

## **LOCAL PENSION BOARD OF POWYS COUNTY COUNCIL TERMS OF REFERENCE**

### **Introduction**

1. This document sets out the terms of reference of the Local Pension Board of Powys County Council, a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Local Pension Board (hereafter referred to as 'the 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).
2. The Board is established by Powys County Council and operates independently of the Council's Pensions & Investment Committee. Relevant information about its creation and operation are contained in these Terms of Reference.
3. 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 Powys County Council apply to the Board unless expressly included in this document.
4. 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 Powys County Council.

### **Interpretation**

5. The following terms have the meanings as outlined below:

<b>'the Act'</b>	The Public Service Pensions Act 2013.
<b>'the Code'</b>	means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes.
<b>'the Committee'</b>	means the Pensions & Investment Committee who has delegated decision making powers for the Powys Pension Fund in accordance with Section 101 of the Local Government Act 1972.
<b>'the Fund'</b>	means the Fund managed and administered by Powys County Council.

<b>'the Guidance'</b>	means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board.
<b>'the Regulations'</b>	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).
<b>'Relevant legislation'</b>	means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to Powys County Council and the Board notwithstanding that the Codes of Practice are not legislation.
<b>'the Scheme'</b>	means the Local Government Pension Scheme in England and Wales.

### **Statement of purpose**

6. The purpose of the Board is to assist Powys County Council in its role as a scheme manager of the Scheme. Such assistance is to:
  - (a) secure 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 and;
  - (b) to ensure the effective and efficient governance and administration of the Scheme.

### **Duties of the Board**

7. The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of this duty Board members should be subject to and abide by the code of conduct for Board members.

### **Establishment**

8. The Board is established on 1<sup>st</sup> April 2015 of the recommendation to establish contained in the report entitled 'Creation of Powys Local Pension Board' that was approved by Powys County Council at a meeting held on 21<sup>st</sup> January 2015. Subsequent to its establishment, the Board may establish sub-committees.

## **Membership**

9. The Board shall consist of four voting members, as follows:
  - two Scheme Member Representatives; and
  - two Employer Representatives.
10. There shall be an equal number of Member and Employer Representatives.
11. There shall also be no other representatives, unless determined by Powys County Council. Any such representatives will not be entitled to vote.

### ***Scheme Member representatives***

12. Scheme Member representatives shall either be scheme members or have capacity to represent scheme members of the Fund.
13. Scheme Member representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.
14. Substitutes shall not be appointed.
15. A total of two Scheme Member representatives shall be appointed from the:
  - a) recognised trade unions representing employees who are scheme members of the Fund.

### ***Employer representatives***

16. Employer representatives shall be 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 member of Powys County Council who is responsible for the discharge of any function of Powys County Council under the Regulations may serve as a member of the Board.
17. Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.
18. Substitutes shall not be appointed.
19. A total of two employer representatives shall be appointed to the Board from any of the following sources:
  - a) One employer representative shall be appointed by the Fund Employers' Meeting where that body is open to and representative of all employers in the Fund.

b) One employer representative may be appointed following a transparent recruitment process which should be open to all employers in the Fund or representatives thereof, and be approved by Powys County Council, where no appointment is made from a) above.

c) One employer representative shall be appointed by Powys County Council.

### **Other members**

20. A number of other members may be appointed to the Board by the agreement of both Powys County Council and the Board.

21. Other members do not have voting rights on the Board.

### **Appointment of chair**

22. An independent chair shall be appointed to the Board using the following process:

- a) An independent chair to be appointed by Powys County Council but shall count as an 'other' member under paragraphs 20-21 above. In this respect the term independent means having no pre-existing employment, financial or other material interest in either Powys County Council or any scheme employer in the Fund or not being a member of the Fund.

### **Duties of chair**

23. 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, and
- (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.

### **Notification of appointments**

24. When appointments to the Board have been made Powys County Council shall publish the names of Board members, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

### **Terms of Office**

25. The term of office for Board members is four years.

26. Extensions to terms of office by a period of up to one year may be made by Powys County Council with the agreement of the Board.
27. A Board member may be appointed for further terms of office using the methods set out in paragraphs 15 and 19.
28. 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.
  - (b) A member representative no longer being a scheme member or a representative of the body on which their appointment relied.
  - (c) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.
  - (d) A Board member no longer being able to demonstrate to Powys County Council their capacity to attend and prepare for meetings or to participate in required training.
  - (e) The representative being withdrawn by the nominating body and a replacement identified.
  - (f) A Board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.
  - (g) A Board member who is an elected member becomes a member of the Committee.
  - (h) A Board member who is an officer of Powys County Council becomes responsible for the discharge of any function of Powys County Council under the Regulations.

### **Conflicts of interest**

29. All members of the Board must declare to Powys County Council on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.
30. 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 Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.
31. On appointment to the Board and following any subsequent declaration of potential conflict by a Board member, Powys County Council shall ensure that any potential conflict is effectively managed in line with both the internal procedures of the Board's conflicts policy and the requirements of the Code.

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

32. Knowledge and understanding must be considered in light of the role of the Board to assist Powys County Council in line with the requirements outlined in paragraph 6 above. The Board shall establish and maintain a Knowledge and

Understanding 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.

33. 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.
34. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Meetings**

35. The Board shall as a minimum meet four times each year.
36. Meetings shall normally take place between the hours of 9.00am and 5.00pm at the offices of Powys County Council.
37. The chair of the Board with the consent of the Board membership may call additional meetings. 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. Matters of urgency must be fully recorded and explained by the Board.

### **Quorum**

38. A meeting is only quorate when at least 50% of both member and employer representatives are present and where the independent Chair is in attendance. In addition, where a meeting proceeds with an imbalance between Employer and Scheme Member Representatives, the Chair will ensure that any vote taken is based on a balance of these Representatives, as and when the situation demands.
39. A meeting that becomes inquorate may continue but any decisions will be non-binding.

### **Board administration**

40. The Chair shall agree with the Board Secretary an agenda prior to each Board meeting.
41. The agenda and supporting papers will be issued at least ten working days (where practicable) in advance of the meeting except in the case of matters of urgency.

42. Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board members within ten working days after the meeting. These draft minutes will be subject to formal agreement by the Board at their next meeting. Any decisions made by the Board should be noted in the minutes and in addition where the Board was unable to reach a decision such occasions should also be noted in the minutes.
43. The minutes may with the agreement of the Board, be edited to exclude items on the grounds that they 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.
44. The Board Secretary shall ensure that Board members meet and maintain the knowledge and understanding as determined in the Board's Knowledge and Understanding Policy and Framework and other guidance or legislation.
45. The Board Secretary shall arrange such advice as is required by the Board subject to such conditions as are listed in these Terms of Reference for the use of the budget set for the Board.
46. The Board Secretary shall ensure an attendance record is maintained along with advising Powys County Council on allowances and expenses to be paid under these terms.
47. The Board Secretary shall liaise with Powys County Council on the requirements of the Board, including advanced notice for officers to attend and arranging dates and times of Board meetings.

### **Public access to Board meetings and information**

48. The Board meetings will be open to the general public (unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public), but the Board may resolve to go into confidential session for specific agenda items, on the grounds of commercial sensitivity.
49. The following will be entitled to attend Board meetings in an observer capacity:
  - (a) Members of the Committee,
  - (b) The Section 151 Officer and the Monitoring Officer or the designated deputy of either statutory post, of Powys County Council,
  - (c) Any person requested to attend by the Board.

Any such attendees will be permitted to speak at the discretion of the Chair.

50. In accordance with the Act Powys County Council 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.
- (d) These Terms of Reference.

51. Powys County Council shall also publish other information about the Board including:

- (a) Agendas and minutes
- (b) Training and attendance logs
- (c) An annual report on the work of the Board to be included in the Fund's own annual report.

52. All or some of this information may be published using the following means or other means as considered appropriate from time to time:

- (a) On the Fund's website.
- (b) As part of the Fund's Annual Report.
- (c) As part of the Fund's Governance Compliance Statement.

53. Information may be excluded 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.

### **Expenses and allowances**

54. Powys County Council shall meet the expenses of Board members in line with Powys County Council's policy on expenses as set out in the Travel and Subsistence Policy.

55. Powys County Council shall pay allowances for Board members where it is determined to be appropriate.

- a) Powys County Council may determine to pay allowances for Board members who are either employees of scheme employers acting as Employer Representatives, or Scheme Member Representatives, in line with the Council's Schedule of Member Remuneration as applied to co-opted members.

### **Budget**

56. The Board is to be provided with adequate resources to fulfil its role. In doing so the budget for the Board will be met from the Powys Pension Fund and determined by the Board seeking approval from the Section 151 Officer on an annual basis. The budget will be managed by and at the discretion of the Board.



## Core functions

57. The first core function of the Board is to assist Powys County Council 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. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:
- a) Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations by the Committee.
  - 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 the compliance of scheme employers with their duties under the Regulations and relevant legislation.
  - d) Assist with the development of and continually review such documentation as is required by the Regulations including Governance Compliance Statement, Funding Strategy Statement and Statement of Investment Principles.
  - e) Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.
  - f) Monitor complaints and performance on the administration and governance of the scheme.
  - g) Assist with the application of the Internal Dispute Resolution Procedure.
  - h) Review the complete and proper exercise of Pensions Ombudsman cases.
  - i) Review the implementation of revised policies and procedures following changes to the Scheme.
  - j) 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.
  - k) Review the complete and proper exercise of employer and administering authority discretions.
  - l) Review the outcome of internal and external audit reports.
  - m) Review draft accounts and Fund annual report.
  - n) Review the compliance of particular cases, projects or process on request of the Committee.
  - o) Any other area within the statement of purpose (i.e. assisting Powys County Council) the Board deems appropriate.
58. The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:
- a) Assist with the development of improved customer services.

- b) Monitor performance of administration, governance and investments against key performance targets and indicators.
- c) Review the effectiveness of processes for the appointment of advisors and suppliers to Powys County Council.
- d) Monitor investment costs including custodian and transaction costs.
- e) Monitor internal and external audit reports.
- f) Review the risk register as it relates to the scheme manager function of Powys County Council.
- g) Assist with the development of improved management, administration and governance structures and policies.
- h) Review the outcome of actuarial reporting and valuations.
- i) Assist in the development and monitoring of process improvements on request of Committee.
- j) Assist in the development of asset voting and engagement processes and compliance with the UK Stewardship Code.
- k) Any other area within the statement of purpose (i.e. ensuring effective and efficient governance and administration of the scheme) the Board deems appropriate.

59. In support of its core functions the Board may make a request for information to the Committee with regard to any aspect of Powys County Council's function. Any such request should be reasonably complied with in both scope and timing.

60. In support of its core functions the Board may make recommendations to the Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

## **Reporting**

61. 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.

62. Requests and recommendations should be reported under the provisions of paragraphs 59 and 60 above.

63. The Board should report any concerns over a decision made by the Committee to the Committee subject to the agreement of at least 50% of voting Board members provided that all voting members are present. If not all voting members are present then the agreement should be of all voting members who are present, where the meeting remains quorate.

64. On receipt of a report under paragraph 63 above the Committee should, within a reasonable period, consider and respond to the Board.

65. Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.

66. Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee under paragraph 63 and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.
67. The appropriate internal route for escalation is to the Monitoring Officer and Section 151 Officer.
68. 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.
69. Board members are also subject to the requirements to report breaches of law under the Act and the Code and the provisions set out in Powys County Council's Whistleblowing Policy.

**Review of terms of reference**

70. These Terms of Reference shall be reviewed on each material change to those parts of the Regulations covering local pension boards and at least every four years.
71. These Terms of Reference were adopted on 1<sup>st</sup> April 2015 and were revised following the Board meeting of 31<sup>st</sup> July 2015.

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**Signed on behalf of Powys County Council**

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**Signed on behalf of the Board**

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