

# Bath & North East Somerset Council

MEETING:	<b>AVON PENSION FUND COMMITTEE</b>			
MEETING DATE:	<b>28 JUNE 2021</b>	<b>AGENDA 09 ITEM NUMBER</b>		
TITLE:	<b>FUND GOVERNANCE FRAMEWORK</b>			
WARD:	ALL			
<b>AN OPEN PUBLIC ITEM</b>				
List of attachments to this report:  Appendix 1 – Terms of Reference for Committee and Investment Panel Appendix 2 – Scheme of Delegation Authorisations List Appendix 3 - Scheme of Delegation Schedule Appendix 4 - Draft Governance Compliance Statement				

## 1 THE ISSUE

- 1.1 This report is to remind members of the roles and responsibilities of members, advisors and officers of the Avon Pension Fund and the governance framework for the Fund as a whole.
- 1.2 The Terms of Reference for the Committee and Investment Panel are set out in Appendix 1. Proposed changes to the Terms of Reference are discussed in Section 5 of this report.
- 1.3 The Scheme of Delegation (Appendix 2 & 3) sets out how the Committee delegates some of its responsibilities to Officers. The Schedule details the responsibilities delegated, and the authorisation list sets out who is authorised and the limit of transaction they can authorise.
- 1.4 The draft Governance Compliance Statement is set out in Appendix 4.
- 1.5 The report invites members to nominate themselves to the Investment Panel. The term of appointment to the Panel is for one year; however, given the nature of the Panel's work, it is not expected that the membership will alter from year to year.
- 1.6 Members are invited to nominate themselves as the Fund's representative on the Local Authority Pension Fund Forum.
- 1.7 Members are requested to give delegated powers to Officers and the Chair to draft the Annual Report to Council on Committee activity in the past twelve months.
- 1.8 This report also sets out a summary of the SAB's Good Governance Review and TPR's Single Code of Practice.

## 2 RECOMMENDATIONS

### The Committee:

- 2.1 Notes the roles and responsibilities of the members, advisors and officers
- 2.2 Approves the Terms of Reference of the Committee and Investment Panel

- 2.3 Approves the Scheme of Delegation**
- 2.4 Approves the Governance Compliance Statement**
- 2.5 Agrees the membership of the Investment Panel**
- 2.6 Agrees independent member representation of the Brunel Working Group**
- 2.7 Agrees substitute of Brunel Oversight Board**
- 2.8 Agrees the member(s) to represent the fund on the Local Authority Pension Fund Forum.**
- 2.9 Agrees to delegate the drafting of the Annual Report to Council to Officers and the Chair (subject to informal consultation with Committee members prior to the Chair approving the report).**

### **3 FINANCIAL IMPLICATIONS**

- 3.1 There are no financial considerations as this report is for information only.

### **4 ROLES & RESPONSIBILITIES**

- 4.1 The members, advisors and officers all have definitive roles and responsibilities within the pension fund's governance structure.

#### **The Committee and Investment Panel:**

- 4.2 The Terms of Reference (ToR) for the Committee, including the Investment Panel, can be found in Appendix 1. See Section 5 for proposed changes to the ToR with the creation of the Funding & Risk Management Group. Any changes to the ToR will be presented to the Council for approval.

- 4.3 The Committee's role is strategic in nature, setting the policy framework and monitoring compliance within that framework. Due to the wide scope of the Committee's remit, investment issues are delegated to the Investment Panel, (a sub-committee of the Committee) which explores the issues in greater detail before making decisions and/or recommendations to the Committee. The implementation of strategic decisions is delegated to Officers.

- 4.4 As at 30 June 2021 all the liquid, listed assets have transitioned to Brunel who is now responsible for appointing managers to manage the assets within each portfolio, monitoring the managers and reporting back to the Fund about the performance of each portfolio. The Fund will retain responsibility for its legacy portfolios that will not directly transition to a Brunel portfolio (mainly private market assets that will be wound down over time and then transition in line with the strategic asset allocation at the time). The Fund will remain responsible for all strategic decisions such as asset allocation and the risk management framework.

- 4.5 Membership of the Investment Panel is drawn from the voting members of the committee.

- 4.6 The Chair of the Committee is the the Fund's representative on the Brunel Oversight Board of the Brunel Pension Partnership.

- 4.7 Committee and Investment Panel meetings are held in open session and, where required, papers are taken in exempt session. Committee workshops are held to discuss strategic issues in greater depth as necessary.

- 4.8 Non-voting members are given full access to papers, meetings and workshops including internal training sessions.

- 4.9 Members are encouraged to undertake training to ensure they can discharge their responsibilities. The Pensions Regulator's (TPR) Code of Practice for public sector pension funds requires greater disclosure of member training and requires all members to attain a satisfactory level of knowledge in order to discharge their duties. As a result all committee members are required to undergo the TPR Knowledge & Skills Toolkit for the public sector funds when they are appointed to the committee.
- 4.10 In addition, the MiFID II (Market in Financial Instruments Directive) categorises an LGPS fund as a retail client which restricts the Fund's ability to invest in more complex and diversified investments. As a result the Fund has been opted up by its investment managers to 'elective professional client' status. To achieve this status the Fund must on an on going basis satisfy (and provide evidence to) its managers that it has the knowledge and expertise within its governance structure to make decisions around complex investments. Therefore ongoing training of all committee members is crucial to maintaining our elective professional status.
- 4.11 The Committee Training plan is reviewed at each quarterly committee meeting. It includes training sessions and workshops to support the committee agenda as well as wider knowledge and skills and is in addition to TPR Knowledge & Skills Toolkit.

#### **Fund Advisors:**

- 4.12 The guidance on preparing and maintaining an investment strategy statement in support of the LGPS (Management and Investment of Funds) Regulations 2016, regulation 7(2)(a) states "Administering authorities are expected to be able to demonstrate that those responsible for making investment decisions have taken and acted on proper advice and that diversification decisions have been taken in the best long term interest of scheme beneficiaries." Regulation 7(2)(b) states that the Fund must "take and act on proper advice in assessing the suitability of their investment portfolio" and regulation 7(2)(e) states "When making investment decisions, administering authorities must take proper advice and act prudently"
- 4.13 The principles for effective decision-making for pension funds supports these regulations by setting out best practice standards for decision-making bodies (guidance for LGPS funds provided by CIPFA/CLG).

*Principle 1: Effective decision-making - requires that "administering authorities should ensure that decisions are taken by persons or organisations with the skills, knowledge, advice and resources necessary to make them effectively... and those persons or organisations have sufficient expertise to be able to evaluate and challenge the advice they receive..."*

- 4.14 All advisory appointments are appointed under a separate procurement process which will follow the Council's procurement policy. National LGPS procurement frameworks are used where possible as it is a more efficient procurement route and the frameworks are closely monitored for value for money and service levels.
- 4.15 The Fund appoints an Investment Consultant (Mercer) to provide investment advice to the fund to ensure that the Committee and/or Panel have all the relevant information before making a decision. The Committee's agenda determines the advice provided by the consultant in addition to the ongoing monitoring of the Fund's investment strategy and the managers' performance.

- 4.16 The Fund appoints an Actuary (Mercer) to advise on all actuarial issues and to undertake valuations as required by the Local Government Pension Scheme Regulations 2013. Regulation 62(1) states that “An administering authority must obtain (a) an actuarial valuation” and (b) “a report by an actuary in respect of the valuation”.
- 4.17 The Fund is externally audited annually and the Committee considers the governance report submitted by the auditor at the end of the audit. Currently the Council’s Corporate Audit Committee approves the Fund’s Financial Statement as it forms part of the Council’s Financial Statement.
- 4.18 Internal audit undertakes work annually on different aspects of the pension fund, covering new regulations, high risk projects, fraud, governance and process reviews. The Committee reviews all Internal Audit reports and proposed management actions.

**Fund Officers:**

- 4.19 The officers’ role within the governance structure is to ensure that all decision-making complies with the regulations, that the Fund fulfils its statutory requirements, and that all information regarding investment, financial and administrative issues is provided to the Committee/Panel. In addition, the officers are responsible for implementing Fund policy. The Council’s Section 151 Officer is responsible for ensuring that the Fund complies with the financial regulations and that an adequate inspection framework, provided by internal and external audit, is in place. The Council’s Monitoring officer is responsible for the legal aspects of the Fund and the Committee.
- 4.20 The Section 151 Officer has delegated powers regarding urgent actions, and these would be exercised having consulted with the Chair of the Committee where possible. For investment policy issues the Section 151 Officer will also consult with the Chair of the Investment Panel where possible.

## **5 PROPOSED CHANGE TO TERMS OF REFERENCE: FUNDING & RISK MANAGEMENT GROUP**

- 5.1 The draft ToR includes a new sub-group, the Funding & Risk Management Group (FRMG). The purpose is to establish a more robust and efficient governance framework for the Investment Risk Management Strategies which includes the Equity Protection, Liability Driven Investing, Low Risk Funding Strategy and Foreign Exchange hedging strategies. The governance has evolved as these strategies have developed and been implemented involving significant and ongoing Investment Panel engagement. The strategies are now at a point where the role of the Committee/Panel needs to focus on ongoing objective delivery and strategic effectiveness rather than broader detailed operational aspects. The proposed framework therefore addresses the following:
  - a) The role of the Committee and Panel in terms of strategic oversight of the Risk Management strategies
  - b) The operational arrangements to agree structures and implementation of the strategies
  - c) Timeliness of decision making given need to react to market environment
- 5.2 Issues arising from current arrangements:
  - a) **Operational rather than strategic focus** – as a bi-product of the significant workload in developing the Risk Management Strategies the Investment Panel has continued to be involved in operational decision-making issues which has

diverted attention from strategic outcomes and ongoing effectiveness of the strategy.

- b) **Appropriate Delegation** – the Committee and Panel consider complex matters including technical aspects around structuring and implementation of the strategies; this duplicates the role of officers who work with advisors in developing all proposals and ensuring appropriate due diligence is undertaken.
  - c) Whilst the **Good Governance Recommendations** reinforces the need for members to have the appropriate level of knowledge and understanding to carry out their duties, members should not be expected to be ‘a subject matter expert or act operationally’. The role involves ‘receiving, filtering and analysing professional advice in order to make informed decisions.’ It is therefore appropriate to reinforce the Officers role in implementation activities to avoid unnecessary duplication.
  - d) **Timing of decisions** - some decisions are market or time sensitive and the formal meeting schedule does not adequately allow for this, yet the decision making primarily rests with the Panel and Committee with very limited discretion for officer decisions.
- 5.3 Having identified weaknesses in the current arrangements it is proposed that the governance framework is realigned to better reflect the spheres of responsibility and roles which should be undertaken both strategically and operationally between the Committee, Investment Panel, and Officers as follows:

**a) Committee**

- (i) As part of strategic asset allocation, determine which Risk Management strategies meet the Fund’s objectives
- (ii) Monitor impact of the Risk Management strategies on the overall performance of the Fund in respect of the investment objective

**b) Investment Panel**

- (i) Agree the overall framework for the Risk Management strategies
- (ii) Ensure that the strategy is achieving the desired outcome to manage risk
- (iii) Review the ongoing rationale for the strategies to achieve strategic objectives
- (iv) Monitor the financial impact

**c) Officers**

- (i) On the advice of experts, agree the operational structures to meet the strategic objectives determined by the Committee. Make changes to the structures as needed to ensure strategic outcomes continue to be achieved or to manage emerging risk.
- (ii) Implementation of the strategies including counterparty selection, trigger and collateral arrangements.

5.4 As the new framework gives more authority to officers, in order to give assurance to the Committee as to how this authority will be exercised, an Advisory Group, the F&RMG, will be created which will report back to Investment Panel (see Section 6 of the ToR).

5.5 The Panel discussed the creation of the FRMG at its meeting on 28 May 2021 and provided feedback on the proposed ToR.

## **6 SCHEME OF DELEGATION**

- 6.1 In addition to the responsibilities listed in the Council's scheme of delegation, some additional responsibilities for functions specifically related to pension fund activities and the authorisation of transactions have been delegated to officers by the Pension Fund Committee.
- 6.2 The Scheme of Delegation schedule sets out the responsibilities delegated by the Committee to officers and how these operate in practice.
- 6.3 The Scheme of Delegation authorisation list sets out the job role or person authorised and the limit of transaction they can authorise.

## **7 GOVERNANCE COMPLIANCE STATEMENT**

- 7.1 The LGPS regulations require the Fund to publish a Governance Compliance Statement when there is a material change. The statement will be updated to reflect the addition of the Funding & Risk Management Group once the revised Terms of Reference have been approved.
- 7.2 The Committee are asked to approve the draft Statement in Appendix 4.

## **8 NOMINATIONS TO INVESTMENT PANEL**

- 8.1 Committee co-opted members with voting rights are requested to nominate themselves to the Investment Panel. The term of appointment to the Panel is for one year; however, it is not envisaged that the Panel membership should change each year.
- 8.2 The Panel shall comprise 6 voting Members of the Committee, 3 of whom shall be B&NES Councillors. Membership shall include the Chairman of the APFC and /or the Vice- Chair. The appointment of B&NES Councillors to the Panel is subject to the rules of political proportionality of the Council which does not apply to the non-B&NES members of the Panel. Political proportionality for the B&NES members of 2 LD and 1 Labour (with a LD Group nominee chairing the Panel) on the Panel was confirmed at B&NES Council meeting on 21 May 2019.
- 8.3 It is the responsibility of the Investment Panel members to nominate the Vice-Chair of the Panel if they wish to have one; either per meeting, or for the ensuing Council year. This will be done at the first Panel meeting in each year.
- 8.4 Members are invited to nominate themselves to the Panel.

## **9 BRUNEL OVERSIGHT BOARD REPRESENTATIVE**

- 9.1 As one of the 10 clients within the Brunel Pension Partnership, the Fund is represented on the Brunel Oversight Board. As our representative represents both the Committee and Shareholder on the Board, the representative is the chair of the committee. A substitute will also be agreed at the meeting.

## **10 BRUNEL WORKING GROUP**

- 10.1 Given the importance of Brunel to the Fund, a working group considers issues arising from Brunel Pension Partnership with Officers such as Reserve matters and Oversight Board papers. This working group will not consider routine investment matters which will be monitored and dealt with by the Investment Panel. Representation from one of the independent members will be agreed at the meeting.

## **11 NOMINATIONS TO REPRESENT THE FUND AT THE LOCAL AUTHORITY PENSION FUND FORUM (LAPFF) MEEETINGS**

- 11.1 The Fund is a member of LAPFF, a collaborative organisation acting on behalf of LGPS funds to promote their long term investment interests and to maximise their influence as shareholders to promote corporate responsibility and high standards of corporate governance amongst the companies in which they invest. LAPFF undertakes significant engagement with companies on governance, environmental and social issues that could materially affect the financial performance of a company. It also advises its members on contentious voting issues and sponsors or supports shareholder resolutions where it believes it is the most effective way to implement change.
- 11.2 The Forum holds 4 meetings a year. Committee members supported by officers are encouraged to attend these meetings. Members are invited to nominate themselves to represent the fund at these meetings. (there can be up to two member representatives from the Fund attending any meeting).

## **12 ANNUAL REPORT TO COUNCIL**

- 12.1 As the Avon Pension Fund Committee administers the Avon Pension Fund in accordance with terms of reference set by the Council, it is considered good practice for the Committee to report to Council annually on the work that it has undertaken in the previous twelve months. This report will also include a reference to the future work programme. In addition, the Avon Fund Pension Board will also publish its annual report detailing the work undertaken by the Board during the year, which will be included in the report to Council. Both reports will be published so that they are available for all stakeholders.
- 12.2 The annual report will be presented to Council at the 18 November 2021 meeting. Committee are asked to give delegated powers to Officers to draft the report which will be circulated to all committee members for comment before being approved by the Chair.

## **13 SAB GOOD GOVERNANCE REVIEW**

- 13.1 The Scheme Advisory Board (SAB) launched the Good Governance Review in 2018 and appointed Hymans Robertson to examine the effectiveness of current LGPS governance models and to consider alternatives or enhancements.
- 13.2 The aim of the project is to further improve the high standards of governance and administration of the scheme on a consistent and measured basis across all 87 LGPS Funds, that will better match the standards expected by the Pensions Regulator.
- 13.3 On 15 February 2021, SAB published Good Governance: Phase 3 Report which was produced by the Hymans Robertson project team. The Phase 3 report provides further details on some of the recommendations which will now be submitted to the Local Government minister for consideration. A timeline for implementation is then expected, but it is likely that the recommendations will need to be in place by April 2022, with the first enhanced Governance Compliance Statement covering the period April 2022 to March 2023.
- 13.4 The Fund previously measured itself against the recommendations and is also seeking assistance from Hymans to ensure that there is an action plan for implementation according to the required timeline.
- 13.5 The additional requirements include:

- a) Introduction of an LGPS senior officer responsible for the delivery of LGPS activity for a fund.
- b) Enhanced governance compliance statement
- c) Conflicts of interest policy specific to the LGPS.
- d) Representation: policy on how scheme members and non-administering authority employers are represented on its committees.
- e) Skills and training: pension committee members and section 151 officers, to have the appropriate level of knowledge and understanding to carry out their duties efficiently as set out in a Fund specific training strategy policy.
- f) Service delivery: compulsory administration strategy and roles and responsibilities matrix.
- g) KPIs: defined service standards and governance in place to monitor those standards.
- h) Business planning process: resource and budget allocated to administer the LGPS each year.
- i) Biennial independent governance review

## **14 TPR SINGLE CODE OF PRACTICE**

- 14.1 On 17 March 2021 The Pension Regulator (TPR) released a consultation on the first phase of its Single Code of Practice including a draft code. This will become the code that is relevant for LGPS funds, replacing Code of Practice 14 and the parts of other codes that currently apply. TPR stated that the existing format of multiple separate codes created duplication, were difficult to navigate and created some confusion about which codes applied to which schemes.
- 14.2 The new code of practice will be introduced in phases. The draft currently available comprises 51 web-based modules which will replace 10 of the existing codes and incorporate some new elements. As the new code applies to all types of schemes covered by TPR, the modules are signposted to make it clear which type of scheme they are relevant to. There is an appendix which provides a full break down of the modules and confirms whether they are existing guidance, new guidance or best practice and to which schemes they relate.
- 14.3 The remaining codes will be added to the consolidated Single Code of Practice in future phases, although the outstanding codes are not relevant to the LGPS. There will be a project to bring TPR guidance into line with the new Code starting later in 2021.
- 14.4 Some of the newer elements are:
  - a) **Use of the term ‘Governing bodies’** – TPR has broadened its reference to those governing pension arrangements from the usual ‘trustee’ to recognise that those managing occupational pension schemes are a broad spectrum e.g. managers of personal pension schemes, and managers and pension boards of public service schemes. The code does however endeavour to make clear when a requirement is applicable to a particular governing body e.g. where it is a requirement for local pension board members in particular.
  - b) **Cyber Security** - Whilst TPR has existing guidance available on cyber security, this topic has not previously featured in a Code of Practice. To ensure more schemes address this pressing issue there will now be direct expectations for LGPS funds.

c) **New areas for the LGPS** - There are 12 areas which are flagged as new for Public Service Schemes and another 4 which are recommended as best practice. Among the more notable are the module on transfers and scams, which when considered alongside cyber security show TPR is expecting that all schemes have robust processes in place to protect members. TPR has also flagged the modules on Investment Governance and Investment Monitoring as being best practice for the LGPS.

14.5 The consultation closed on 26 May 2021 and the new code is expected to come into force by the end of 2021. Schemes will have 12 months from the effective date to ensure they are acting in accordance with the requirements.

14.6 The Fund has responded to the consultation and will review current processes against the new code. It will also consider the code in the context of the SAB's Good Governance review as part of a joined up project.

## **15 RISK MANAGEMENT**

15.1 An effective governance structure, defining clear responsibilities, and ensuring that the decision making body has an adequate level of knowledge and access to expert advice, is a key aspect of the risk management process.

## **16 EQUALITIES STATEMENT**

16.1 A proportionate equalities impact assessment has been carried out using corporate guidelines and no significant issues have been identified.

## **17 CLIMATE CHANGE**

17.1 The Fund is implementing a digital strategy across all its operations and communications with stakeholders to reduce its internal carbon footprint in line with the Council's Climate Strategy. The Fund acknowledges the financial risk to its assets from climate change and has addressed this through its strategic asset allocation to Low Carbon Equities and renewable energy opportunities. The strategy is monitored and reviewed by the Committee.

## **18 OTHER OPTIONS CONSIDERED**

18.1 None

## **19 CONSULTATION**

19.1 The Council's Monitoring Officer and Section 151 Officer have had the opportunity to input to this report and have cleared it for publication

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<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	