

Decision title

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## London Fire Commissioner's Local Pension Board

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Recommendation by  
General Counsel

Decision Number  
LFC-0055-D

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### Summary

The London Fire Commissioner is the Scheme Manager for the Firefighters Pension Scheme in London and has a duty to establish their arrangements for the good governance on the scheme. This report discharges that duty, establishing the Terms of Reference for the Commissioner's Local Pension Board; making appointments to the Local Pension Board; and describing the roles and responsibilities for the Commissioner's arrangements.

### Recommendation

The London Fire Commissioner establishes their Local Pension Board with the Terms of Reference set out in Appendix 2 and a membership comprising the eligibility below and the individuals listed in Appendix 1:

- 5 x Employer Representatives
- 5 x Employee Representatives (3 x Fire Brigades Union, 1 x Fire Officers Association and 1 x Prospect)

**Dany Cotton QFSM**  
London Fire Commissioner



Date 24-9-2018

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LONDON FIRE BRIGADE

Report title

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## London Fire Commissioner's Local Pension Board

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Report to

London Fire Commissioner

Date

29 August 2018

Report by

General Counsel

Report number

LFC-0055x

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### Summary

The London Fire Commissioner is the Scheme Manager for the Firefighters Pension Scheme in London and has a duty to establish their arrangements for the good governance on the scheme. This report discharges that duty, establishing the Terms of Reference for the Commissioner's Local Pension Board; making appointments to the Local Pension Board; and describing the roles and responsibilities for the Commissioner's arrangements.

### Recommendation

The London Fire Commissioner establishes their Local Pension Board with the Terms of Reference set out in Appendix 2 and a membership comprising the eligibility below and the individuals listed in Appendix 1:

- 5 x Employer Representatives
- 5 x Employee Representatives (3 x Fire Brigades Union, 1 x Fire Officers Association and 1 x Prospect)

### 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. Those reforms were commenced in stages between February and 1 April 2018.
2. The Public Service Pensions Act 2013 and the Public Service Pensions Act (Northern Ireland) 2014 require pension boards to be established for the public service pension schemes, to ensure that schemes are compliant with governance and regulatory requirements.
3. For public service pension schemes, the Scheme Manager is responsible for the pension scheme. Pension Boards advise scheme managers, but they are not decision-making bodies. From 1 April 2018, the London Fire Commissioner is the Scheme Manager and is responsible for appointing their Pension Board.

4. This report exemplifies the roles and responsibilities of the London Fire Commissioner's local pension governance arrangements with respect to the Firefighters Pension Scheme; sets out the Terms of Reference of the Commissioner's Local Pension Board; and the appointment arrangements for the members of the Board.
5. These arrangements provide for continuity, being based upon the arrangements established locally prior to the abolition of LFEPA, with the necessary changes for the new local governance arrangements. However, for transparency and assurance as the Commissioner is a member of the Firefighters Pension Scheme, consultation the Deputy Mayor for Fire and Resilience will be held prior to the Commissioner's Decision and the implementation of the Terms of Reference for the Board.

### **Local Pension Board establishment and responsibilities**

6. By virtue of the Firefighters' Pension Scheme (Amendment) (Governance) Regulations 2015 it is incumbent upon each Scheme Manager to establish a Local Pension Board responsible for assisting it:
  - a. to secure compliance with
    - i. the regulations,
    - ii. any other legislation relating to the governance and administration of the Firefighters Pension Scheme,
    - iii. any requirements imposed by the Pensions Regulator in relation to the Firefighters Pension Scheme, and
  - b. to ensure the effective and efficient governance and administration of this scheme and any connected scheme.

### **Composition and Membership of the Local Pension Board**

7. 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.
8. The Commissioner's Local Pension Board will include an equal number, which is no less than four in total, of employer representatives and member representatives, in line with best practice guidance from The Pensions Regulator.
9. 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.
10. 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.

### **Roles and responsibilities**

11. The Pensions Regulator publishes guidance and codes relating to the governance of pensions schemes. *Table 1* is an adaption of the regulator's guidance about local roles and responsibilities, amended for the Commissioner's purpose.

*Table 1 – Roles and responsibilities for the governance and management of the London Fire Commissioner's Local Pension Board*

Name	Role	Who they are	Example responsibilities
Responsible authority	Set scheme policy	Home Office	<ul style="list-style-type: none"> <li>• Determine scheme policy</li> <li>• Set out scheme policy in regulations, including the role of the Scheme Manager, Pension Board and Scheme Advisory Board</li> </ul>
Scheme Manager	Overall responsibility for the scheme	London Fire Commissioner	<ul style="list-style-type: none"> <li>• Ensure compliance with scheme regulations and other legislation</li> <li>• Manage risks and ensure there are adequate internal controls</li> <li>• Ensure that Pension Board members don't have conflicts of interest</li> <li>• Put in place effective dispute resolution procedures</li> <li>• Keep records and ensure the quality of member data</li> <li>• Communicate information to members including benefit statements</li> <li>• Publish information on Pension Board</li> <li>• Report late payment of contributions</li> <li>• Meet regulator reporting requirements</li> <li>• Report breaches to the regulator where required</li> </ul>

Name	Role	Who they are	Example responsibilities
Local Pension Board	Assist the Scheme Manager	<ul style="list-style-type: none"> <li>• Five Employer Representatives</li> <li>• Five Employee Representatives</li> <li>• Four Standing Advisers</li> </ul>	<ul style="list-style-type: none"> <li>• Help the Scheme Manager to comply with scheme regulations, other legislation and regulatory requirements</li> <li>• Have the required knowledge and understanding of scheme rules, documents recording scheme administration policies and pensions law</li> <li>• Report breaches to the regulator where required.</li> <li>• Responsibilities can vary, but may include a strong focus on assurance, member communications or specific functions on behalf of the Scheme Manager, such as appointing or managing the scheme administrator</li> </ul>
Scheme Advisory Board (SAB)	Provide advice in response to a request from the Secretary of State on the desirability of making changes to the Firefighters' Pension Scheme and also provide advice to the Scheme Manager and Local Pension Boards	Malcolm Eastwood – Chair	<ul style="list-style-type: none"> <li>• Advise the Secretary of State on the desirability of changes to the scheme, such as adjustments to the scheme if costs breach the employer cost cap</li> <li>• Advise Scheme Managers and Pension Boards on governance and administration, for example by providing guidance</li> <li>• Report breaches to the regulator where required</li> <li>• Coordinate technical and standards issues</li> </ul>

Name	Role	Who they are	Example responsibilities
Administrators	Carry out day-to-day functions of running the scheme for the Scheme Manager	<ul style="list-style-type: none"> <li>• London Pensions Fund Authority (LPFA) provides for the administration of the scheme</li> <li>• Assistant Director, Finance provides for the management of complaints about the management of the scheme</li> <li>• Assistant Director, People Service manages a range of delegations from the Scheme Manager</li> </ul>	<ul style="list-style-type: none"> <li>• Keep records</li> <li>• Collect contributions</li> <li>• Pay benefits to members</li> <li>• Report breaches to the regulator where required</li> </ul>
Employer	Employ members of the pension scheme.	London Fire Commissioner	<ul style="list-style-type: none"> <li>• Meet employer duties related to automatic enrolment</li> <li>• Pay contributions in line with requirements in scheme regulations</li> <li>• Keep and provide data to scheme manager or administrator</li> <li>• Report breaches to the regulator where required</li> </ul>

### Local Pension Board – Terms of Reference

12. In fulfilling these roles and responsibilities required by the Commissioner for the execution of their role as Scheme Manager, the Terms of Reference at Appendix 2 for the Local Pension Board are proposed.

### Finance comments

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

### **Workforce comments**

14. The relevant recognised Trades Unions (FBU, FOA and Prospect) have been consulted on the Terms of Reference of the proposed Local Pension Board. Neither FOA nor Prospect have made comments on the proposed Terms of Reference.
15. The FBU made two comments: firstly, they queried that the LFC was a member of the firefighters' pension scheme and suggested this may be a conflict of interest given the LFC is the scheme manager. Secondly, they queried that senior operational officers would be LPB employer-side representatives, and suggested this may also be a conflict of interest as they would be members of the firefighters pension scheme. The FBU comments have been responded to. On the first issue, they have been advised that the fact that the LFC can be a member of the firefighters pension scheme has been provided for in legislation (see FEP 2807); this therefore cannot create a conflict of interest as the LFC also has the legal responsibility to constitute the Local Pension Board. On the second point, the FBU have been reminded that section 5(5) of the Public Service Pensions Act 2013, in relation to Pensions Boards, makes it clear that a conflict of interest 'does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme'. Employer-side representatives being members of the firefighters' pension scheme, therefore, is no more a conflict of interest than the employee-side representatives being members of the firefighters pension scheme.
16. Trade union consultation on the proposed Terms of Reference has now concluded, and no amendments are required to be made as a result of the consultation.

### **Legal comments**

17. The General Counsel drafted the report, and his comments are included throughout.

### **Sustainability implications**

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

### **Equalities implications**

19. There are no equalities implications arising from the report.

### **List of Appendices to this report:**

- Appendix 1 – London Fire Commissioner Local Pension Board Membership
- Appendix 2 – London Fire Commissioner Local Pension Board Terms of Reference

## Appendix 1 – London Fire Commissioner Local Pension Board Membership

<b>London Fire Commissioner Local Pension Board Membership</b>	
London Fire Commissioner Employer Representative	Assistant Commissioner Richard Mills
London Fire Commissioner Employer Representative	Assistant Commissioner Andrew Roe
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	Deputy Assistant Commissioner Paul Jennings
Trade Union Employee Representative (Fire Brigades Union)	Paul Embery
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

<b>Substitutes</b>	
Trade Union Employee Representative (Fire Brigades Union)	Joe McVeigh
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 Sabrina Cohen-Hatton



## Appendix 2 – London Fire Commissioner 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, 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 appointed by the Fire Brigades Union, one appointed by the Fire Officers Association, and one appointed by Prospect. Employee representatives must have the capacity and understanding to represent all scheme members on the Board.
5. Board members may be represented by a 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.
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. 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 Director of Corporate Services, the Assistant Director People Services, 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.

9. The term of office of Board members shall be three years, which may be renewed. The Commissioner shall have the power to replace an employer representative prior to the expiry of a three-year term. The trade unions shall have the power to replace their appointed employee representative(s) prior to the expiry of a three-year term. 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.
10. 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.
11. Board members will be entitled to claim reasonable out-of-pocket expenses incurred through discharging their Board responsibilities.

#### **Knowledge and Understanding (including Training)**

12. 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.
13. 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.
14. 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**

15. 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).
16. 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.
17. 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**

18. The Board will meet four times a year. The Chair may call other meetings as necessary.
19. 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.

20. 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**

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