

London Borough of Sutton Pension Fund

**Pension Board Governing
Document**

(Approved by the Pension Board on 13 October 2022)

Sutton Pension Fund

Pension Board Governing Document

Governing Document of the Pension Board of the London Borough of Sutton Pension Scheme. Established in accordance with Section 5 of the Public Service Pensions Act 2013 and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended)

Definitions

The following terms have the meanings as outlined below. Other terms used in this document shall have the same meaning as given to them in the Constitution of the London Borough of Sutton (as amended from time to time). The singular shall include the plural:

'the Administering Authority' means the London Borough of Sutton.

'the Act' means The Public Service Pensions Act 2013.

'the Code' means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes.

'CIPFA' means the Chartered Institute of Public Finance and Accountancy

'the Fund' means the Fund managed and administered by the Administering Authority.

'the Guidance' means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board.

'LCIV' means the London Collective Investment Vehicle.

'LGPS' means The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local, Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009.

'DLUHC' means Department for Levelling UP, Housing and Communities.

'Pension Board' or **'Board'** means the Pension Board for the Administering Authority for the London Borough of Sutton Pension Fund as required under the Public Service Pensions Act 2013.

'Pensions Committee' or **'Committee'** means the committee who has delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972.

'the Regulations' means the Local Government Pension Scheme Regulations 2013 (as amended from time to time), the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time) including any earlier regulations as defined in these regulations to the extent they remain

applicable and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time).

'Relevant legislation' means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to the Administering Authority and the Board notwithstanding that the Codes of Practice are not legislation.

'SAB' means the LGPS Scheme Advisory Board for England and Wales, set up under Section 7 of the Public Service Pensions Act 2013 and The Local Government Pension Scheme Regulations 110-113.

'the Scheme' means the Local Government Pension Scheme in England and Wales, as defined under 'LGPS'.

'Scheme Manager' means London Borough of Sutton as Administering Authority of the Sutton Pension Fund.

Introduction

This document sets out the terms of reference of the Local Government Pension Scheme Local Pension Board of the Administering Authority, a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Pension Board is established in accordance with Section 5 of that Act and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).

The Board is established by the Administering Authority and operates independently of the Pensions Committee. Relevant information about its creation and operation are contained in this constitution.

The Board is not a committee constituted under Section 101 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly included in this document.

Except where approval has been granted under regulation 106(2) of the Regulations the Board shall be constituted separately from any committee or sub-committee constituted under Section 101 of the Local Government Act 1972 with delegated authority to execute the function of the Administering Authority.

Establishment

The Board was established on 1 April 2015 subsequent to approval by London Borough of Sutton Full Council on 18 May 2015.

Terms of Reference

Subject to the Administering Authority's Scheme of Delegation to officers, to discharge the Administering Authority's functions in relation to the London Borough of Sutton's Local Government Pension Scheme.

The Board can delegate its day to day operational functions to officers and advisors between Board meetings with clearance from the Chair.

The function of the Board is to assist the Council in its role as Scheme Manager of the Sutton Pension Scheme, and its Pensions Committee to secure compliance with:

- a. the Public Service Pensions Act 2013 (as amended from time to time);
- b. the Regulations, (i.e.: The Local Government Pension Scheme Regulations 2013; the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time) and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 and any amendments to these);
- c. the Code (as amended from time to time);
- d. other relevant legislation relating to the governance and administration of the Fund;
- e. the requirements imposed by the Pensions Regulator in relation to the Fund;
- f. to ensure the effective and efficient governance and administration of the Scheme; and
- g. the requirements placed on Administering Authorities in relation to the pooling of LGPS assets made under the powers conferred on the Secretary of State by Regulation 7(1) of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016.

The Board is not a negotiating body and will recognise its shared interests and objectives with the Committee. It is not responsible for making operational or investment decisions concerning the Fund. The Committee will determine the overall investment strategy in accordance with the Regulations.

Duties of the Board

Members of the Board are required to:

- a. always act within its Terms of Reference;
- b. abide by the Sutton Council Member Code of Conduct, in line with the [LB Sutton Council Constitution](#), Section 5, which incorporates the Seven Principles of Public Life;

Core Functions

The first core function of the Board is to assist the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. To assist the Board in performing this function it will conduct a wide range of tasks including, but not restricted to:

- a. review regular compliance monitoring reports;
- b. review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code;

- c. review scheme member and employer communications as required by the Regulations and relevant legislation;
- d. monitor complaints and performance on the administration and governance of the Scheme;
- e. ensure the application of the Internal Dispute Resolution Procedure;
- f. review the complete and proper exercise of Pensions Ombudsman cases;
- g. review the implementation of revised policies and procedures following changes to the Scheme;
- h. review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme;
- i. monitor the outcome of audit reports;
- j. monitor the compliance of particular cases, projects or process on request of the Board; and
- k. any other area within the statement of purpose (i.e. assisting the Administering Authority) the Board deems appropriate.

The second core function is that Board is responsible for assisting the scheme manager (Sutton Council) in relation to:

- 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 the Pensions Regulator; and
- such other matters as the scheme regulations may specify.

In support of its core functions the Board may make:

- a request for information to the Committee with regard to any aspect of the Administering Authority's function. Any such request should be reasonably complied with in both scope and timing; and
- recommendations to the Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

Appointment of a Chair and Vice-Chair

An Independent Chair of the Board will be appointed for a period of four years. A Vice-Chair of the Board will also be appointed by employer and member representatives, for a period of four years.

Duties of Chair

The Chair of the Board:

- a. shall ensure the Board delivers its purpose as set out in these Terms of Reference;
- b. shall ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered;
- c. shall seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published; and
- d. shall agree with the Committee Services Officer acting as Clerk to the Board an agenda prior to each Board meeting.

Membership

The Public Service Pension Act 2013, requires that Pension Boards include an equal number of employer and member representatives. Representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required. Capacity in this instance means the time to commit to attend meetings, undertake training and effectively represent employers and members as appropriate.

The Board will consist of equal numbers of employer and scheme member representatives and an independent Chair as set out below:

- a. three employer representatives consisting of:
 - i. one elected councillor appointed by the London Borough of Sutton; and
 - ii. two employer representatives who met the criteria
- b. three Scheme member representatives consisting of:
 - i. one representative from the members of Staff of the London Borough of Sutton who are members of the Fund;
 - ii. one representative of Pensioners of the Fund; and
 - iii. one other representative, who is a member of the Scheme.
- c. an independent chair appointed by the Strategic Director of Resources as an independent member, taking into account the skills and experience of the employer and member representatives.

Staff representatives will be elected for a term of four years by a ballot (as required) open to all members of staff who are members of the Fund.

Pensioner representatives will be elected for a term of four years by a ballot (as required) open to all Pensioners of the Fund.

Other representatives shall also be elected for a period of four years.

Board members are eligible to be re-appointed to the Board at the end of their term of office using the methods described above.

Extensions to terms of office may be made by the Administering Authority with the agreement of the Board.

Notwithstanding resignations, employer representatives will be appointed, to coincide with the administration's term of office, for an initial period of four years, which can be extended for a further period of four years. They will be elected councillors, office holders or senior employees of employers of the Fund, or have experience of representing Scheme employers in a similar capacity. No officer or elected councillor of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board.

Employer representatives shall be appointed by the Administering Authority where all employers will have been asked to submit their interest in undertaking the role of employer representative on the Board.

Only elected members may send substitutes. Substitutes will be required to undertake the same training as other members.

Board membership may be terminated prior to the end of the term of office due to:

- a. a member representative appointed on the basis of their membership of the Scheme no longer being a Scheme member in the Fund or a representative of the body on which their appointment relied;
- b. an employer representative no longer holding the office or employment or being a member of the body on which their appointment relied;
- c. a Board member no longer being able to demonstrate to the London Borough of Sutton their capacity to attend and prepare for meetings or to participate in required training;
- d. the representative being withdrawn by the nominating body and a replacement identified;
- e. a Board member having a conflict of interest which cannot be managed in accordance with the Fund's conflict of interest policy;
- f. a Board member who is an elected councillor becoming a member of the Committee; and
- g. a Board member who is an officer of the Administering Authority becoming responsible for the discharge of any function of the Administering Authority under the Regulations.

Tenure

In accordance with those recommendations made by the CIPFA and the Myners Report, and notwithstanding resignations etc., members of the Board will serve for a period, to coincide

with the administration's term of office, of a maximum initial period of four years, which could be extended for a further term.

Quorum

A minimum attendance of three members of the Board will be considered to be a quorum where at least one employer representative and one scheme member representative are present along with the Chair or Vice Chair.

A meeting that becomes inquorate may continue but any decisions will be non-binding.

Voting

In accordance with best practice, all members of the Board shall have full voting rights. This includes co-opted members.

Frequency of meetings and notice and record requirements

The Board will meet on a quarterly basis. Notice of the meeting will be sent to all members of the Council. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails. The meetings will be open to members of the public. Any such attendees will be permitted to speak at the discretion of the Chair.

Attendance at Board meetings will be recorded. If there is concern regarding a member's attendance record, this will be managed by the Chair in accordance with the existing protocols of the London Borough of Sutton.

Notice of the meeting will be sent to all members of the Administering Authority.

Members sit as Borough-wide representatives, and where necessary, declare any ward interest.

In the absence of the Chair, the meeting shall be chaired by the Vice Chair of the Board..

At the Chair's discretion, speaking rights can be granted to members of the public (maximum of three minutes).

The Board will be serviced by Committee Services. All reports (including appendices) must reach Committee Services not later than 5pm, 10 clear (working) days prior to the date of the scheduled meeting. The agenda shall be published at least 5 working days prior to the meeting and shall be available for public inspection in accordance with the requirements of the Access to Information Procedure Rules.

The Board will submit a report, detailing any actions taken or recommendations made, to the Pensions Committee as and when needed.

The following Council Procedure Rules (Standing Orders) will apply:

- Ordinary meetings;
- Extraordinary meetings;
- Appointment of substitute members;
- Date, Time and place of meetings;
- Notice of and summons to meetings;

- Chair of meeting;
- Quorum;
- Duration of meeting: Guillotine;
- Motions without notice;
- Rules of debate;
- Voting;
- Minutes;
- Record of attendance;
- Exclusion of public and press;
- Members' conduct; and
- Disturbance by the public.

Remuneration of Members

Remuneration for Board members will be limited to a reimbursement of actual expenses incurred in attending Board meetings. The Chair shall be entitled to an allowance as agreed by the Strategic Director of Resources and costs met by the Pension Fund.

Allowances/Expenses

Allowances and expenses of Board members will be in accordance with the Administering Authority's existing policy.

Standards of Conduct

The Code of Conduct for Members and Co-optees in Sutton Administering Authority's Constitution shall apply in relation to the standards of conduct of the Pensions Committee and Pension Board members as if they are Co-opted Members of Sutton Administering Authority insofar as it can be reasonably considered to apply to the role of members of the Pensions Committee and Pension Board and unless excluded elsewhere within the Terms of Reference.

Conflicts of Interest

Though members of the Pensions Committee and Pension Board include representatives of specific categories of stakeholder (i.e. Scheme members and employers) each member is required to have due regard to the role of the Pensions Committee and Pension Board as outlined in the Terms of Reference. Accordingly all members are expected to work jointly in the best interests of the Fund, putting aside any individual views of any stakeholders. This should not prevent members from sharing their knowledge on how matters might impact specific stakeholders of the Fund.

Each member of the Pensions Committee and Pension Board (as well as any other attendees participating in the meeting) will be expected to declare, on appointment and at each meeting, any interests which may lead to conflicts of interest in the subject area or specific agenda of that Pensions Committee or Pension Board.

The Chair of the Pensions Committee or Pension Board must be satisfied that the Committee or Board is acting within:

- the conflicts of interest requirements of the Public Service Pensions Act and the LGPS Regulations, and
- in the spirit of any national guidance or code of practice in relation to conflicts of interest at the Pensions Committee or Pension Board, and

- in accordance with any London Borough of Sutton Pension Fund Conflicts of Interest Policy or Procedures that apply to the Pensions Committee or Pension Board.

Each member of the Pensions Committee and Pension Board, or a person proposed to be appointed to the Committee and Board, (as well as attendees participating in the meeting) must provide the Strategic Director of Resources with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest. The Strategic Director of Resources will adopt the role of ensuring that the Chair and Vice Chair of the Pensions Committee and Pension Board does not have a conflict of interest. Further they must be satisfied that the Chair is carrying out his or her responsibilities under this part appropriately.

A conflict of interest is defined in the Public Service Pensions Act as: "in relation to a person, means a financial or other interest which is likely to prejudice the person's exercise of functions".

Members of the Committee should ensure that they have no conflict of interest in discharging their role. They must provide any information as required to the London Borough of Sutton to ensure that they are satisfied that no such conflict of interest exists. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Committee. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.

Anyone with a conflict of interest may not be appointed to the Committee and may be required to resign if they are already a member of the Committee. Councillors who are members of the Pension Board are excluded from serving on the Committee.

A register of conflict of interests may be kept in addition to the disclosure required and recorded under Section 5 of the Members Code of Conduct in the Administering Authority Constitution.

Hospitality and Gifts

Members of the Pension Board will abide by the terms of Section 5 – Gifts and Hospitality Protocols for Councillors of the Administering Authorities Constitution, to the extent that it can be applied to the proceedings of the Pension Board without prejudicing the relationship with an adviser or service provider or the procedures required of the Fund to provide benefits to the members of the Fund.

Knowledge of Members and Training

Members of the Board are expected to be familiar with the rules of the Sutton Pension Fund and the relevant legislation including (but not limited to):

- a. the Local Government Acts 1972 & 2000 (as amended from time to time);
- b. the Pensions Act 2004 (as amended from time to time);
- c. the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time);
- d. the Public Service Pensions Act 2013 (as amended from time to time);

- e. the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time); and
- f. the Code (as amended from time to time).

Officers shall establish and maintain a Training Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated. Training will be provided by officers of the London Borough of Sutton and may be in conjunction with other external bodies.

Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework.

The Board will work with the Committee to ensure that a consistent training plan is adopted and the training materials are shared where possible.

To this extent members from time to time would be expected to attend joint training sessions with the Royal Borough of Kingston Pension Fund as part of the shared service arrangements.

Termination of Board Membership

Each Board member should endeavour to attend all Board meetings during the year. In the event of consistent non-attendance by any Board member, then the membership of that Board member should be reviewed by the other Board members with advice from officers.

Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all the other Board members present at the meeting.

A Board member may choose not to continue in their role, and so shall notify the Board accordingly following which the process for a replacement shall start.

Sutton Pensions Committee

The Board will work closely with the Committee to ensure the Scheme is administered efficiently and effectively and will share with the Committee reports and documents to enable the Committee to meet its remit. The Administering Authority will receive reports from each Committee meeting and as the Committee deems necessary. In turn the Administering Authority will consider any reports the Committee may produce in the course of their duties and respond accordingly within a reasonable period of time.

In support of this working relationship any member of the Board may attend Committee meetings and Committee members may attend Board meetings.

Undertaking

Board members will be required to sign a written undertaking that they understand the requirements of the role and commit to those requirements. This will include without limitation:

- disclosing all dual interests and responsibilities which have the potential to become conflicts of interest and providing the Scheme Manager with such information as and when the Scheme Manager requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest;
- committing to attend meetings as required;
- committing to undertake and attend the necessary knowledge and understanding training;
- undertaking to abide by the Board's terms of reference and wider constitutional documents;
- complying with the Administering Authority's code of conduct;
- complying with the Administering Authority's obligations and policies on data protection, information security and acceptable use; and
- agreeing that they have read and understood a knowledge and policy document including a list of the core documents recording policy about the administration of the Fund as set out by the Strategic Director of Resources on behalf of the Scheme Manager.

Role of Officers

The Board will receive support from officers of Democratic Services, who will facilitate the meetings. The Board will be provided with specific pension fund information as necessary by officers involved in managing the Fund.

Administration, Papers, Communication and Obtaining Information

The arrangements for Board meetings will follow the standard procedures of meetings of the London Borough of Sutton and its Section 101 committees.

Reporting and Escalation

The Board should in the first instance report its requests, recommendations or concerns to the Committee. In support of this any member of the Board may attend a Committee meeting as an observer and Committee members may attend Board meetings.

The Board should report any concerns over a decision made by the Committee to the Committee.

On receipt of a report in connection with a request, recommendation or concern of the Board to the Committee, the Committee should, within a reasonable period, consider and respond to the Board.

Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee as outlined above and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.

The appropriate internal route for escalation is to the Monitoring Officer and/or the Chief Finance Officer (as appropriate).

The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.

Board members are also subject to the requirements to report breaches of law under the Act and the Code and the whistleblowing provisions set out in the Administering Authority's whistleblowing policy.

Publication of Pension Board information

In accordance with the Act the Administering Authority shall publish information about the Board to include:

- a. the names of Board members and their contact details;
- b. the representation of employers and members on the Board;
- c. the role of the Board; and
- d. the Terms of Reference.

The Administering Authority shall also publish other information about the Board including:

- a. agendas and minutes;
- b. training and attendance logs; and
- c. an annual report on the work of the Board.

Information may be excluded from publication on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

Investments

The Board is not a decision-making body and it will be for the Committee to ensure that the appropriate actions are undertaken as required.

The Committee will determine the overall investment strategy in accordance with the Regulations, as outlined in the Constitution of the Pensions Committee.

Data Protection

The Board will comply with the London Borough of Sutton's data protection policies and the Data Protection Act 2018, General Data Protection Regulations.

Governance

As part of the good governance of the Scheme, the Board will work with and send reports to the Committee. The Board is not a decision-making body and it will be for the Committee to ensure that the appropriate actions are undertaken as required.

The Board will ensure that the Fund works with the relevant admitted bodies as required and that a discretions policy is properly maintained and administered.

Communications

The Board will regularly review whether there are areas where additional or improved information for the purpose of education and communication, would be beneficial to Fund members and/or other stakeholders.