



# KENT COUNTY COUNCIL

## THE KENT LOCAL PENSION BOARD

### TERMS OF REFERENCE

#### **Membership: Total Ten**

Four employee representatives  
Four employer representatives  
The Board may also contain two other members

#### **Terms of Reference**

##### **1. Introduction**

- 1.1 This document sets out the terms of reference of the Local Pension Board (the Board) of Kent County Council (the 'Administering Authority') as Scheme Manager, as defined under Section 4 of the Public Service Act 2013.
- 1.2 The Board is established in accordance with Section 5 of that Act and under Regulation 106 of the Local Government Pension Scheme (LGPS) Regulations 2013 (as amended).

##### **2. Role of the Board**

- 2.1 The role of the Board, as defined by Regulation 106 of the Local Government Pension Scheme Regulations 2013 is to assist the County Council as Administering Authority:
  - (a) to secure compliance with:
    - (i) the scheme regulations;
    - (ii) any other legislation relating to the governance and administration of the LGPS Scheme and any connected scheme;
    - (iii) any requirements imposed by the Pensions Regulator in relation to the LGPS Scheme.
  - (b) to ensure the effective and efficient governance and administration of the LGPS Scheme.
- 2.2 The Board will ensure it effectively and efficiently complies with the Code of Practice on the governance and administration of public service pension schemes issued by the Pension Regulator.
- 2.3 The Board will also help ensure that the Kent Pension Fund is managed and administered effectively and efficiently and complies with the Code of Practice

on the governance and administration of public service pension schemes issued by the Pension Regulator.

2.4 The Board has power to do anything that is calculated to facilitate or is conducive or incidental to the discharge of any of its functions.

2.5 The Board should always act within its terms of reference.

### **3. Establishment of the Board**

3.1 The Board was established on 1 April 2015, subsequent to approval by Kent County Council on 26 March 2015.

### **4. Appointment of members of the Board and voting rights of Board members**

4.1 The composition of the members of the Board is as follows:

The Board shall consist of at least eight members and may contain up to 10 members. It shall be constituted as follows:

- i) Four employer representatives;
- ii) Four scheme member representatives;
- iii) The Board may also contain two independent members.

4.2 The Board shall be constituted as follows:

- Employer representatives
  - 2 x Kent County Councillors
  - 2 x other employer representatives to come from nominations from other employers in the fund (e.g. District, Borough and Parish Councils, Academies, Police, Fire and other scheduled or admitted body employers in the Kent Pension Fund).
- Member representatives
  - 1 x Unison nominated representative
  - 3 x other member representatives, at least one staff and one pensioner representative is desirable.
- The Board may also contain other members
  - 2 x members from an external source (to be recommended by the appointments panel).

4.3 Scheme member and employer representatives shall be appointed in equal number and shall together form the majority of the Board membership.

4.4 Nominations will not be accepted from district / borough councillors who are also County Councillors.

4.5 No officer or elected member of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board.

- 4.6 Each Board member so appointed shall serve for 4-year renewable periods, from date of appointment, with a maximum of 8 years.
- 4.7 Each Board member should endeavour to attend all Board meetings during the year. Substitutes are allowed for two member representatives and for two employer representatives providing they undertake the training and development.
- 4.8 Each employer representative on the Board should be able to demonstrate their capacity to represent scheme employers in the Kent Pension Fund.
- 4.9 Each member representative on the Board should be able to demonstrate their capacity to represent scheme members of the Kent Pension Fund.
- 4.10 Each Board member should participate in training when required.
- 4.11 Member representatives on the Board shall be appointed by the Scheme Manager in accordance with the Appointment and Termination Process.
- 4.12 The Appointments Panel shall be made up of the following:
- Chair of the Pension Fund Committee,
  - the Corporate Director of Finance (or their nominee),
  - the Head of Pensions and Treasury,
  - the General Counsel (or their nominee)
- 4.13 Each employer representative and member representative of the Board will have an individual vote on any matter needing a decision. Independent Members of the Board do not have voting rights. It is expected that the Board will, as far as possible, reach a consensus.
- 4.14 Dual membership with the Committee of any type is not allowed.

## **5. Appointment and duties of the Chair and Vice Chair of the Board**

- 5.1 A Chair could be elected by the Board from among the Board membership based on their skills and is not restricted to being a Councillor.
- 5.2 One of the independent members may be appointed as Chair if authorised by the Scheme Manager.
- 5.3 The Vice Chair of the Board to be elected by the Board.
- 5.4 The Chair is responsible for ensuring that meetings are properly conducted, decision making is clear and professional advice is followed. The Chair is also responsible for agreeing the agenda and approving the minutes for each meeting.

5.5 The Vice Chair shall undertake the duties of the Chair in the event of the Chair's absence.

## **6. Notifications of appointments to the Board**

6.1 When appointments to the Board have been made, the Scheme Manager shall publish the name of the Board members, the process followed in the appointment together with the way in which the appointment supports the effective delivery of the purpose of the Board.

## **7. Termination of membership of the Board**

7.1 Any termination of membership of the Board will be in accordance with the **Appointment and Termination Process**.

7.2 Membership of the Board may be terminated due to:

- They have a conflict of interest which cannot be managed in accordance with the Board's conflicts policy
- A member dies or becomes incapable of acting
- A member of the Board is appointed to the Pension Fund Committee.
- A member is appointed to the role of an officer of the Administering Authority with responsibility for the discharge of functions under the Regulations
- A member resigns
- 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; and
- A member fails to attend 2 consecutive meetings or otherwise comply with the requirements of being a Board member, for example fails to attend the necessary knowledge and understanding training.

## **8. Conflict of Interests**

8.1 The Scheme Manager will approve a **Code of Conduct and Conflict of Interest Policy** (appendix 1) which will be adopted by the Board and by which members of the Board will need to abide. Members of the Board will provide any information the Scheme Manager reasonably requires from time to time to ensure that members do not have a conflict of interest.

## **9. Attendance and legislative requirements**

9.1 Board members shall endeavour to attend at least two Local Pension Board meetings per year.

9.2 Board members should also commit sufficient time in order to prepare for meetings, obtain and keep under review their knowledge and understanding.

9.3 Members of the Board should be aware that their individual legal responsibility begins from the date they take up their role on the Board.

## **10. Knowledge and Skills**

10.1 In accordance with section 248A of the Pensions Act 2004 (“the 2004 Act”), every individual who is a member of a Board must be conversant with:

- i) the regulations governing the LGPS; and
- ii) any document or policy about the administration of the Fund.

10.2 Board members should also have a knowledge and understanding of:

- i) the law relating to pensions; and
- ii) such other matters as may be prescribed

10.3 The Board shall adhere to the Scheme Manager’s Training Policy to address the knowledge and skills requirements that apply to Local Pension Board members under the 2004 Act.

10.4 It is for individual Board members to ensure they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Local Pension Board.

10.5 In line with this requirement, Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Local Pension Board members are therefore required to maintain a written record of relevant training and development.

10.6 Arrangements for training, facility time and expenses of and Pensions Board members are described in the Kent County Council constitution. This policy applies equally to all Board members.

10.7 The Fund's training policy was updated in March 2022. Board members have been provided with a copy of the Pension Fund training plan.

10.8 Members’ training is regularly reviewed with support from officers and all additional costs of attending training courses are reimbursed from the Fund.

## **11. Board Meetings: Notice and Public Access to Board Meetings and Information**

11.1 The Board is considered a committee of local government and therefore the usual provisions about transparency in respect of access to information and reports will apply.

11.2 There will be four meetings a year to enable the Board to discharge its functions effectively. Meetings may be held in person in Sessions House, County Hall, Maidstone, online via Microsoft Teams or as hybrid meetings, as decided by the Chairman of the Board with the consent of the Board members.

- 11.3 The Scheme Manager shall give notice to all Board members of every meeting of the Board, which will be held in public (apart from confidential matters). All members will normally be sent an agenda and papers at least five working days before the meeting unless an urgent meeting is required.
- 11.4 Any meeting of the Board will include provision for confidential matters or matters that would involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 to be dealt with privately in Part 2 and any documents in connection with such matters will be dealt with confidentially.
- 11.5 The Scheme Manager shall ensure that a formal record of Board proceedings is maintained. Following the approval of the minutes by the Chairman of the Board, they shall be circulated to all members.
- 11.6 All agendas, reports and minutes will be available on the website except for any confidential or exempt matters.
- 11.7 In accordance with the Public Service Pensions Act 2013, the Administering Authority shall publish information about the Board to include:
- i) the names of the Board members and their contact details;
  - ii) the representatives of employers and members of the Board;
  - iii) the role of the Board;
  - iv) the Terms of Reference.

## **12. Quorum**

- 12.1 The Board shall have a quorum of a third of the membership, or no fewer than three members which should always include the Chair or the Vice Chair, at least one employer representative and at least one member representative.

## **13. Board Costs and Budget**

- 13.1 The Board is to be provided with adequate resources to fulfil its role. In doing so, the budget for the Board will be met from the Kent Pension Fund.
- 13.2 The Board will seek approval from the Director of Finance for any expenditure it wishes to make.

## **14. Core Functions of the Board**

- 14.1 The first core function of the Board is to assist the Scheme Manager in securing compliance with the Regulations, any other legislation relating to the Scheme and requirements imposed by the Pensions Regulator in relation to the Scheme.
- 14.2 The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme.

14.3 In support of its core functions the Board may request information from the Kent Pension Fund Committee with regard to any aspect of the Scheme Manager function. Any such request should be reasonably complied with.

14.4 The Board may make recommendations to the Kent Pension Fund Committee. These recommendations should be given due consideration and a response made to the Board within a reasonable period of time.

## **15. Reporting Arrangements**

15.1 The Board should report to the Kent Pension Fund Committee in the first instance.

15.2 On receipt of a report from the Board, the Kent Pension Fund Committee should consider and respond to the Board within a reasonable period of time.

15.3 Where the Board is satisfied that there has been a breach of regulation which is reported to the Kent Pension Fund Committee and is not rectified within a reasonable period of time the Board has a duty to escalate this perceived breach

15.4 The appropriate internal route for escalation is the Head of Pensions and Treasury.

15.5 The Board may report concerns to the LGPS Scheme Advisory Board subsequent to the internal route for escalation.

15.6 Board members are subject to the requirement to report breaches of law to the Pension Regulator under the Act and the Code,

## **16. Board Review Process**

16.1 The Board will undertake each year a formal review process to assess how well it and the members are performing with a view to seeking continuous improvement in the Board's performance.

## **17. Advisors to the Board**

17.1 The KCC Corporate Director of Finance will be responsible for providing professional advice to the board and secretarial support will be provided by KCC Democratic Services.

17.2 The Board may be supported in its role and responsibilities through the appointment of advisors and shall, subject to any applicable regulation and legislation from time to time in force, consult with such advisors to the Board and on such terms as it shall see fit to help better perform its duties.

## **18. Code of Conduct**

18.1 The Scheme Manager will approve a **Code of Conduct and Conflict of Interests Policy** (appendix 1) which will be adopted by the Board and which members of the Board will need to abide by.

## **19. Data Protection and Freedom of Information**

19.1 The Board and its members will need to comply with the Scheme Manager's Data Protection and Freedom of Information Policy.

## **20. Accountability**

20.1 The Board will be collectively and individually accountable to the Scheme Manager and to the Pensions Regulator.

## **21. Acceptance and Review of Terms of Reference**

21.1 These Terms of Reference will be reviewed every three years and when significant changes to the Regulations occur.

21.2 The revised Terms of Reference were agreed by County Council on 14 July 2022.



### Kent Local Pension Board

#### Code of conduct & conflict of interest policy

##### 1. Code of conduct

1.1 As members of a publicly funded body with a responsibility to discharge public business members the Local Pension Board should have the highest standards of conduct.

1.2 Local Pension Board members should have regard to the Seven Principles of Public life:

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

1.3 Accordingly Local Pension Board members should:

- Act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- When carrying out your public duties you must make all choices on merit and must be impartial and seen to be impartial.
- You must co-operate fully with whatever scrutiny is appropriate to your role.
- You will on occasions be privy to confidential and sensitive information, such as personal information about someone, or commercially sensitive information which, if disclosed, might harm the commercial interests of the Council or another person or organisation. This information must not be revealed without proper authority.
- You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have

regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

- You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- In addition to compliance with the Kent Local Pension Board Code of Conduct & Conflict of Interests Policy, you will sign adherence to the Conflict of Interest Declaration and declare any further potential conflicts of interest that may arise once appointed as a member ;
- You should comply with the Kent Local Pension Board Code of Conduct & Conflict of Interests Policy in addition to existing compliance with any Councillor or Officer Codes of Conduct that may apply to you.

## **2. Conflict of interest**

2.1 The Public Service Pensions Act 2013, Section 5(4) requires that any member of a Pension Board must not have a “conflict of interest”, which is defined in Section 5(5) as a “financial or other interest which is likely to prejudice the person’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.”

2.2 A conflict of interest exists where there is a divergence between the individual interests of a person and their responsibility towards the Local Pension Board, such that it might be reasonably questioned whether the actions or decisions of that person are influenced by their own interests. A conflict of interest would prejudice an individual’s ability to perform their duties and responsibilities towards the Local Pension Board in an objective way.

2.3 An example of a potential conflict of interest could be:

- A Local Pension Board member may be required to review a decision which may be, or appear to be, in opposition to another interest or responsibility; e.g(s):
  - a review of a decision which involves the use of departmental resource in the function of the Local Pension Board, whilst at the same time being tasked with reducing this departmental resource by virtue of their employment;
  - a Local Pension Board member could also be employed or have an interest in either privately or as part of the Council in a service area of the Council for which the Local Pension Board has cause to review;
  - an independent member of the Local Pension Board may have a conflict of interest if they are also advising the Scheme Manager.

- 2.4 All prospective Local Pension Board members are required to complete the **Kent Local Pension Board Conflict of interest declaration** before they are appointed to the Local Pension Board.
- 2.5 All appointments to the Local Pension Board should be kept under review by the Local Pension Board.
- 2.5 It is the duty of any appointed Local Pension Board member to declare any potential conflict of interest. This declaration should be made to the Chair of the Local Pension Board in the first instance or to the Scheme Manager and recorded in a register of interests.
- 2.7 The Local Pension Board shall identify and monitor any potential conflict of interests in a register of interests. The register of interests should be circulated to the Local Pension Board and Scheme Manager for review and publication.
- 2.8 If the Local Pension Board suspects any conflict of interest it should report its concerns to the Scheme Manager.
- 2.9 When seeking to prevent a potential conflict of interest becoming detrimental to the conduct of decisions of the Local Pension Board, the Local Pension Board should consider obtaining legal advice when assessing its course of action and response. The Local Pension Board may wish to consult the Director of Legal and Democratic Services in the first instance.
- 2.10 Education on identifying and dealing with conflict of interest will be included as part of the training requirement.
- 3. Alleged breaches of the Code of Conduct and conflict of interest policy**
- 3.1 A process for dealing with the consideration of any alleged breaches, to include any sanctions to be applied, will be agreed by the Scheme Manager and the Local Pension Board.