paragraph 3)

Each member of the LPB 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.

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.

The CFRA will be invited to nominate representatives to sit as employer representatives on the LPB. If there were more nominations than places then, subject to nominees satisfying the criteria of the role description, they will be invited before a selection panel.

All members will be invited to put themselves forward to sit as Scheme member representatives on the LPB. If there were more nominations than places then, subject to nominees satisfying the criteria of the role description, they will be invited before a selection panel.

Each LPB member should endeavour to attend all LPB meetings and commit to maintaining their level of knowledge and skills to carry out their role effectively. In the event of consistent non-attendance by any LPB member or failure to attain the required knowledge and skills levels as set out in the training strategy, then the Scheme Manager can terminate that individual's membership of the LPB.

Other than by ceasing to be eligible for the LPB by no longer satisfying the requirements of employer or Scheme membership, an LPB member may only be removed from office during a term of appointment by the unanimous agreement of all of the other members of the LPB.

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 their functions as a member of the LPB. 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 light of the fact that the role of the LPB is one of assisting in compliance.

C) Knowledge and Skills (Paragraph 7)

A member of the LPB must be conversant with -

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

A member of the LPB must have knowledge and understanding of –

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

It is for individual LPB 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 Board.

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

LPB members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses. Full support and training in this area will be provided by the CPF.

D) LPB Meetings – Notice and Minutes (Paragraph 8)

The Scheme Manager shall give reasonable notice to all LPB members of every meeting of the LPB. The Scheme Manager shall ensure that a formal record of LPB proceedings is maintained. Following the approval of the minutes by the Chairman of the LPB, they shall be circulated to all members of the LPB.

There will be at least 2 LPB meetings a year.

E) Decision making (Paragraph 11)

Decision making shall accord with any such procedure rules and principles as are applicable to the LPB.

Each employer and scheme member representative of the LPB will have one vote but it is expected that, as far as possible, decisions will be reached through consensus.

If consensus is not reached in respect of any business requiring a decision, the Scheme Manager will be informed of the business discussed and the differing views expressed by the members of the LPB and decide on the action (if any) to be taken. This will then be communicated to the LPB as soon as is reasonably possible for their consideration.

F) Publication of LPB information (paragraph 12)

Scheme members and other interested parties will want to know that the FPS is being efficiently and effectively managed. They will also want to be confident that the LPB is properly constituted, trained and competent in order to comply with regulations and the governance and administration requirements of The Pension Regulator.

Information will be published on the Cornwall Council website showing -

- The names and information of the LPB members including who they represent
- The responsibilities of the LPB as a whole
- The full terms of reference and policies of the LPB and how they operate
- The LPB appointment process

LPB papers, agendas and minutes of meetings will be published on Cornwall Council's website. These 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 1998.

Where any item being reviewed by the LPB has been a Part II agenda item of the CFRA, it will also be and Part II matter for the LPB and not be published in full.

Where personal scheme member information is being discussed, it will be published in a way as to not be in a manner that will lead to the identity of the scheme member.

Information records created or obtained by the LPB will be accessible from it, or any part of the FPS under the Freedom of Information Act 2000.

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

G) Reporting Breaches (Paragraph 13)

Any breach brought to the attention of the LPB, whether potential or actual, shall be dealt with in accordance with the procedure set out in a separate policy document.