

**EAST SUSSEX FIRE AUTHORITY**

**Panel** Fire Authority

**Date** 13 February 2020

**Title of Report** Firefighter Pension Schemes

**By** Judith Sarpong, Pensions Advisor, ESFRS

**Lead Officer** Hannah Scott-Youldon, AD (HR, OD, Training & Assurance)

**Background Papers** None

**Appendices**

1. Updated Terms of Reference (Appendix 1)
2. Breaches of Law Policy and Guidance (Appendix 2)
3. Local Pension Board Training Policy (Appendix 3)

<b>CORPORATE RISK</b>		<b>LEGAL</b>	
<b>ENVIRONMENTAL</b>		<b>POLICY</b>	
<b>FINANCIAL</b>		<b>POLITICAL</b>	
<b>HEALTH &amp; SAFETY</b>		<b>OTHER (please specify)</b>	
<b>HUMAN RESOURCES</b>		<b>CORE BRIEF</b>	
<b>EQUALITY IMPACT ASSESSMENT</b>			

**PURPOSE OF REPORT** To inform the Fire Authority that following recommendations in The Pensions Regulator's Governance and Administration survey 2017 and the Scheme Advisory Board's survey of local boards, the Authority's Firefighters' Pension Scheme Local Pension Board has updated its current Terms of Reference, particularly around frequency of meetings, reporting requirements and length of term for members.

To inform the Fire Authority about The Pension Regulator's requirement for Local Pension Boards to have:

- procedures and policies in place to ensure the correct treatment of breaches of law; and
- access to all the knowledge, understanding and skills necessary to properly run and govern the scheme.

---

<b>RECOMMENDATION</b>	The Fire Authority is asked to note and approve the: <ol style="list-style-type: none"><li>i. updated Pension Board Terms of Reference (TOR);</li><li>ii. new Breaches of Law Policy and Guidance; and</li><li>iii. new Pension Board Training Policy.</li></ol>
-----------------------	--

---

## **1 INTRODUCTION**

- 1.1 In February 2015, members of East Sussex Fire Authority were advised of the requirements of the Public Service Pensions Act 2013 and asked to approve a Terms of Reference (TOR) for its Firefighter Pension Schemes' (FPS) Local Pension Board (LPB). The approved TOR has remained in place to date.
- 1.2 In February 2018, the Scheme Advisory Board (SAB) published a [report](#) detailing the results of their LPB Survey carried out between November 2017 and January 2018 – which received responses from 32 (not including this Authority) out of 44 Fire and Rescue Authorities (FRAs). The results generated a requirement for the current TOR to be updated.
- 1.3 Therefore, this report is firstly designed to show the recommendations made by the SAB following the survey and how the Authority's current TOR has now been updated and reviewed by the Pension Board to reflect its adherence to the recommendations.
- 1.4 The Pensions Regulator (TPR) requires breaches of the law to be reported to them where an Authority has reasonable cause to believe that:
- a legal duty relevant to the administration of the scheme has not been or is not being complied with: this could relate for instance to keeping records, internal controls, calculating benefits and, for funded schemes, includes investment governance and administration matters; and
  - this failure to comply is likely to be of 'material significance' to TPR.
- TPR stipulates that Authorities should have adequate policies and procedures that enable breaches to be considered and reported.
- 1.5 As such, this report is also designed to show what the Authority is doing to comply with TPR's requirements and the policy required to guide decisions taken by the Authority and the Board in achieving rational outcomes when considering breaches of the law.
- 1.6 In the 2018 Public Service Governance and Administration Survey carried out by TPR, 98% of FPS' reported to have procedures to enable access to all the knowledge, understanding and skills necessary to properly run the scheme, this had risen from 36% in 2015. The results showed that half the boards (54%) rated lack of resources or time as one of their top three barriers to improving scheme governance and 77% evaluated the understanding and skills annually but only 31% evaluated more often.

- 1.7 Due to the findings of the survey, TPR stated that Boards needed to have a robust plan to ensure that regular evaluation took place of the skills needed to run the scheme properly, particularly for boards with a high turnover. They also stated the importance of identifying whether the skills level is split evenly or if the board relied on a particular individual as this could feed into the risk matrix.
- 1.8 Hence, this report is lastly designed to show what the Authority is doing to comply with TPR's requirements in relation to standards surrounding the knowledge, skills and understanding of Pension Board members and the policy required to guide the Pension Board to govern the scheme correctly.

## **2 RECOMMENDATIONS MADE BY THE SAB FOLLOWING THEIR FPS LPB SURVEY AND DETERMINATION BY THE AUTHORITY'S PENSION BOARD**

### **2.1 Recommendation on Board Meetings:**

Although the minimum number of meetings is not specified in legislation, the Committee (i.e., the [SAB's LPB Effectiveness Committee](#)) consider that four meetings per year is good practice to allow monitoring of statutory requirements and to identify breaches in a timely manner.

*Board Determination:* The Board agreed that four meetings in a year is good practice and that the minimum number of meetings stipulated in the current TOR should now be increased from two to three per year. The new TOR now reflects the agreed changes.

### **2.2 Recommendation on Board Membership and Term of Office:**

While the number of members on a board is not of concern providing the minimum legislative requirements are met, turnover of membership and the associated challenge of maintaining members' knowledge and understanding is a potential risk. Therefore, it is recommended by the [Committee](#) that boards consider reviewing their Terms of Reference to set out aspirational terms for members, in particular extending the tenure for the board chair to a minimum two year term, to consider how they can achieve levels of consistency, while benefiting from occasional new members who would offer fresh ideas and challenges. The selection and nomination procedures should also be amended to include how appointments are both made and removed.

*Board Determination:* The Board made no changes to the current TOR in relation to this recommendation. They agreed that it would be difficult to maintain a minimum two year term of office for the Chair of the Board due to constituent authority electoral cycles and the fact that appointments to the Fire authority were made on annual basis.

### **2.3 Recommendation on Key documents/processes (in relation to Conflict of Interest, Knowledge and Understanding [including Training]):**

An encouraging number of boards have all key documents and processes in place, and satisfaction with these is generally high. The [Committee](#) would highlight the resources available to boards via the SAB website to assist those who may not yet have developed or implemented all key processes. The secretariat also requests that any missing or revised Terms of Reference are submitted to them via [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk) for inclusion on the Local Pension Boards page. The rating anomaly for the programme of knowledge and understanding has been noted and the Committee will consider future targeted training requirements based on the analysis of the survey. It is recommended that training is on-going and that it is sector-specific.

**Board Determination:** The Board noted that the Authority currently holds Conflict of Interest information on its employer/elected board members on the [member page](#) of their website and that member/employee representatives of the Board are asked to declare any Conflicts of Interest to the Authority's Democratic Services. The Board also noted that Information such as Board Member Development Records, Training Log and Policy, are held on the Authority's Pension Scheme Manager Portal. The Board reviewed the Draft LPB Training Policy (**Appendix 3**) and agreed for it to be submitted to the Fire Authority for approval and the SAB's bluelight team afterwards.

#### 2.4 **Recommendation on Scheme Governance (i.e., Statement of Purpose):**

While the [Committee](#) acknowledges the view that the new governance arrangements seem overly complex, development of a comprehensive risk register may assist boards in recognising the importance of the provisions in promoting correct management and administration of the schemes. Although there is no investment fund to manage, errors in notional fund accounting can have significant impact, as evidenced by the recent case of injury awards from the Firefighters' Compensation Scheme being incorrectly paid from FRA pension accounts. The Board has a duty to secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by TPR. This means that the Board has to ensure the Authority meets all requirements set by TPR in relation to their [six key governance and administration processes](#).

Since this recommendation was made, the SAB has developed a breach assessment template to assist boards with the identification and recording/reporting of breaches of the law. The SAB has also developed a risk register template to assist boards in recognising the importance of the provisions in promoting correct management and administration of the schemes.

**Board Determination:** The Board noted that the Authority currently uses SAB's breach assessment template to assess all pension related breaches/potential breaches and has also developed its Pensions Risk Register based on SAB's risk register template. The Board noted and agreed with the details of the LPB Training Policy and Breaches of Law Policy and Guidance (**Appendices 2 and 3**). The Board agreed that responsibility for oversight of Breaches of Law should be included in the updated TOR before submitting to the Fire Authority for approval. The new TOR now reflects this.

2.5 **Recommendation on Board Communications (i.e., Reporting):**

As there is a requirement for boards to publish information, the [Committee](#) think it would not be unreasonable to recommend that boards consider requesting a dedicated webpage on their main FRS website if this does not exist already. Development of a work plan would allow boards to set their priorities and objectives for the year, and also give a basis for measuring progress. A detailed example work plan is available from the resources section of the SAB website. It is important for boards to be able to measure and demonstrate their success, due to the tremendous amount of hard work and dedication existing within these local arrangements that should be acknowledged. The Committee therefore recommends the development of agreed success measures and KPIs.

*Board Determination:* The Board noted that the Authority already has a dedicated FPS Pension Board Page which can be accessed via this link: <https://www.esfrs.org/staff-area/pensions/pension-board/>.

2.6 **Recommendation on Board Budget:**

The [Committee](#) were comfortable with the responses regarding board budgets and have no recommendations, other than to note that it may be more efficient for the SAB to obtain external and independent advice, rather than individual boards.

*Board Determination:* There was no considerations for the board.

2.7 The Fire Authority is asked to approve the updated TOR (**Appendix 1**).

**3 BREACHES OF THE LAW**

3.1 Paragraph 242 of TPR's code of practice 14 confirms a list of responsible bodies who are required by law to record and report a breach of law and this includes:

- scheme managers; and
- members of pension boards

TPR's code provides practical guidance on what procedures should cover, how to assess if a breach should be reported to them and what to report.

3.2 A procedure for identifying, recording and assessing breaches of law should:

- a) determine whether a breach of law has occurred
- b) record the Breach
- c) assess for materiality to TPR
- d) report to TPR if considered material.

TPR states that Authorities should have effective procedures to identify, assess and report breaches as that is critical in order to reduce risk in the scheme and to help the Authority to meet its legal duty.

3.3 To be compliant in its identification, assessment and reporting of breaches, the Authority now has a:

- **Breaches of Law Policy and Guidance** which aims to ensure that the Authority reduces its risk and serves as an early warning of possible malpractice. The policy also provides an opportunity to learn from mistakes and review and improve processes in the areas where the breach occurred. This policy has been reviewed by the Pension Board and now requires approval by the Fire Authority.
- **Breaches Log** which is where all breaches are recorded and monitored. The log also holds information on what actions have been taken to rectify the breach and whether it is deemed as material and therefore reportable to TPR.
- **Breach Assessment Template** which is used to assess the materiality of a breach. All breach assessments are supplied (in the first instance) by the Responsible Officer to the Assistant Directors (Resources/Treasurer and HR/OD, Training and Assurance) for review and then passed onto the Pension Board if deemed material.
- **Breach Reporting Form** which is used to report a breach or suspected breach to the Responsible Officer. Reporters can (for example) be Pension Board Members, professional advisors or any person who is otherwise involved in the administration of the scheme.

3.4 The above documents are held on the Authority's Pension Scheme Manager Portal and will be updated regularly and provided to the Fire Authority, Board, Senior Leadership Team, TPR, Auditors as and when requested.

3.5 The Fire Authority is asked to approve the Breaches of Law Policy and Guidance (**Appendix 2**).

## **4 LOCAL PENSION BOARD TRAINING POLICY**

4.1 The Local Government Association (LGA) and SAB advise that access to knowledge, understanding and skills to run the scheme should include:

- confirmation of the legal requirements for board members
- relevant policies
- access to a development discussion (not mandatory) to discuss any requirements board members have to fulfil their role
- annual access to training to ensure knowledge and understanding of:

- the responsibilities of the Scheme Manager and Local Pension Board
- the Scheme rules
- TPR Code of Practice 14
- wider pension rules
- LGA bulletins should be made available to all Board Members
- all members should be offered an opportunity to attend national events run by LGA and sponsored by the SAB
- a log of all training undertaken by Board Members in the form of a personal training analysis
- an annual evaluation of skills

4.2 To adhere to the advice from the LGA and SAB, the Authority has in place a:

- **Terms of Reference** for its Board members which details their legal requirements – updated version pending approval by the Fire Authority;
- **Pension Board LGA/SAB Bulletin Update Log** to keep the Board up to date with scheme information, changes and any required regulatory actions;
- **Local Pension Board Training Policy** to ensure that Board Members understand what is required of them and are aware of the knowledge and skills required in order to perform their duties – new version pending approval by the Fire Authority;
- **Local Pension Board Training Log** which details all training undertaken by Board Members.

4.3 The Training Policy, Log and all evidence in relation to Board Member training, skills or qualifications are held on the Authority's Pension Scheme Manager Portal and will be updated regularly and provided to the Fire Authority, Board, Senior Leadership Team, TPR, Auditors as and when requested.

4.4 The Fire Authority is asked to approve the Local Pension Board Training Policy (**Appendix 3**).