CIPFA The Chartered Institute of Public Finance & Accountancy

the guide for

local pension boards

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Foreword

Much experience has been gained since 31 July 2015, the deadline for the first meetings of local pension boards within the Local Government Pension Scheme (LGPS). The potential scope for boards, with their non-decision making role, to add value, was perhaps not fully appreciated at that time. Indeed, initially there were views that boards were an unnecessary additional layer of costs.

Since their establishment, experience has varied greatly between boards. In general terms however, their ability to add value by making recommendations to and gaining assurances on behalf of the pensions committee is becoming increasingly apparent. Boards have become critical but supportive friends of pensions committees. Many board members are voluntary yet want to justify their significant personal commitment by producing worthwhile outcomes. This desire has been justified by the expectations of two key external bodies, the Scheme Advisory Board (SAB) and The Pensions Regulator (TPR). The profile of both bodies has increased significantly since 31 July 2015. Regular surveys and engagement are now the norm, aimed at raising the bar for local pension boards.

CIPFA is committed to high standards of governance and in July 2015 the CIPFA Pensions Panel published Local Pension Boards: A Technical Knowledge and Skills Framework. This new 2018 publication contains various ideas which could help local pension boards in their quest to add value and ensure that they fulfil the various requirements and responsibilities which rest on their shoulders. In Chapter 6, this guide refers to TPR's Code of Practice 14: Governance and Administration in Public Service Pension Schemes, particularly the key issues of the degree of knowledge and understanding required of pension board members. However, it is no substitute for reading the full code, which should be read in conjunction with this guide.

This publication has been developed to add to the existing guidance produced by the SAB and seeks to offer further insight into a range of issues. The publication does not replace the existing SAB guidance or TPR Code of Practice and related guides.

CIPFA would like to thank Gerard Moore for preparing this guide, along with all those who contributed or provided assurance including representatives of the CIPFA Pensions Panel, chaired by Mike Ellsmore.

Contents

CHAPTER 1

Legislation and functions

This chapter sets out the basics of the key pieces of legislation pertaining to local pension boards.

PUBLIC SERVICES PENSIONS ACT 2013 (PSPA 2013)

The LGPS is a scheme under Section 1 of this Act, and as such the LGPS regulations must provide for the establishment of a board with responsibility for assisting the scheme manager (or each scheme manager) in relation to the following matters:

- Securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that is connected with it.
- Securing compliance with requirements imposed in relation to the scheme and any connected scheme by TPR.
- Such other matters as the scheme regulations may specify.

In making the regulations the responsible authority must have regard to the desirability of securing the effective and efficient governance and administration of the scheme and any connected scheme.

The above, and further requirements under PSPA 2013, were subsequently enacted within the LGPS Regulations 2013.

RELEVANT EXTRACTS FROM THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 2013 (AS AMENDED)

106. (1) Each administering authority *shall no later than 1 April 2015 establish a pension board ('a* local pension board*') responsible for assisting it*

(a) to secure compliance with:

(i) these Regulations

(ii) any other legislation relating to the governance and administration of the Scheme and any connected scheme

(iii) any requirements imposed by The Pensions Regulator *in relation to the Scheme and any connected scheme, and*

(b) to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.

(7) Except where a local pension board is a committee approved under paragraph (2), no member of a local pension board shall have a right to vote on any question unless that member is an employer representative or a member representative.

(8) A local pension 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.

(9) The expenses of a local pension board are to be regarded as part of the costs of administration of the fund held by the administering authority.

The LGPS Regulations 2013 set out more details which reflect the requirements of PSPA 2013.

THE LGPS (INVESTMENT AND MANAGEMENT OF FUNDS) REGULATIONS 2016

There are two references to local pensions boards in these regulations and the associated guidance issued by the former DCLG (now MHCLG – see below).

As background, Regulation 7(1) requires an administering authority to formulate an investment strategy which must be in accordance with guidance issued by the secretary of state.

Regulation 7(2)(e)

How social, environmental or corporate governance considerations are taken into account in the selection, non-selection, retention and realisation of investments.

In formulating and maintaining their policy on social, environmental and corporate governance factors, an administering authority:

- must take proper advice
- *should explain the extent to which the views of their **local pension board** and other interested parties who they consider may have an interest will be taken into account when making an investment decision based on non-financial factors.* (Italics and emboldening added.)
- must explain the extent to which non-financial factors will be taken into account in the selection, retention and realisation of investments
- should explain their approach to social investments.

Regulation 8

This enables the secretary of state to issue a direction if he is satisfied that an administering authority is failing to act in accordance with this guidance.

Before issuing any direction, the secretary of state must consult the administering authority concerned and before reaching a decision, must have regard to all relevant evidence including reports under Section 13(4) of the Public Service Pensions Act 2013, *reports from the scheme advisory board or from the relevant **local pension board***, and any representations made in response to the consultation with the relevant administering authority (italics added).

THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

In January 2018, the Department of Communities and Local Government (DCLG) was renamed the Ministry of Housing, Communities and Local Government (MHCLG). The former DCLG in effect was, until the PSPA 2013, the sole regulator of the LGPS and was responsible for effecting relevant legislation.

Primary legislation refers to new laws which require an Act of Parliament for them to be in force.

Much of the detailed requirements under which the LPGS operates are issued via statutory instruments, such as the LGPS (Management and Investment of Funds) Regulations 2016. These represent secondary legislation which is much speedier to introduce.

Proposed changes of regulations issued by the MHCLG are open to prior consultation. There could be consultations on which boards may feel that they have a useful view to express.

CHAPTER 2

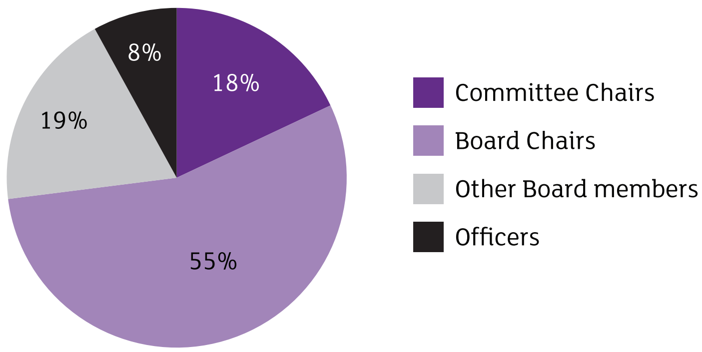
Board relationships

This chapter looks at how the local pension board interacts with other areas of the administering authority and also at other key relationships. Appendix IV has a governance map showing where boards fit in.

In the autumn of 2017 the SAB issued a survey to all funds entitled *Survey of LGPS Local Pension Boards*, which was to be independently responded to by both committee and board chairs.

The scale of responses was below expectations, which may be a reflection of a lack of engagement and/or lack of resources to effectively manage the pensions function. Seventy-four percent of the responses were received from board chairs and members. Figure 2.1 gives a breakdown of the survey respondents.

Figure 2.1: Survey respondents

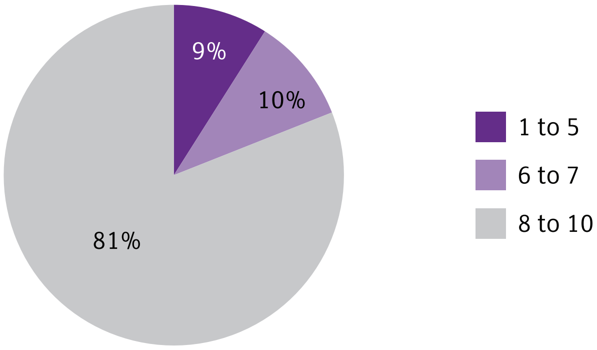


The results below should therefore be considered indicative and in the context of further work by the SAB in the future.

At the time of writing this guide, an analysis, conclusions and recommendations from the narrative responses were not available, so the details that follow only cover those quantifiable answers.

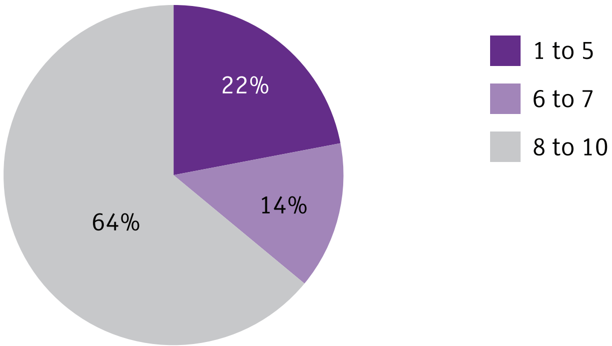
A healthy 81% of respondents gave a score of at least eight out of ten, to reflect the relationship between the administering authority and the board, though 9% scored a five or lower.

Figure 2.2: Relationship between administering authority and board



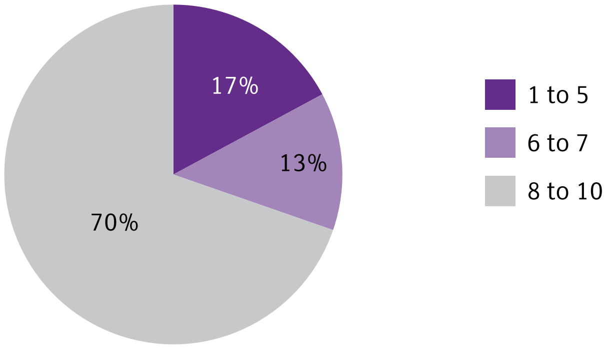
Less positive was the relationship between the pension committee and the board, with a worrying 22% scoring a five or lower. This statistic could represent a combination of dissatisfaction from a committee perspective as to perceived lack of achievements of the board, and frustration from boards about perhaps not having a meaningful enough role to justify their time commitment to the knowledge and skills requirements. It seems important to reflect locally on whether the relationship needs a review. If so, some of the aspects identified in the following paragraphs could be of use.

Figure 2.3: Relationship between committee and board



Bringing together the effectiveness of communication between the three parties, the administering authority, pensions committee and board, a higher figure of 70% scored it at least eight out of ten, and a lower figure of 17% scored a five or lower.

Figure 2.4: Overall relationship between administering authority, committee and board



RELATIONSHIP WITH THE PENSIONS COMMITTEE OR PENSIONS PANEL

So what can be done to improve the ratings in Figure 2.3?

Access to agendas

It can be argued that, to effectively perform their functions, boards need access to both the open and closed areas of the agenda of the pensions committee. If meetings of the board are held in public, appropriate arrangements would be required to deal with 'exempt' items.

Cross observation

Arrangements whereby the board, or the board chair, attend the full meeting of the pensions committee, and similarly the chair/vice chair of the pensions committee attends meetings of the board, are to be commended. This immediately establishes transparency and with it mutual trust. This helps in both directions: the board is helped when reviewing the agenda and minutes of the previous pensions committee and the pensions committee is helped when the board is examining an item in some depth, such as the breaches log, and then making its observations and recommendations to the pensions committee.

Meetings of both chairs

An alternative approach is for regular meetings of the chairs of the committee and the board. To be of optimal value, this should be at least half-yearly.

Feedback mechanisms

The 2017 SAB survey indicates that 63% of respondents gave a score of at least eight out of ten to reflect the ability of the board to make recommendations to the pensions committee, with 21% scoring a five or lower. A broadly similar 67% scored at least eight out of ten rating of the administering authority's response to any such recommendations, with 21% scoring a five or lower. These responses could reflect views on the ability (knowledge and skills), opportunity (a meaningful role and agenda) and a process for a board to make recommendations to the committee.

If we look at process, the board should routinely receive the minutes, or draft minutes, of the previous pensions committee. However, there are various options for the pensions committee to learn of the outcomes of meetings of the board. As board minutes can extend to several pages, a suitable executive summary could be made as an agenda item at the following meeting of the committee. This could summarise the recommendations of the board, with the appropriate justifications. It could list the assurances the board has gained, with sources. It could also highlight any other issues the board believes would be of interest to the committee.

Requests from the committee and recommendations and assurances from the board

Ideally a board can have an early look at some detailed reports and make recommendations and observations to help focus committee members on the high level messages. One such example is for a board to examine the list of recorded breaches and probe for common weaknesses, eg with particular employers, or in specific activity areas, such as poor key performance indicators (KPIs) in areas such as the timely processing of new members forms, of notifying the amounts of benefits payable on retirement and the provision of annual benefit statements. Additionally, boards could examine and make recommendations on draft strategy statements, such as investment strategy, communications strategy and administration strategy.

Joint training

Perhaps the majority of training in the two years following the inception of boards has been arranged jointly for pension committees and pension boards. However, the need to comply with MiFID II from January 2018 may force a change of approach. Under MiFID II, the knowledge and understanding of pension committees regarding investment issues is judged as a whole, including the experience of key support officers and investment advisers. However, for boards whose primary focus is on administration, each board member is expected to be conversant with the regulations and with the law. With these differing requirements, the provision of future training may need to be targeted more specifically.

RELATIONSHIP WITH FUND OFFICERS

Some boards will have a designated board secretary to service the board. This is generally seen as helpful. We have noted in Figure 2.2 that 81% of respondents gave a score of at least eight out of ten, to reflect the relationship between the administering authority (taken as a proxy to represent the officers) and the board.

Agenda setting, work programme and training programme

All three are areas where the relationship between the board secretary and board chair is of key importance.

Commissioning special reports for the board

This can help the board gain assurances in areas that may not otherwise receive scrutiny as perhaps they were not deemed of sufficient importance to justify an appropriate time resource at the committee. An example is examining detailed projections of cash flows, including arrangements for disinvestment should cash income to the fund (from contributions and investments) be insufficient to meet expenditure (payments of benefits). Communication with scheme members is another such area, with the board able to examine sample documents for ease of understanding, comprehensiveness etc. A number of boards have commissioned reviews of the scheme's governance by an external party and this has provided a useful benchmark for boards in contributing to the governance of the scheme.

When commissioning reports, the board would need to consider whether the board secretary has the capacity to undertake reviews in the light of other day to day pressures from pooling or whether external support is required.

Assisting the officers with appropriate recommendations to help improve the quality of data

Where officers are reporting concerns, perhaps as revealed in the breaches log, regarding the timely submission of accurate data from all scheme employers, the board can make recommendations and observations which officers can use to help ensure that scheme employers fulfil their obligations, as reflected in the administration strategy. In addition, should there be an annual employers' conference – the board chair can use that opportunity to reinforce these messages.

Section 151 officers

There is merit in the chair of the board having an annual or semi-annual meeting with the Section 151 officer. This gives an opportunity to discuss any overarching concerns. The role and expertise of the Section 151 officer has become more critical due to the requirements of complying with the MiFID II regulations. It is usually the Section 151 officer who bears responsibility for the effective management of the pension fund, and thus for ensuring appropriate resourcing. As such, boards can express their concern should they feel poor KPIs reflect an under-resourced or under-skilled pensions function.

Internal auditors

The board could potentially invite the internal auditors to present on the findings of any internal audit reports recently completed.

RELATIONSHIP WITH SCHEME MANAGER

In some cases, the scheme manager is a named person, or more commonly, a named role. There appears to be an expectation from the regulator that the scheme manager is quite 'hands-on' rather than being a token figure. The generic application of the term can sometimes lead to confusing responses to surveys. When the opportunity arises to review the terms of reference, and/or perhaps the constitution, consideration could be given to this issue.

RELATIONSHIP WITH THE LOCAL PENSION POOLING PARTNERSHIP

This is separately discussed in Chapter 9.

RELATIONSHIP WITH OTHER EXTERNAL SUPPLIERS OF SERVICES TO THE FUND

This is particularly important should the administering authority use a **third party administrator**, or participate in a **shared service** arrangement for administration. A key focus should be on data quality, so a board could both examine any service level agreement (SLA) and determine what reports it needs from its administrator in order to fulfil its functions. This would also involve examining those KPIs resting with the administrator.

With so much of the regulator's focus being on administration, there needs to be a sufficient component on each board agenda relating to information from an outsourced administrator, and boards may need to probe quite deeply to gain appropriate assurances. The administering authority cannot, however, delegate accountability to third party administrators.

It is possible that the board could seek reassurances from the **scheme actuary** regarding the quality of data made available for the triennial valuation. Similarly, reassurances from the **Government Actuaries' Department (GAD)** could be sought regarding the quality of the data used for its Section 13 reports.

A board can examine the investment monitoring reports from **asset managers**, and/or in due course from the pool, to consider whether those reports are structured to allow the pensions committee to easily understand how well the mandate is performing relative to its requirements. This ideally means comparing performance **net** of investment management charges and associated investment costs, but should ensure consistency between the gross or net assumptions within the funding strategy statement and the investment strategy statement and the performance monitoring being reported to the committee. The transparency of investment management costs could also be examined.

CHAPTER 3

Board structure and operations

This chapter sets out the governance requirements of the board and issues to consider when establishing the board structure and operations.

TERMS OF REFERENCE

The 2017 SAB survey indicated that 100% of respondents had terms of reference (TORs) in place. Of these, 80% of respondents gave a score of at least eight out of ten, although 8% scored a five or lower.

Are the original TORs still appropriate in the light of experience? Are they too rigid? Are they a constraint to a board achieving to its potential? Are the number of representatives from the employers and scheme member side still appropriate in the light of experience?

Generally speaking, it appears that very few agenda items lead to split votes. Are the voting rights clear? Is it clear that an independent chair had no vote? Is it clear what to do in the event of a tied vote?

A revision of the TORs might well require an item on the agenda of full council, so perhaps an annual or biennial review is sensible, but best to avoid frequent little tweaks.

Some, but not all, TORs include internal procedures to be followed in the event of a difference of view between the board and the committee, eg regarding whether to report a breach of the law to the TPR.

SELECTION AND ROLE OF VOTING MEMBERS

Under paragraph 106 (7) of the LGPS Regulations 2013 (as except where a local pension board is a committee approved under paragraph 2) no member of a local pension board shall have a right to vote on any question unless that member is an employer representative or a member representative.

In the light of experience, are the arrangements in place for the appointment of the original board members still appropriate, or are changes needed? Is the selection process too rigid and/or costly in terms of time and resources now that replacements are being required? If ballots of scheme members are currently required, is the process too complex? Is there a more practical approach? If there is an interview panel approach, is it effective, and does it offer an opportunity to identify a pool of potential future candidates in the event of further vacancies on the board? Or is basic head hunting the least costly, faster and most effective process? What has become increasingly clear is the value of appointing board members who can bring relevant skills and experience.

An interesting question is whether there should be a 'job description equivalent' for board members, and maybe a person spec. This could help reduce early turnover with all parties having a good understanding of both the expectations and demands of the role. Note that CIPFA's publication Local Pension Boards: A Technical Knowledge and Skills Framework (July 2015) shows a suggested job description and role profile for the chair of a pension board.

Appendix I sets out a suggested 'at a glance' summary of the potential role and expectations of pension board members.

Although individual board members may be employed by or represent specific organisations, they act on behalf of all scheme members and employers in their role on the board. Ideally scheme member representatives should be able to feed back to their members, and there are various routes for this including, where appropriate, via trade unions or perhaps by including an article on the board's role and activities in a bulletin for scheme members produced by the fund.

Appendix II sets out a similar description for pension board chairs.

Under the TPR's Code of Practice 14, those responsible for appointing members to a pension board should consider the mix of skills and experience needed on the pension board in order for the board to operate effectively in light of its role, responsibilities and duties.

Regarding the periods of appointment, is a cliff-edge 'all change' scenario avoided? Are the appointment periods staggered? Should a scheme member representative change status, eg from active to deferred or to retired; do or should the terms of reference mitigate the danger of losing an experienced board member?

SELECTION OF EMPLOYER REPRESENTATIVES

In the light of experience, and in particular the focus of TPR on data and processes, do the current appointees bring the right skill set to the board? As the administering authority is reliant on accurate and timely information flows from scheme employers, are suitable practitioners on board? Elected members are subject to the ballot box at pre-determined periods – is the board subject to the same cliff-edge scenario as the pensions committee? Can some risk mitigation be brought in? The overarching issue is that scheme employer representatives do not solely represent their particular employer on the board, and ideally bring employer experience to the table.

SELECTION OF SCHEME MEMBER REPRESENTATIVES

Two dimensions dominate this subject: the issue of representation across the 'active', 'deferred' and 'pensioner' categories all being represented, and whether or not any/all scheme member representatives need to be trade unions representatives, and if so who appoints them. Scheme member representatives should be representing all scheme members, although varied membership can bring advantages. All these are for local decisions, but from experience, too rigid an arrangement can result in the loss of effective board members should they change status, eg retire.

DE-SELECTION OF BOARD MEMBERS

Are the criteria spelt out in the terms of reference? Is there a degree of discretion, for example to avoid automatically losing a skilled and experienced board member who through circumstances has been unable to attend a series of meetings? Is the process clear? Or is this a looser arrangement altogether? Is attendance at training events poor? Do training needs analyses indicate little progress? Or do individual board members not yet fully understand their role?

It appears that the expectations of and results of surveys by the both TPR (see Chapter 5) and the SAB (see Chapter 4) are focusing in on areas of underperformance. Indeed TPR can, under its reserved powers, replace a board. In terms of reputational risk to the administering authority, in-house solutions aimed at avoiding this outcome are clearly preferable. The ability of a board to do its own self-assessment can highlight issues of performance. Unlike a pensions committee, each board member is separately accountable for their performance, their commitment to training and their attendance.

RESIGNATIONS OF BOARD MEMBERS

These could be due to any number of reasons, such as losing an election, leaving a specific role which was a requirement for appointment in the first place, losing the required capacity regarding time commitment, all of which to an extent are subject to external factors.

However, some reasons could relate to the way to board is being run, eg board members had erroneously expected the role to involve more decision making, but more worrying should be a frustrated board which feels it could achieve more and better outcomes if it was given more scope. Issues such as board members/chair not being allowed to observe at the pensions committee, or perhaps only being allowed access to the public part of the agenda, do cause frustrations and a feeling of not being appreciated, and represent a risk that can easily be mitigated.

A particular concern in some quarters is the potential exposure to fines from TPR, or potential legal action liabilities for non-performance or negligence. This highlights the need for the administering authority to bring a satisfactory local conclusion to the issue of insurance or indemnity for its board members, following the views of James Goudie Q.C.

NUMBER OF BOARD MEMBERS

In the 2017 SAB survey, regarding the number of voting board members, an arrangement with two employer representatives plus two scheme member representatives (ie 2+2) was the minimum. A 3+3 or a 4+4 were equally common, up to 6+6. Decisions regarding numbers may be influenced by the availability, or otherwise, of suitable candidates, so over-optimism on this aspect may result in unfilled vacancies, and hence poor attendance records.

Linked to size is the issue of the quorum for meetings of the board. One would expect that both employer and scheme member sides must be represented for a meeting to be quorate, although the numbers at each meeting do not need to be equal. A 2+2 is therefore the most vulnerable arrangement.

Other dimensions to consider are the opportunities for all board members to contribute and for meetings to be manageable.

INDEPENDENT CHAIR OR VOTING CHAIR?

When the requirement to establish local pension boards was established, amid doubts as to their value, many administering authorities went for a low-cost option, involving a rotating voting chair, with scheme member representatives and scheme employer representatives alternating every year or two. Others went for a non-voting independent chair and, where independent chairs are remunerated, budgeted accordingly.

Generalising, and recognising that there are exceptions, independent chairs can bring wider and relevant experience, can take pressure off the board secretary by drafting the annual report of the board, and perhaps (help) setting board agendas. They also are often more likely to have a wider awareness of current and future developments within pensions generally. Similarly, it is likely that they will have a greater input into the work programme and the training programme.

It is interesting that TPR has indicated its higher level of expectations from independent chairs.

PAYMENT AND/OR EXPENSES FOR ALL BOARD MEMBERS?

Some authorities do make an allowance, inclusive or exclusive of expenses. As the demands on board members are increasingly being appreciated, this may become more common.

The 2017 SAB survey indicated that 37% of chairs and 21% of other board members are remunerated, whereas 87% of all board members can claim expenses.

FREQUENCY OF MEETINGS

This will be determined by the terms of reference. These may also allow the chair to call additional meetings at his/her discretion, sometimes with requirements to seek approval from the scheme manager.

The experience of the first two years indicated an increase in frequency of meetings.

Some terms of reference allow additional meetings to be held via arrangements such as video conference, teleconference or email, especially if an independent chair does not live locally. These would normally be restricted to issues of an urgent nature, eg a request from a board in the same pensions pool seeking views from all other boards whose funds are in the same pool. The usual protocols for publishing agendas should be followed.

Recent surveys indicate a significant variance in the frequency of meetings, and guidance may be forthcoming. For now, informal discussions with TPR and the SAB suggest four per annum as a suitable number. Indeed, in the 2017 SAB survey, the majority (54%) of boards meet four times a year, whereas 29% only meet twice.

PERFORMANCE OF THE BOARD

Consideration can be given to how effectively the board works.

At time of publication, there are not any formal standard KPIs for local pension boards, although some have been adopted locally.

KPIs reflecting inputs are relatively easy to identify, set appropriate targets for and quantify, eg percentage attendance at meetings, number of meetings which were quorate, number of training events attended.

However, KPIs reflecting outcomes are more problematic. As an example, trying to set targets for the number of recommendations made by the board is influenced by the existing standard of administration: the better it is, the less scope for making recommendations. Training targets could be set and monitored.

The ultimate test is whether the pensions committee is satisfied with the performance of its board.

CHAPTER 4

The Scheme Advisory Board

The Local Government Pension Scheme Advisory Board (SAB) is a body set up under Section 7 of the Public Service Pensions Act 2013 and The Local Government Pension Scheme Regulations 110 to 113.

PURPOSE

The purpose of the board is to be both reactive and proactive. It will seek to encourage best practice, increase transparency and coordinate technical and standards issues.

It will consider items passed to it from the (MHCLG), the board's sub-committees and other stakeholders as well as items formulated within the board. Recommendations may be passed to the MHCLG or other bodies. It is also likely that it will have a liaison role with TPR. Guidance and standards may be formulated for local scheme managers and pension boards.

On 1 April 2015 the board was established as a statutory body, and the formal membership was confirmed early in 2016 with non-voting members and advisors added in the summer of the same year.

BUDGET AND WORK PROGRAMME

The board is required to submit a budget and work programme to the secretary of state each year for approval. Once approved the budget for the board is funded via a statutory levy on LGPS administering authorities, which is classified as an administration expense and therefore can be recharged to the pension fund.

Agendas and minutes of SAB meetings and sub-committees are available on the SAB website.

SAB MEMBERSHIP

The membership of the board is designed to include a broad spectrum of scheme stakeholders. Members have been appointed either by appropriate representative bodies or by nomination and election. At time of publication, the SAB consists of a chair (Cllr Roger Phillips) a vice chair (Jon Richards of UNISON), six employer representatives and six scheme member representatives, along with three non-voting members.

SUB-COMMITTEES

At time of publication, the SAB has two sub-committees:

- Cost Management, Benefit Design and Administration Sub-committee
- Investment, Governance and Engagement Sub-committee.

GUIDANCE

The SAB has issued guidance on a number of topics, including on the establishment of local pension boards and template terms of reference, but more recently on the issuing of annual benefits statements.

SAB SURVEYS

In 2017, the SAB undertook a survey of local pension boards. The scale of response was worryingly low, especially from smaller funds, so the overall summaries and conclusions may well not be truly representative. The findings have been interwoven within Chapters 2 and 3.

COMMENTS

The SAB can seek to clarify certain issues on behalf of all LGPS funds, for example, the SAB sought a view from James Goudie QC regarding the legal liability aspect of local pension boards being established by legislation that did not come under the umbrella of various local government acts. The SAB is always interested to learn of any other common issues on which legal advice can be sought on behalf of all funds.

The SAB is also keen on learning of any aspects of the regulations which colleagues feel are proving problematic and could be improved.

The SAB does hold the annual reports of all funds, and also produces a combined annual report for the LGPS which contains some useful stats that local pension boards may want to be familiar with regarding the scheme as a whole.

Finally, there is strong evidence that the SAB, TPR and MHCLG are liaising well and giving consistent messages.

Please note that it is important for the administering authority to notify LGA/SAB of any changes to board membership or contact details.

CHAPTER 5

The Pensions Regulator

Established under provisions of the Pensions Act 2004, The Pensions Regulator (TPR) became a regulator of the LGPS with effect from 1 April 2015 under the Public Services Pensions Act 2013. It is important to recognise that TPR not only regulates the LGPS as a whole, but increasingly monitors each individual fund. As such it is most important for pension funds to ensure that all communications from TPR are handled with due speed and completeness.

TPR's website is a valuable source of information.

POWERS OF TPR

The powers available to TPR, the full list of which can be found on its website, are either:

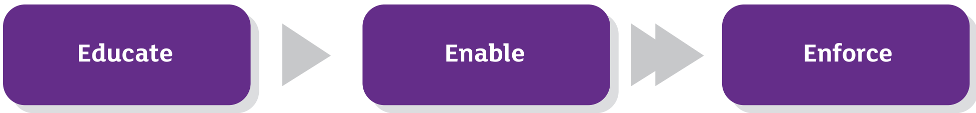
- basic powers, which can be made independently by TPR staff or
- reserved powers, which can only be used by TPR's Determination Panel.

The powers include the following:

- Appoint a skilled person to assist the pension board.
- Civil penalties – up to £5,000 to an individual or £50,000 to a corporate body.
- Collect data through the scheme return.
- Criminal prosecution.
- Improvement notices and third party notices – require specific action to be taken within a certain time.
- Information – require any relevant person to produce any relevant document or information.
- Inspection – at own premises and/or premises of a third party.
- Publish reports about a case (which might include naming those at fault).
- Recover unpaid contributions from employers on behalf of the scheme manager.
- Report misappropriation – notify the scheme manager about pension board conflicts or misuse regarding assets.
- Skilled person report – require scheme managers to provide a report made by a skilled person nominated by the regulator.

LEVELS OF APPROACH

The three levels of involvement initially established by TPR are:



The ‘educate’ function

This was the initial focus of TPR for the LGPS. TPR has various means of helping administering authorities and pension boards, including The Trustee Toolkit, with a special version for public sector schemes, set to be updated in 2018.

All board members are encouraged to complete the toolkit; indeed in many cases all board members are expected/required to do so. See Chapter 8.

The ‘engage’ function

For individual issues, TPR endeavours to use the ‘engage’ process to resolve cases, rather than go direct to the ‘enforce’ powers.

From 2016 TPR put more emphasis on this component, and the following represent types of engagement:

- More visible engagement at conferences.
- Willingness to attend meetings of local pension boards, or regional meetings (and TPR does monitor which funds attend its events). There is a speaker request form on TPR’s website.
- Offers to keep interested parties aware of developments, such as their annual set of priorities, by way of email.

The ‘enforce’ function

Unless there has been a particularly serious breach of the law, TPR endeavours to use this as a last resort, if it has failed to achieve compliance by using the ‘engagement’ stage.

In 2017, TPR levied the first fine on a public sector pension fund, which happened to be an LGPS fund for non-return of the scheme annual return.

SCHEME ANNUAL RETURN

Funds will normally be asked to submit an annual scheme return. This may become more refined over time. From 2018, the annual return will include feedback on the inclusion and accuracy of common and scheme-specific data, together with a data improvement plan, including resources and timescales:

- Common data: name, address, national insurance number, date of birth etc.
- Scheme-specific data: other member specific data such as service history.

SCHEME ANNUAL SURVEY

TPR also may request that an annual survey be completed and it may require this to be completed online. It may request completion by individuals holding specific roles, such as scheme manager, committee chair or board chair. Since TPR monitors individual funds, completing its surveys is strongly recommended.

HELPFUL INFORMATION FROM TPR'S WEBSITE

- Improvement plan guidance.
- Annual benefits statement guidance:
  - general
  - checklist
  - key information for members.
- Data measuring guidance.
- Internal controls checklist.
- Public service – scheme self-assessment toolkit.
- Public service – personal self-assessment tool.
- Reporting a breach.
- Risk register example.
- Trustee Toolkit.

Board members (and others) can sign up for TPR's email updates.

TWENTY-FIRST CENTURY TRUSTEESHIP

This TPR initiative is designed to drive up standards of governance across all pension funds, public and corporate.

Funds should be aware of the standards required, particularly relating to:

- good governance fundamentals
- a clear understanding of roles and responsibilities
- a clear purpose and strategy.

To achieve this, TPR will:

- be clearer on the standards expected from trustees and key players and communicating these expectations
- use bolder enforcement against non-compliance with governance standards (ie scheme return completion)
- encourage consolidation where schemes are unwilling or unable to deliver good governance, including value for members (corporates).

Thus TPR has become:

Quicker | **Clearer** | **Tougher**

by intervening more quickly and using some of its powers for the first time.

TPR'S DIRECT CONTACTS WITH LOCAL PENSION BOARD CHAIRS

Note that TPR does on occasions contact board chairs directly, so it is important for the administering authority to notify it of any changes to board membership or contact details.

TWITTER ACCOUNT

TPR's Twitter account is @TPRgovuk.

GENERAL DATA PROTECTIONS REGULATIONS 2016 (GDPR)

Although compliance with these regulations, effective from 25 May 2018, is an appropriate topic for board scrutiny, the Information Commissioner's Office (ICO) is the relevant regulator, not TPR.

ICO's GDPR guidance is available on its website.

CHAPTER 6

The Pension Regulator's Code of Practice 14

TPR's Code of Practice 14: Governance and Administration in Public Service Pension Schemes (initial public sector version April 2015) sets out the legal requirements for public service pension schemes in respect of those specific matters. It contains practical guidance and sets out standards of conduct and practice expected of those who exercise functions in relation to those legal requirements.

The code, covering 275 paragraphs, is structured as a reference for scheme managers and pension boards to use to inform their actions in four core areas of scheme governance and administration:

- governing your scheme
- managing risks
- administration
- resolving issues.

This chapter refers extensively to both the background and the first part of the governance element of the code, 'Knowledge and understanding required by pension board members', as that sets the scene for the role, expectations and demands on pension board members. Where appropriate, the relevant paragraph number in the code is quoted.

It is important to note that:

Codes of practice are not statements of the law and there is no penalty for failing to comply with them. It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant provisions of a code of practice into account. (Paragraph 5)

In this context, it is important to note that **must** implies a legal requirement and **should** refers to practical guidance and the standards expected by the regulator.

This code is particularly directed at scheme managers and the members of pension boards of public service pension schemes and connected schemes. Scheme managers must comply with various legal requirements relating to the governance, management and administration of public service pension schemes. Pension boards must also comply with certain legal requirements, including assisting scheme managers in relation to securing compliance with scheme regulations and other legislation relating to the governance and administration *of the scheme, any requirements of the regulator and with any other matters specified in scheme regulations. The role, responsibilities and duties of pension boards will vary. (Paragraph 12)*

Scheme managers and pension boards (where relevant) may be able to delegate some activities to others, or outsource them, although they will not be able to delegate their accountability for complying with a legal requirement imposed on them. (Paragraph 14)

Outsourced services such as administration can represent a considerable challenge to boards, who would expect to find sufficient knowledge and awareness remaining within the authority's staff to enable the contract to be effectively overseen and managed, and seek on-going assurances that the outsourcer is complying appropriately.

Each public service pension scheme has one or more persons responsible for managing or administering the scheme. Public service pension schemes can have different persons acting as scheme manager for different parts of the pension scheme. (Paragraph 22)

Has (or have) the scheme manager(s) been identified?

KNOWLEDGE AND UNDERSTANDING REQUIRED BY LOCAL PENSION BOARD MEMBERS

A member of the pension board of a public service pension scheme must be conversant with:

- *the rules of the scheme, and*
- *any document recording policy about the administration of the scheme which is for the time being adopted in relation to the scheme. (Paragraph 34)*

Being 'conversant' means having a working knowledge of the scheme regulations and policies, so that pension board members can use them effectively when carrying out their duties. (Paragraph 40)

A member of a pension board must have knowledge and understanding of:

- *the law relating to pensions, and*
- *any other matters which are prescribed in regulations. (Paragraph 35)*

The degree of knowledge and understanding required is that appropriate for the purposes of enabling the individual to properly exercise the functions of a member of the pension board. (Paragraph 36)

The legislative requirements about knowledge and understanding only apply to pension board members. However, scheme managers should take account of this guidance as it will support them in understanding the legal framework and enable them to help pension board members to meet their legal obligations. (Paragraph 37)

Schemes should establish and maintain policies and arrangements for acquiring and retaining knowledge and understanding to support their pension board members. Schemes should designate a person to take responsibility for ensuring that a framework is developed and implemented. (Paragraph 38)

Does the board know who this person (or these persons) is (or are)?

However, it is the responsibility of individual pension board members to ensure that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the pension board. (Paragraph 39)

Schemes should prepare and keep an updated list of the documents with which they consider pension board members need to be conversant. (Paragraph 46)

In paragraph 42, the code sets out "examples of administration policies which the regulator considers to be particularly pertinent and would expect to be documented where relevant to a pension scheme, and with which pension board members must therefore be conversant where applicable". It is worth cross checking against this list to ensure each has been, or is planned to be, considered.

For the LGPS:

Documents which record policy about the administration of the scheme will include those relating to funding and investment matters. For example, where relevant they must be conversant with the statement of investment principles and the funding strategy statement. (Paragraph 43)

Paragraph 44 states that:

Pension board members must also be conversant with any other documented policies relating to the administration of the scheme.

Paragraph 45 describes the board's role relative to additional voluntary contributions schemes (AVCs).

DEGREE OF KNOWLEDGE AND UNDERSTANDING REQUIRED

Paragraphs 49 to 52 indicate that pension board members must have:

- a working knowledge of their scheme regulations and documented administration policies
- knowledge and understanding of the law relating to pensions (and any other prescribed matters) sufficient for them to exercise the functions of their role and
- be able to identify and where relevant challenge any failure to comply with:
  - the scheme regulations
  - other legislation relating to the governance and administration of the scheme
  - any requirements imposed by the regulator, or
  - any failure to meet the standards and expectations set out in any relevant codes of practice issued by the regulator
- and their breadth of knowledge and understanding should be sufficient to allow them to understand fully and challenge any information or advice they are given.

The above represents a considerable challenge to board members.

ACQUIRING, REVIEWING AND UPDATING KNOWLEDGE AND UNDERSTANDING

Pension board members should invest sufficient time in their learning and development alongside their other responsibilities and duties. (Paragraph 55)

Newly appointed pension board members should be aware that their responsibilities and duties as a pension board member begin from the date they take up their post. (Paragraph 56)

Pension board members should undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses. (Paragraph 57)

Schemes should keep appropriate records of the learning activities of individual pension board members and the board as a whole. (Paragraph 60)

See paragraphs 55 to 60 for more details.

CONFLICTS OF INTEREST

Actual conflicts of interest are prohibited by the 2013 Act and cannot, therefore, be managed. Only potential conflicts of interest can be managed. (Paragraph 68)

See the full Code of Practice paragraphs 61 to 91 for more details.

PUBLISHING INFORMATION ABOUT SCHEMES

The scheme manager for a public service scheme must publish information about the pension board for the scheme(s) and keep that information up-to-date. (Paragraph 92)

Scheme managers must keep records of pension board meetings including any decisions made. (Paragraph 133)

See paragraphs 92 to 99 and 133 to 134 for more details.

MANAGING RISKS

Internal controls

Internal controls are systems, arrangements and procedures that are put in place to ensure that pension schemes are being run in accordance with the scheme rules and other law. They should include a clear separation of duties, processes for escalation and decision making and documented procedures for assessing and managing risk, reviewing breaches of law and managing contributions to the scheme. (Paragraph 13)

Not all risks will have the same potential impact on scheme operations and members or the same likelihood of materialising. Schemes should consider both these areas when determining the order of priority for managing risks and focus on those areas where the impact and likelihood of a risk materialising is high. (Paragraph 109)

Schemes should consider what internal controls are appropriate to mitigate the main risks they have identified and how best to monitor them. (Paragraph 111)

See paragraphs 101 to 112 for more details.

Monitoring controls effectively

Risk assessment is a continual process and should take account of a changing environment and new and emerging risks, including significant changes in or affecting the scheme and employers who participate in the scheme. (Paragraph 113)

Outsourcing services

The legal requirements relating to internal controls apply equally where schemes outsource services connected with the running of the scheme. Providers should be required to demonstrate that they will have adequate internal controls in their tenders for delivering services. The requirements should be incorporated in the terms of engagement and contract between the scheme and service provider. (Paragraph 119)

See paragraphs 119 to 120 for more details.

This should be an area of keen interest for a pensions board. It provides a good opportunity to add value. There are various approaches, such as looking at a specific subject area of the risk register at each board meeting, looking at new risks as they arise, such as resulting from changes in legislation (eg MiFID II), or focusing on the top risks. Ideally the pensions committee should determine an appropriate role for the board as a means of assisting the scheme manager.

Regarding outsourced contracts, the ability to effectively manage and monitor that contract is essential, particularly with regard to internal controls and risk.

ADMINISTRATION

Paragraphs 122 to 146 are mission-critical to board agendas, including establishing and operating internal controls (paragraph 125), the requirements on participating employers to provide scheme managers with timely and accurate data in order for the scheme manager to be able to fulfil their legal requirements (paragraph 128), and the requirement to retain records for as long as they are needed (paragraph 135).

Paragraph 138 expects schemes to continually review their data and carry out a data review exercise at least annually, with paragraph 141 indicating that where schemes identify poor quality or missing data, they should put a data improvement plan in place to address these issues.

Where the management of scheme data has been outsourced, it is vital that schemes understand and are satisfied that the controls are in place that will ensure the integrity of scheme member data. (Paragraph 139)

Schemes should ensure that member records are reconciled with information held by the employer. (Paragraph 142)

See the full code of practice for more details.

Record keeping appears as an ongoing priority of TPR. The topic should feature appropriately on board agendas.

Administration: maintaining contributions

Paragraph 147 sets out the requirements for monitoring receipt of employer contributions, while paragraph 148 does the same for employee contributions.

As part of the requirement to establish and operate adequate internal controls, scheme managers should ensure that there are effective procedures and processes in place to identify payment failures that are – and are not – of material significance to the regulator. (Paragraph 150)

Reporting payment failures of employer contributions as soon as 'reasonably practicable' means within a reasonable period from the scheme manager having reasonable cause to believe that the payment failure is likely to be of material significance to the regulator. (Paragraph 182)

In the case of an employer failing to pay employee contributions to the pension scheme, if the scheme manager has reasonable cause to believe that the payment failure is likely to be of material significance to the regulator, the failure must be reported to the regulator and members within a reasonable period. (Paragraph 184)

See paragraphs 147 to 186 for more details, as much more guidance is shown than can be covered here.

This is an easy area for the board to scrutinise, as it should be straightforward to establish and maintain suitable procedures and records. But are those records in place?

Administration: providing information to members

This section summarises the legal requirements relating to benefit statements and certain other information which must be provided. (Paragraph 187)

Schemes should design and deliver communications to scheme members in a way that ensures they are able to engage with their pension provision. Information should be clear and simple to understand as well as being accurate and easily accessible. (Paragraph 207)

This should be an area of keen interest for a pensions board. The provision of annual benefit statements to active and deferred members has a specific legal deadline (currently 31 August), and in many circumstances failure to achieve this deadline could be deemed 'of material significance to the regulator' and therefore be reportable. Equally, there are other responsibilities, such as time targets for processing payments of benefits and issuing of estimates of pension payments, which should feature among the KPIs that are regularly reviewed by the board. Finally, the board can examine standard letters for ease of understanding.

See paragraphs 187 to 211 for more details.

RESOLVING ISSUES

Internal dispute resolution

Scheme managers must make and implement dispute resolution arrangements that comply with the requirements of the law and help resolve pensions disputes between the scheme manager and a person with an interest in the scheme. (Paragraph 213)

See the full Code of Practice paragraphs 213 to 240 for more details.

Reporting breaches of the law

While the code sets out in great detail guidance to help determine whether a breach of law is reportable to the regulator, lists of **recorded** breaches should equally be of interest to the board. These are breaches which are not deemed to be of material significance to the regulator (see below).

Lists of recorded breaches give indications as to the overall quality and timeliness of data flows and transactions, and whether processes are in place to capture individual activities which may not perhaps have been completed within appropriate timescales. The key for the board is to understand why such breaches occurred.

Similarly, when using the 'traffic light' system (red, amber, green: RAG) to determine whether or not a breach is of material significance to the regulator, a board may wish to inspect the documented process by which the decision was made that the breach was merely recordable, not reportable. More than one red light out of the four elements examined for a breach would normally be expected to lead to that breach being reported to the regulator. But each breach should be individually analysed.

TPR has a downloadable Public Service Toolkit for breaches.

Certain people are required to report breaches of the law to the regulator where they have reasonable cause to believe that:

- *a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with*
- *the failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions. (Paragraph 241)*

So who is expected to report a breach?

Paragraph 242 lists those people and role holders, including scheme managers, members of pension boards, participating employers and professional advisers, and paragraph 245 indicates that they should establish procedures to enable them to do so.

Paragraph 242, note 128, states that:

The legal requirement to report breaches of the law under Section 70(1)(a) of the pensions Act 2004 is imposed on the 'managers' of a scheme, which the regulator generally takes to be the 'scheme manager' identified in scheme regulations in accordance with the 2013 Act.

The report must be made in writing as soon as reasonably practicable. (See definition in Section 70 (2) of the pensions Act 2004.) (Paragraph 243)

In deciding whether a breach is likely to be of 'material significance' to the regulator, it would be advisable for those with a statutory duty to report to consider the:

- *cause of the breach*
- *effect of the breach*
- *reaction to the breach, and*
- *wider implications of the breach. (Paragraph 253)*

When deciding whether to report, those responsible should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the regulator. (Paragraph 254)

Finally, paragraph 272 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality.

See paragraphs 241 to 275 for more details.

CHAPTER 7

Work programmes for local pension boards

This chapter considers the issues to be considered when determining the work programme for the board.

The frequency and duration of board meetings will determine the potential size of board agendas. There is a danger that a board could simply represent a re-run of the previous pensions committee.

Due to the range of responsibilities for a board, there could be a considerable depth to a board agenda, particularly for those who only meet twice a year. While an agenda could include a number of standing items, it may be worth considering differentiating between those items which will be subject to a deep dive by the board, such as the breaches log, the risk register and any draft statements to consider, and those which may simply be for noting and awareness, eg some decisions of the pensions committee. This approach can help target time at those items most likely to add value.

Over time, should a board agenda increasingly consist of items it previews on behalf of the committee, it is possible that the traditional pattern of boards meeting a couple of weeks after committee could be replaced with their meeting, say, three weeks before committee, leaving time for their recommendations being considered as part of the committee's decision making process.

The scale of potential work programmes is determined by a number of factors, including the following.

STATUTORY REQUIREMENTS

Writing an annual report of the board, ensuring the individual level of knowledge and understanding of board members achieves and maintains acceptable standards, ensuring that potential conflicts of interest are appropriately managed.

In additional, new legislative requirements such as the GDPR 2016, Guaranteed Minimum Pension (GMP) reconciliation and, potentially, the proposed Pensions Dashboard, should also feature.

REQUESTS FROM THE PENSIONS COMMITTEE

Reviews of risk register, reviews of recorded breaches, reviews of draft statements such as administration, governance and investment strategy.

From a board perspective, it feels far more purposeful and efficient to be making observations on statements, on breaches logs and on risk registers in draft or preview form than commenting on something that has recently been adopted by pension committee and is thus a fait accompli. A proactive role clearly adds value and helps the board's sense of purpose.

THE PRIORITIES OF TPR

TPR regularly reviews its priorities, which now reflect 21st century trusteeship. The most recent priorities are:

- ongoing risk assessment and intelligence gathering
- increased emphasis on looking at locally administered schemes
- the key focus areas of record keeping and data quality.

NEW REQUIREMENTS OF TPR

From 2018, scheme annual returns to the regulator will need to include summaries of the quality of common data and scheme-specific data. Funds must have arrangements in place for an annual review of data quality, and should it prove necessary, an annual data improvement plan which sets out the steps being taken to address any issues. The improvement plan should be appropriately resourced and have realistic timescales. Recognising that data improvement is a continuous process, a board will be seeking assurances that the fund is complying with these requirements.

REVIEW OF CODE OF PRACTICE 14

This is basically an ongoing task, so perhaps is best managed on a rolling review section by section (see Chapter 6).

IDEAS FROM BOARD MEMBERS

Inclusion of items suggested by board members will help give board members a good sense of purpose.

WHETHER SCHEME ADMINISTRATION IS IN HOUSE, OR OUTSOURCED OR A SHARED SERVICE

Boards may naturally find it easier to request reports from in house administrators. However, when administration is outsourced, neither a scheme manager nor a board can divest itself of its responsibilities. Indeed the relevant contract or service level agreement or shared service agreement could be examined by the board to ensure that its clauses will facilitate and appropriately service the role of the board relative to the need to review data quality, internal controls, etc, and also ensure that sufficient expertise remains in house to monitor that the appropriate standards are maintained and that the regulations are still being adhered to.

A reminder that under Section 106 (8) of the LGPS Regulations 2013:

A local pension 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.*

This power can be called upon to ensure that the board is sourced with appropriate reports and presentations from the administrators.

The 2015 CIPFA guidance booklet Local Pension Boards: A Technical Knowledge and Skills Framework broke work programmes into the following groups:

- pensions legislation
- pensions governance
- pensions administration
- pensions accounting and auditing standards
- pensions services procurement and relationship management
- investment performance and risk management
- financial markets and product knowledge
- actuarial methods, standards and practices.

A suggested work programme is outlined in Appendix III.

CHAPTER 8

Training

This chapter sets out the training requirements for board member and how this can be supported by the administering authority.

Chapter 6 quoted extensively from the Code of Practice 14 regarding the requirements for each individual board member to have the appropriate level of knowledge and understanding. Paragraph 46 of the code indicates that a complete list of scheme documents with which board members must be conversant, showing the dates of the latest and the next review, should be produced.

Paragraph 57 indicates that each board member should complete an individual training needs analysis. This could lead to the board secretary identifying which areas of knowledge are most in need of being improved. All training undertaken should be logged.

It is also good practice – and for many boards a requirement – that board members complete TPR's Trustee Toolkit for the public sector, which covers:

- **Conflicts of interest**
- **Managing risk and internal controls**
- **Maintaining accurate member data**
- **Maintaing member contributions**
- **Providing information to members and others**
- **Resolving internal disputes**
- **Reporting breaches of the law**

There are supplementary modules available to reflect the fact that the LGPS is the only large funded public sector scheme, including:

An introduction to investment and **Investing in a defined benefit scheme**

In 2015 CIPFA produced a guidance booklet Local Pension Boards: A Technical Knowledge and Skills Framework. Many funds have modelled their training needs analyses around this guidance.

Often joint training is arranged with the pensions committee, although the requirements for MiFID II compliance may cause a divergence.

There is a wealth of information available online, particularly with regard to aspects of investment. Training can be informal. Reading the pensions professional journals is another way of helping board members increase their understanding.

In the 2017 SAB survey, 95% of boards had a knowledge and understanding programme. A training plan should also be available for new or potential board members.

Failure of local pension board members to be adequately trained could potentially lead to engagement and enforcement from the regulator, potentially ending up in an extreme case with the replacement of the board and/or a fine.

CHAPTER 9
Investment pools

It is indisputable that the vast majority of a local pension board's work should focus on administration and governance. This does not mean that a board cannot look at investments, particularly the governance and at the processes followed. Indeed there are examples where the expertise on boards has resulted in improvements in the quality of reporting on investment monitoring.

Produced to reflect the requirement to set up an appropriate governance structure for LGPS pension pools, CIPFA's Investment Pooling Governance Principles refers to the need for effective communication with local pension boards as the following:

Keeping the pension committees (which often have scheme member and employer representatives) and local pension boards properly informed (and consulted with) on the development and ongoing operation of the investment pool.

There is scant, if any, evidence that the emerging pools followed this guidance and consulted with boards. However, some individual boards took the initiative and made recommendations for boards to be consulted or involved in one form or another.

The SAB issued guidance on 6 March 2017, with extracts as follows:

The board recognises that it is for scheme managers within each pool to develop appropriate governance to assure all stakeholders of the transparent and effective implementation of strategy.

The board recognises that strategic decisions on asset allocations and responsible investment will remain at the local level and therefore the involvement via local pension boards of those employers beyond the scheme manager along with member representatives in those areas would continue.

However the board also encourages scheme managers to involve those same employers and member representatives in assisting with the assurance of transparent reporting from pools and ensuring the effective implementation of strategies by pools. Such involvement should include the consideration of provision of direct representation on oversight structures.

Despite both sets of guidance, engagement by pools with their individual boards (or their representatives) remains an outstanding piece of work. As such, board chairs within various pools have made informal contacts – for general information sharing, but also to seek ways of getting their boards into a position, as implied in the guidance, to "assist in the assurance of transparent reporting from pools, and ensuring the effective implementation of strategies by pools".

So, in practical terms, what can a board review? Or perhaps board representatives from the different funds in a pool? This is likely to vary from pool to pool, but typically:

- the process for the selection, appointment and dismissal of the pool operator
- the arrangements for monitoring the process of the operator
- managing risks associated with the pools
- reviewing the monitoring processes established to track the costs of the pools
- overviewing the responsible investment and corporate governance dimension.

And in terms of the operator, checking that the operator has provided:

- audited asset valuations
- absolute investment performance
- relative investment performance
- attribution analysis
- their approach to responsible investing.

The above suggestions help identify a question as to the extent to which any individual board tries to undertake its own assessment of the managing of risks implicit in being a fund participating within a pool. While it is for each board to satisfy itself regarding the assurances it seeks, the related risks are also common to all funds within the same pool. There are dangers of re-inventing wheels. It would appear that there is scope for boards within the same pool liaising to establish a cost-effective way of gaining the appropriate assurances.

CHAPTER 10

Responsible investing: environmental, social and governance aspects

As indicated in Chapter 1, the MHCLG guidance relating to Regulation 7 (2) (e) of the LGPS (Management and Investment of Funds) Regulations 2016 indicates that administering authorities, in forming their investment strategy statement (ISS), should:

Explain the extent to which the views of their local pension board and other interested parties who they consider may have an interest will be taken into account when making an investment decision based on non-financial factors.

Prior to considering this issue, boards need to have established the appropriate level of knowledge and understanding. In all probability, the administering authority will have specific training in place. This training can be supplemented by booklets prepared by many asset managers and groups of institutional investors. In addition, there is a wealth of helpful material available on the internet, some examples of which are shown below. Please note that in some cases, access is for institutional investors only, so the appropriate protocol should be followed.

- The Pensions and Lifetime Savings Association's Environmental, Social and Corporate Governance (ESG) Made Simple.
- The Local Authority Pension Fund Forum's research papers.
- Legal & General Investment Management's videos and webinars.
- BlackRock's corporate responsibility philosophy.
- An ESG institutional investor masterclass.

FUTURE GUIDANCE?

It is possible that there will be new responsible investment guidance coming out later in 2018 from the MHCLG and the SAB.

APPENDIX I

Role of the pension board member

The role of the pension board member is to:

- provide support and assistance to the administering authority
- act as a critical friend, challenging constructively on issues where the board may have a concern
- keep personal knowledge and skills up to date
- identify gaps in their understanding and request training to fill those gaps
- show a particular interest in the administration and governance of the pension scheme, especially KPIs
- regularly monitor the quality of the pension members' experience
- ask whether shortcomings or failures in the scheme's administration constitutes a breach of legislation, and should be reported to TPR
- ask about the strength of employers' covenants
- check whether the main decision making body or officer has taken proper advice and has undertaken adequate due diligence in considering the fund's asset allocation and wider investment matters
- ask whether the investment performance of the fund is being adequately monitored (this applies to assets managed directly, through a direct relationship with an asset manager or via a pooling arrangement)
- monitor the work of the SAB and its sub-committees, and also TPR.

APPENDIX II

Role of the pension board chair

The role of the pension board chair is to:

- provide support and assistance to the administering authority
- take a lead role in developing the forward plan of the board, working closely with the administering authority's officers
- develop a good and close relationship with the administering authority's officers
- take a lead role in developing a training plan for the board
- prepare an annual report of the board's work in conjunction with the administering authority's officers
- chair the meeting in a proactive way, encouraging board members to question in a constructive and disciplined way while allowing a free and open discussion
- ensure the officers are given the opportunity to respond to the members' views and questions
- seek opportunities to attend the main decision making committee or panel
- work with the officers in regularly reviewing the board's terms of reference and membership
- attain a good understanding of the pressures facing the administering authority, and advocate their case for adequate resources to provide an efficient service, thereby preventing or reducing administrative breaches of the law.

APPENDIX III

Local pension board – suggested annual work programme

Please note these are not intended as definitive lists, and individual boards will wish to customise to fit local circumstances.

OPERATIONAL

- Administration update (including KPI monitoring).
- Pension fund statement of accounts.
- Pension fund annual report.
- Pension fund audit report.
- Local pension board annual report.
- Terms of reference and membership of the board.
- Monitoring of investment performance and funding ratios.
- Triennial and interim actuarial valuations and GAD reports.
- Appointment of advisors.
- Progress report on the arrangements for pooling.
- Risk register.
- Board’s training plan.
- Review of the fund’s business plan and forward plan.
- Board’s work plan.
- Update on the work of the SAB.
- Changes to the scheme’s regulations.

STRATEGIC

- Investment strategy: oversight.
- Administration strategy.
- Risk management strategy.
- ESG strategy: oversight.
- Breaches of law policy.

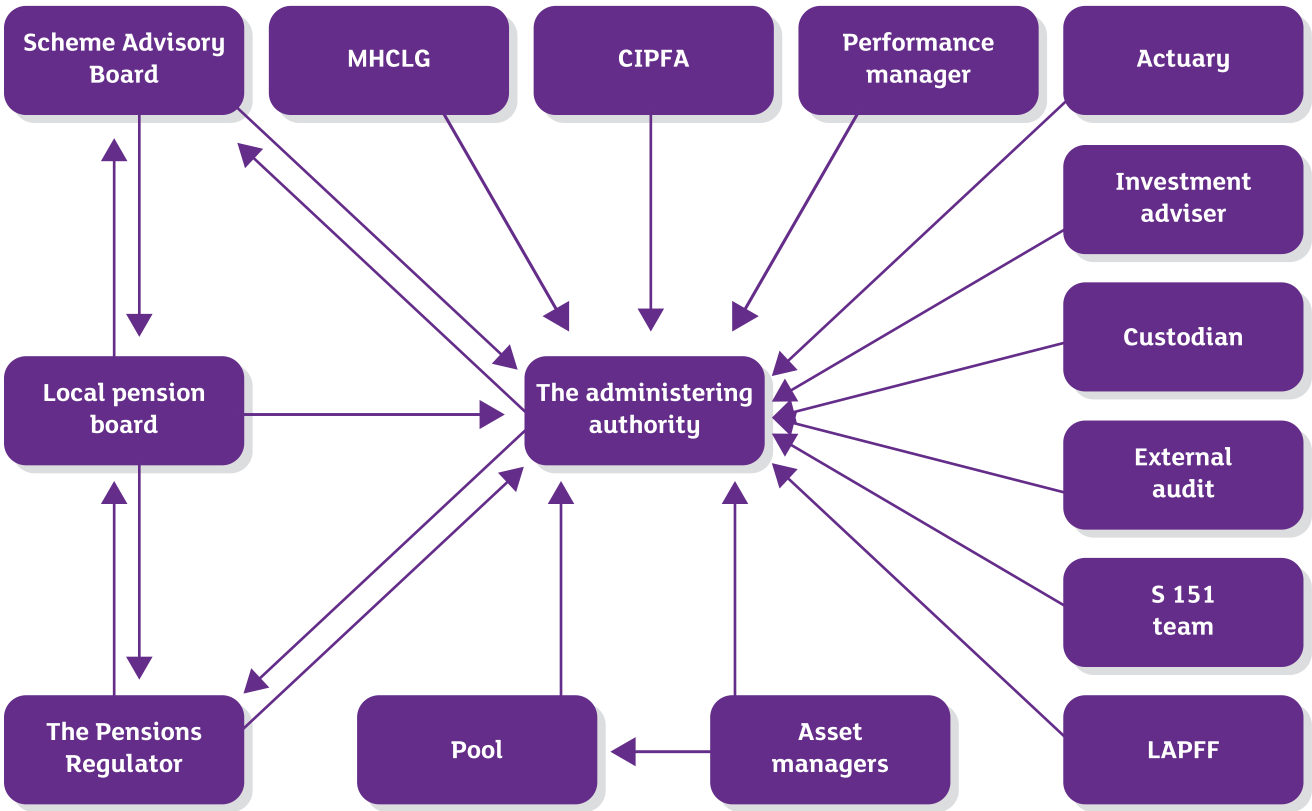
- Review of the fund's governance.
- Administering authority's discretions policy.
- Member communication's strategy.
- Conflicts of interest policy.
- Annual review of the board's terms of reference.

APPENDIX IV

The governance map under current pooling arrangements

Figure IV illustrates how governance maps out under the current pooling arrangements.

Figure IV: The governance map under current pooling arrangements



Twenty-one quick questions and a final thought

1. Have the board's terms of reference recently been reviewed in the light of experience?
2. Are the terms of service of board members staggered to avoid the cliff-face scenario to which a pensions committee is unavoidably exposed?
3. Is the process for appointing new board members practical and speedy, or too time-consuming? Are opportunities taken to identify potential future board members?
4. Is there a documented plan to bring new board members up to speed within an acceptable timescale? Is the training plan comprehensive and regularly reviewed?
5. Is there appropriate and regular contact between the chairs of the board and the committee?
6. Does the committee commission any work from the board, such as risk reviews, breaches log etc? If not, could this be considered?
7. Are the feedback mechanisms from board to committee in place, appropriate and effective?
8. Do investment issues have too high a profile on the agenda of the board?
9. Is there a timely process for identifying new risks?
10. Is TPR's Code of Practice 14 kept under regular review?
11. Has the pension fund failed to return any surveys issued by either TPR or the SAB? If so, are steps in place to ensure future surveys are completed? If not, non-completion itself could be flagging up issues to both bodies.
12. Does your fund have an outsourced or shared services arrangement for scheme administration? If so, have you seen and followed TPR's *Managing Service Providers* guidance?
13. If scheme administration is in-house, is there a reluctance to record, or perhaps more importantly, report any breaches caused either by the pensions team or by other departments of the administering authority, eg HR department?
14. Is there a similar reluctance to record and where appropriate report any breaches caused by other councils in the fund?
15. If you have reported any breaches, have you included plans and timescales for rectifying the situation and preventing its recurrence? Should future breaches require reporting, it's advisable simultaneously to include rectification plans.
16. Do you have a data improvement plan? Or currently planning to implement one? Are the desired outcomes, with appropriate resources, clearly identified (see TPR guidance)?

17. When cleansing data, is priority given to the records of those approaching retirement?
18. Is the information on your website regarding the board easily accessible, complete and up to date?
19. Has the board had oversight of the responsible investment policy of the fund? If not, is it in the work programme?
20. Does the fund have an administration strategy? If not, would it be helpful to introduce one?
21. Has the administering authority fully considered and concluded the issue of insurance cover for board members?

AND FINALLY

The board has an important role in supporting the pensions administration function. It can often be the case that the main decision making committee or panel focuses on investment matters and has less time for the administration function. The quality of the pension members' experience is of critical importance and boards can raise the profile of the pension administration function by regularly devoting time to it on their agendas.

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