



LONDON FIRE BRIGADE

Report title

Terms of Reference of the Local Pension Board

Report to

Local Pension Board
Corporate Services Directorate Board
Commissioner's Board
London Fire Commissioner

Date

14 March 2022
15 March 2022
6 April 2022

Report classification:

For Decision

The subject matter of this report deals with the following LFB strategic priorities:

The best people and the best place to work

Report number – LFC- 0694

For Publication

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DECISION-MAKER

I agree the recommended decision below.

Andy Roe
London Fire Commissioner

This decision was signed
remotely on 19th April 2022

Date

Executive Summary

This report recommends an amendment to the Terms of Reference of the Local Pension Board to improve its effectiveness.

Recommended decision

That the London Fire Commissioner approves the amended Terms of Reference of the Local Pension Board set out in Appendix 1 to the report.

1. Introduction and background

- 1.1 The Local Pension Board (LPB) was established on 26 March 2015 by decision of the previous London Fire & Emergency Planning Authority (LFEPA) (FEP 2429), as required under the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015 ('the Regulations'). The purpose of the LPB is set out in paragraph 1 of the Terms of Reference (Appendix 1).
- 1.2 The Terms of Reference of the LPB agreed at the 26 March 2015 Authority meeting included the following:

Membership

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.

and:

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.

- 1.3 Currently, the three employee representatives nominated by the Fire Brigades Union (FBU), in terms of current staff, come from those operational ranks which are collectively represented by the FBU, i.e. Firefighter to Group Commander, which is over 99% of the operational workforce. The employee representative nominated by the Fire Officers Association (FOA) comes from those operational ranks which are collectively represented by FOA, i.e. Station Commander and Group Commander, which is just under 5% of the operational workforce. The employee representative nominated by Prospect comes from those operational ranks which are collectively represented by Prospect, i.e. Deputy Assistant Commissioner, Assistant Commissioner and Director, which is 0.5% of the operational workforce.
- 1.4 The employer representatives are from the same pool of staff that the Prospect representative comes from, i.e. operational Top Management Group staff. Generally volunteers are sought for the employer representatives; it has not been necessary to date to undertake a formal selection process.

- 1.5 The quorum provision means that at least 3 employer representatives, and at least 3 employee representatives, must be present for a meeting of the LPB to proceed.
- 1.6 Due to other conflicting priorities for Board members it has at times proved difficult to obtain a quorum for LPB meetings. The scheduled meeting on 13/09/2021, and the replacement meeting arranged for 27/09/2021, both had to be cancelled due to not having a quorum.
- 1.7 Accordingly, and following discussions with all parties, in particular with Prospect, the FBU and FOA, it is recommended that the Terms of Reference are amended as follows:
- Prospect cease having a full seat on the Employees side, and instead to have observer status (with speaking rights).
 - The Employees side therefore reduces to 4 (3 FBU, 1 FOA), and in turn the Employer's side will reduce from 5 to 4. Under the Regulations the LPB must comprise an equal number of Employer and Employee representatives.
- 1.8 The above amendments will mean that the existing quorum provision (which will not require amendment) will reduce to (at least) 2 on each side rather than 3 on each side as at present. This will significantly reduce the likelihood of meetings being inquorate and will therefore increase the effectiveness of the LPB.
- 1.9 As the LPB does not have executive authority in respect of the administration of the firefighters' pension schemes, and rarely if ever conducts a vote amongst those present, then a switch from full membership to observer status with speaking rights will have a negligible impact on Prospect's role within the LPB. Also, as noted above, the Employer side consists exclusively of staff who are collectively represented by Prospect, and so this provides additional channels for Prospect members to be informed of LPB business.
- 1.10 Appendix 1 incorporates the recommended amendments to the Terms of Reference. The only changes are to paragraph 4, and a new paragraph 5 has been inserted.

2. Objectives and expected outcomes

- 2.1 The objective of the recommendation within this report, and therefore the expected outcome, is to reduce the likelihood of LPB meetings being inquorate, and so to increase the effectiveness of the LPB, with negligible impact on the functioning of the LPB.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due

regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.

- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
- eliminate discrimination, harassment and victimisation and other prohibited conduct
 - advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
 - foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 3.8 An Equality Impact Assessment has not been undertaken in preparing this report as it is not considered that the recommended changes will have any discernible impact on the functioning of the LPB, nor on Prospect's influence within the LPB. In addition, as noted above, there is currently no formal selection process to determine Local Pension Board members, certainly on the employer's side. If such a process is created, an Equalities Impact Assessment will be undertaken at that point.

4. Other Considerations

Workforce comments

- 4.1 The subject matter of this report is the Terms of Reference of the LPB which discusses issues of interest to the operational workforce, in particular those who are members of the Firefighter Pension Scheme(s). By reducing the likelihood of inquorate LPB meetings, this will increase the effectiveness of the LPB, and to that extent will benefit the operational workforce.
- 4.2 The recommended changes to the LPB Terms of Reference have been agreed with Prospect, and have also been consulted on with the FBU and FOA with no objections raised. When this report was discussed at the LPB meeting on 14/03/2022, there was full support from both

Employer and Employee representatives for the London Fire Commissioner to adopt the recommendations within the report.

Sustainability comments

- 4.3 There are no direct sustainability implications arising from the recommendations within this report.

Procurement comments

- 4.3 There are no direct procurement implications arising from the recommendations within this report.

5. Financial comments

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

6. Legal comments

- 6.1 This report seeks agreement to amend the Local Pensions Board's Terms of Reference, as set out in Appendix 1.
- 6.2 The change to the quorum is permissible and compliant with the Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015 ('the Regulations'). The Regulations require a Scheme Manager (in this case, the Commissioner) to establish a local pension board to assist it to comply with its legal obligations relating to the scheme and connected schemes. It also provides the Local Pension Board must have equal representation of employer representatives and member representatives, which shall be no less than four in total.
- 6.3 The terms of reference for the Local Pensions Board state it may be amended by regulation or in consultation with the Board by the Scheme Manager (the Commissioner). This report fulfils the consultation requirement.

List of Appendices

Appendix	Title	Open or confidential
1.	Terms of Reference of the Local Pension Board incorporating the recommended amendments.	Open

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Dominic Johnson, SME Industrial & Employee Relations, has drafted this report and confirms the following:

Director

Kate Bonham, Assistant Director for People Services, has reviewed the documentation and is satisfied for it to be referred to Board for consideration. (✓)

Advice

The Finance and Legal teams have commented on this proposal;

Hameera Darr, Legal Advisor, on behalf of General Counsel (Head of Law and Monitoring Officer) (✓)

Rory Murphy, Financial Advisor, on behalf of the Chief Finance Officer (✓)

Appendix 1

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. Four 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. Four employee representatives, comprising three nominated by the Fire Brigades Union and one nominated by the Fire Officers Association. Employee representatives must have the capacity and understanding to represent all scheme members on the Board.
5. Prospect may nominate one representative to be an observer at Board meetings with speaking rights.
6. 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.
7. 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.
8. 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.
9. The Board shall appoint from within the Board members, a Vice Chair from the employer representatives when the Chair is an employee representative and vice versa. In the absence of the Chair the meeting shall be chaired by the Vice Chair.

10. 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.
11. 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.
12. 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.
13. Board members will be entitled to claim reasonable out-of-pocket expenses incurred through discharging their Board responsibilities.

Knowledge and Understanding (including Training)

14. 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.
15. 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.
16. 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

17. 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).
18. 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.
19. 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

20. The Board will meet four times a year. The Chair may call other meetings as necessary.
21. 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.
22. 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

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