

# Constitution of the South Yorkshire Local Pension Board

July 2021

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## **1. Name**

- 1.1 The name of the Board is “the South Yorkshire Pensions Authority Local Pension Board” and is established by South Yorkshire Pensions Authority (“the Authority”) as the administering authority for the South Yorkshire Pension Fund under the provisions of Section 5 of the Public Sector Pensions Act 2013 (“the Act”) and the Local Government Pension Scheme (Amendment)(Governance) Regulations 2015.

## **2. Purpose and Role**

- 2.1 The role of the Local Pension Board as defined by Sections 5(1) and (2) of the Public Service Pensions Act 2013 is to:
- 2.1.1 Secure the effective and efficient governance and administration of the LGPS for the South Yorkshire Pension Fund
  - 2.1.2 Provide the Scheme Manager with such information as it requires to ensure that any member of the Local Pension Board or person to be appointed to the Local Pension Board does not have a conflict of interest.
  - 2.1.3 Ensure the South Yorkshire Pension Fund effectively complies with the Code of Practice on the Governance and Administration of Public Service Pensions Schemes issued by the Pensions Regulator and is effectively managed and administered in compliance with the Code.
- 2.2 The Board will carry out its role in line with the specific terms of reference set out in Appendix A to this Constitution.

## **3. Powers of the Local Pension Board**

- 3.1 Where any breach of legislation or duties is committed or is alleged to have been committed by the Pensions Authority or its Boards the Local Pension Board shall:
- 3.1.1 Within one month of the possible breach, meet with the Authority Chair (supported by the Head of Paid Service and Section 73 officer) to discuss the breach.
  - 3.1.2 Ask the Authority Chair to explain the actions taken and provide evidence of the legitimacy of the actions taken.
  - 3.1.3 Consider the matter on the facts available and evidence provided by the Chair and shall:
    - 3.1.3.1 Refer it back to the Authority to consider afresh and correct any areas of concern/breaches of duty; or
    - 3.1.3.2 Determine that no breach of duty has taken place.
- 3.2 If under clause 3.1 above it is decided that a breach has occurred, the Local Pension Board shall (as required by the Code of Practice and the Pensions Act 2004):
- 3.2.1 Report the breach to the Scheme Manager who should take prompt and effective action to investigate and correct the breach and its causes and, where appropriate, notify any affected members: or
  - 3.2.2 Where prompt and effective action to remedy the breach has not been taken and/or where scheme members have not been informed when they should have been, report the breach as a breach of material significance to the Pensions Regulator.
- 3.3 As per Regulation 106(6) of the Local Government Pension Scheme (Governance) Regulations 2014 and subject to the terms in this Constitution, the Local Pension Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

## 4. Scheme Manager Consents

4.1 The Local Pension Board shall not:

- 4.1.1 Consider or become involved in any internal dispute resolution appeals or the process itself.
- 4.1.2 Enter into contracts on behalf of the Administering Authority.
- 4.1.3 Use the Local Pension Board to act on behalf of a particular constituency or Pension Fund member in general or in relation to a specific complaint at any time.
- 4.1.4 Compromise the Pensions Authority's ability to comply with its fiduciary duty to the Pension Fund and its members.

4.2 The Local Pension Board must seek written consent from the Scheme Manager before it:

- 4.2.1 instructs the Pension Fund actuary to provide a report of any kind.
- 4.2.2 Requests any external advisor to attend a meeting of the Local Pension Board which shall require any remuneration of any level.
- 4.2.3 incurs a cost to the Pension Fund.
- 4.2.4 Can amend this constitution.

## 5. Membership

5.1 In accordance with Regulation 107 of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 the South Yorkshire Local Pension Board will be made up of an equal number of employer and member representatives which is no less than four in total. The South Yorkshire LPB will comprise of 10 members in total.

5.1.1 Employer representatives will consist of:

- 2 Local Authority Councillors (rotated every 2 years) in line with a pattern agreed with the Constituent Authorities
- 1 'Other Large Employer' (appointed for 3 years)
- 1 Academy (appointed for 3 years)
- 1 Local Authority Senior Manager (appointed for 3 years)

5.1.2 Employee representatives will consist of:

- 3 Trades Unions who must be LGPS Scheme members (appointed for 3 years)
- 2 members selected from active, pensioner and deferred members (appointed for 3 years)

5.1.3 Appointment of employer and Trades Union representatives will be by nomination, Scheme member representatives will be appointed by an application process.

5.1.4 A non-Councillor member (employer or scheme member) may serve a maximum of three terms of office.

5.2 No officer of South Yorkshire Pensions Authority or any elected Member appointed by a constituent Authority to serve on the South Yorkshire Pensions Authority may be a Member of the Local Pension Board.

5.3 Members of the Local Pension Board will be voting members; each member shall have one vote. It is expected that the Board will, as far as possible, reach a consensus; the Chair of the Board will have the final deciding vote which will be reported to the Administering Authority.

5.4 Regulation 107 requires that the administering authority, South Yorkshire Pensions Authority, ensures that all employer or member representatives sitting on the Board have relevant experience and capacity to represent the employers or members of the Fund.

- 5.5 Substitute members will not be permitted.
- 5.6 Each Local Pension Board member shall endeavour to attend all LPB meetings during the year. Failure to attend any meetings within a 6-month period will result in removal from the Board unless a meeting of the Board specifically agrees to a waiver of this rule because of specific circumstances.

## **6. Chair**

- 6.1 The Board shall elect a Chair from amongst its members.
- 6.2 The Board shall elect a Vice-Chair from amongst its members.
- 6.3 When the Chair of the Board is from the employer representatives, then the Vice-Chair will be elected from the member representatives, and vice versa.

## **7. Leaving the Board**

- 7.1 A member of the Board shall cease to hold office if:
- 7.1.1 He or she notifies the Board of a wish to resign.
  - 7.1.2 He or she is an elected councillor and is appointed to the Pensions Authority.
  - 7.1.3 He or she ceases to be employed by the body on behalf of whom he/she acts as a representative, including but not limited to Trade Unions or Scheme employers.
  - 7.1.4 A member fails to attend meetings or otherwise comply with the requirements of being a Board member, for example fails to attend the necessary knowledge and understanding training.
  - 7.1.5 A member dies or becomes incapable of acting.
  - 7.1.6 There exists a conflict of interests in relation to a Board member which cannot be managed within the internal procedures of South Yorkshire Pensions Authority.

## **8. Standards and Interests**

- 8.1 All members of the Board will adhere to the Seven Principles of Public Life. These are:
- Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Leadership
- 8.2 In addition, Local Authority Councillors serving on the Board are subject to their Council's Code of Conduct for Members. Members of the Board who are not Councillors but are members of a professional body or represent a Trade Union are subject to any Code of Conduct applicable to that body or Trade Union.
- 8.3 All members of the Board shall complete a declaration of their interest and deposit it with South Yorkshire Pensions Authority's Monitoring Officer as required by Regulation 108 (4) of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015.
- 8.4 The Monitoring Officer will make arrangements for the publication of the register of interests of members of the Local Pension Board on the website of the South Yorkshire Pensions Authority.

## **9. Conflicts of Interests**

- 9.1 Further to the Regulations, a member shall not be appointed who has an existing conflict of interest.
- 9.2 For the avoidance of doubt, being a member of the Pension Scheme is not a conflict of interest.

- 9.3 Where a member becomes conflicted during their appointment, they shall inform the Scheme Manager without delay and their tenure shall end with immediate effect.
- 9.4 Where a member has been removed from the Board under this clause 9, they will be entitled to be reappointed once the conflict has been resolved.
- 9.5 Such reappointment shall be made to the Board only where written approval from the Scheme Manager (advised by the Monitoring Officer) has been provided.
- 9.6 The Board shall maintain a policy in relation to conflicts of interest which will form part of this Constitution and to which members of the Board must have regard.

## **10. Meetings and Procedures of the Board**

- 10.1 The Board shall hold a minimum of four meetings in any municipal year. Additional meetings may be called at any time by the Chair.
- 10.2 For the avoidance of doubt “meeting” in this context includes meetings held entirely virtually or allowing the participation of individual members virtually.
- 10.3 In the absence of the Chair at a meeting of the Board, the Vice-Chair will preside over that meeting. If both the Chair and Vice-Chair are absent, then the Board will appoint one of its members to preside at that meeting.
- 10.5 The quorum for a meeting of the Board shall be at least 2 employer and 2 employee representatives.
- 10.6 Board meetings shall be held in public. The public may be excluded from the meeting when matters are considered that, in the opinion of the Scheme Manager, contain information covered by exempt/confidential information procedures under Schedule 12A of the Local Government Act 1972 (as amended) or represent data covered by the Data Protection Act 1998.
- 10.7 All agendas and papers for Board meetings will be made publicly available on South Yorkshire Pensions Authority’s website unless, in the opinion of the Scheme Manager, they are covered by exempt/confidential information procedures under Schedule 12A of the Local Government Act 1972 (as amended) or represent data covered by the Data Protection Act 1998.
- 10.8 Minutes of proceedings at meetings of the Board shall be kept in accordance with statutory requirements. Following the approval of the minutes by the Chair of the Board, they shall be forwarded to all Pension Board members.
- 10.9 Minutes of meetings of the Board shall be published on South Yorkshire Pensions Authority’s website.

## **11. Knowledge, Skills and Training**

- 11.1 To be appointed as a member of the Board a person must have knowledge and understanding of and be fully familiar with:
- 11.1.1 The rules of the scheme.
  - 11.1.2 Any document recording policy about the administration of the Scheme which is for the first time being adopted in relation to the Scheme.
  - 11.1.3 The law relating to pensions; and
  - 11.1.4 Any other matters which are prescribed in regulations.
- 11.2 Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies, and knowledge to identify gaps or weaknesses.
- 11.3 Pension Board members will comply with the Scheme Manager’s training policies as set out in the Learning and Development Strategy and attend all training provided by the Scheme Manager.

- 11.4 A written record of relevant training and development will be maintained for each member of the Board and details of training undertaken by each member of the Board will be published in the Board's Annual Report.
- 11.5 Training where needed, that is provided by the Scheme Manager, will be charged to the Pension Fund.
- 11.6 Subject to the Regulations or any advice or requirement issued by the Pensions Regulator, the Board must agree and implement a programme of training in respect of all members of the Board to ensure that they are adequately trained to perform their respective duties.

## **12. Accountability**

- 12.1 The Local Pension Board will be collectively and individually accountable to the Scheme Manager and the Pensions Regulator.

## **13. Expenses and Funding**

- 13.1 Members of the Board will be reimbursed for reasonable subsistence and travel expenses in accordance with relevant policies of the Administering Authority.
- 13.2 For the avoidance of any doubt, Pension Board members shall not receive an annual allowance of any kind.
- 13.3 The Board will be provided with adequate resources to undertake its role; these will include as a minimum:
- Accommodation and administrative support to conduct its meetings.
  - Training; and
  - Legal, technical, and other professional advice.
- 13.4 The expenses of the Local Pension Board shall be regarded as part of the costs of the administration of the Fund.

## **14. Annual Report**

- 14.1 At the end of each Municipal Year the Chair of the Board shall compile an annual report on the activities of the Board, including records of attendance and training, for submission to the Authority and for inclusion in the Authority's Annual Report and Accounts.

## **15. Variations**

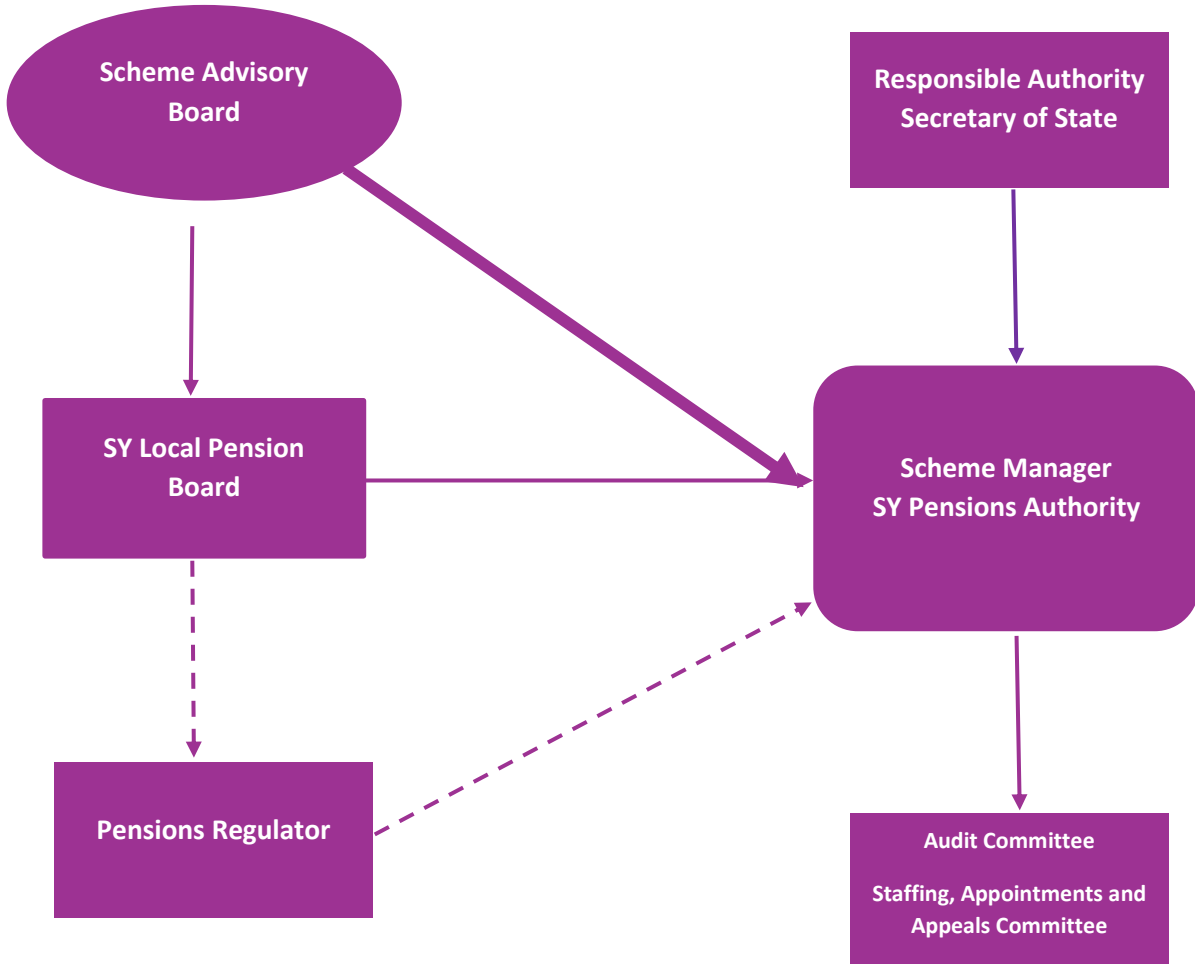
- 15.1 Any variation to this Constitution, considered necessary by the Board, shall be reported to the Scheme Manager for consideration and written consent.
- 15.2 No variation made by the Board will be valid without the express consent of the Scheme Manager.

## **16. Data Protection**

- 16.1 The Local Pensions Board will adhere to the Data Protection Policies of the Administering Authority.

**17. Governance Structure**

17.1 The diagram below shows how the South Yorkshire Local Pension Board fits into the overall governance structure flowing from the Public Sector Pensions Act 2013 and the Local Government Pension Scheme Regulations 2013 (as amended).





Constitution of the  
South Yorkshire  
Local Pension  
Board  
Appendix A –  
Terms of Reference  
July 2021

## Appendix A Terms of Reference

### **1. Compliance and Control**

- 1.1 To review administrative governance and risk management processes and procedures to ensure they remain compliant with the Regulations and the Regulator's code of practice.
- 1.2 To assist with the development and review the implementation of the Authority's various policy documents and procedures.
- 1.3 To review the actions taken in response from internal and external review agencies (such as Internal and External Audit and the Pensions Ombudsman).

### **2. Administration**

- 2.1 To monitor and review the performance of Scheme administration from the scheme members' and employers' perspective including making any recommendations for changes to the Pensions Administration Strategy.
- 2.2 To assess the quality of service provided by the pension administration service and identify any areas for improvement.

### **3. Communications**

- 3.1 To monitor and make recommendations as appropriate on the means and content of communication with scheme members and employers
- 3.2 To produce an Annual Report upon the Board's activities to be submitted to the Pensions Authority.

### **4. Budgets**

- 4.1 To agree an annual budget for the operation of the Local Pension Board and submit it to the Authority for approval.

### **5. Reporting**

- 5.1 To make such recommendations to the Authority with regard to the matters set out in these terms of reference as it sees fit.

Constitution of the  
South Yorkshire  
Local Pension  
Board  
Appendix B –  
Conflicts of Interest  
July 2021

## Appendix B – Local Pension Board Conflicts of Interest Policy

### 1. Introduction

There is a requirement for Local Pension Board (LPB) members not to have a conflict of interest. However, it is important to note that the issue of conflicts of interest must be considered in the light of the LPB's role in assisting the Scheme Manager (South Yorkshire Pensions Authority) in securing compliance with the Local Government Pension Scheme (LGPS) regulations.

The LPB does not make decisions in relation to the Scheme and, therefore, it is not anticipated that significant conflicts will arise. Nevertheless, this Policy has been drafted to assist in the effective identification, monitoring, and management of conflicts of interest.

This Policy sets out to meet the requirements that specifically apply by virtue of the Public Service Pensions Act 2013 and the standards of conduct and practice as set out in the Pensions Regulator's Code of Practice.

### 2. Identifying Conflicts

#### LPB Members

For the purposes of a member of the LPB, a conflict of interest is defined in section 5(5) of the 2013 Act as a "financial or other interest likely to prejudice the way in which someone carries out their role as a member of a pension board". It further specifies that a conflict does not include a financial or other interest arising merely by virtue of that person being a member of a relevant pension scheme. Therefore, a conflict of interest may arise when a member the LPB must fulfil their legal duty to assist the Scheme Manager and, at the same time, they have.

- a separate personal interest (financial or otherwise); or
- another responsibility in relation to that matter, giving rise to a possible conflict with their first responsibility as a member of the LPB.

The Scheme Manager must also satisfy itself that those appointed to the LPB do not have an actual conflict of interest prior to appointment and "from time to time". This will be achieved by regular monitoring and review of the declarations of interest register.

There is a corresponding duty on any person who is proposed to be appointed, or an appointed member of the LPB, to provide the Scheme Manager with such information as it may require to be satisfied that there are no conflicts of interest. LPB members will also have the responsibility to anticipate potential conflicts of interest in relation to plans for future LPB activity.

Some examples of how a conflict of interest may arise specifically in relation to an LPB member include.

- a) a finance officer appointed as a member of the LPB may, from time to time, be required to take or scrutinise a decision which may be, or appear to be, in opposition to another interest or responsibility. For example, they may be required as an LPB member to take or scrutinise a decision which involves the use of departmental resources to improve scheme administration, whilst at the same time being tasked, by virtue of their employment, with reducing departmental spending.

- b) an LPB member who works closely with the Scheme Manager's internal audit function may be required, as part of their work to audit the administration of the Pension Scheme. For example, the employee may become aware of confidential breaches of law which have not yet been brought to the attention of the LPB.
- c) an employer representative (elected Member) who also works in the private sector, may also have a conflict of interest as a decision-maker in their own workplace. For example, they may work for a company to which the Scheme Manager has outsourced its pension administration services and the Board are reviewing the standards provided by it.

### **LPB Advisors**

Conflicts of interest may also arise in respect of Advisors to the LPB.

For example: an Advisor may have a conflict of interest if he or she (or the same company) is also advising the Scheme Manager. The risk to the LPB is that the Advisor does not provide, or is not seen to provide, independent advice.

Where there is likely to be a conflict of interest in giving advice, the LPB should consider carefully whether it is appropriate to appoint the Advisor in the first place. It may also be necessary to consider carefully whether they should take steps to remove the Advisor who has already been appointed.

### **3. Monitoring and Managing Potential Conflicts**

For the Scheme Manager to fulfil its obligations to ensure the LPB members do not have a conflict of interest, the LPB must include an item on conflicts of interest at each meeting and also in its Annual Report.

The LPB is required to maintain a written register of dual interests and responsibilities which have the potential to become conflicts of interest, which may adversely affect members' or advisors' suitability for the role. Each member (as well as any attendees participating in the meeting) will be expected to declare, on appointment and at each meeting, any matter which may lead to conflicts of interest, such a conflict could be in relation to a general subject area or to a specific agenda item of an LPB meeting.

The Chair of the LPB must be satisfied that the LPB is acting within.

- the conflicts of interest requirements of the Public Service Pensions Act 2013 and the pension scheme regulations, and
- in the spirit of any national guidance or code of practice in relation to conflicts of interest for LPB members.

Each LPB member, or a person proposed to be appointed to the LPB (as well as any attendees participating in the meeting) must provide the Chair of the LPB with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest.

LPB members are required to have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest and should know how potential conflicts should be managed.

The LPB is required to evaluate the nature of any dual interests and responsibilities, assess the impact on operations and governance were a conflict of interest to materialise and seek to prevent a potential conflict of interest becoming detrimental to the conduct or decisions of the LPB. The LPB may consider seeking independent legal advice from the Monitoring Officer, or external advisors where necessary, on how to deal with these issues, if appropriate.

Individual members of the LPB must know how to identify when they have a conflict of interest which needs to be declared and which may also restrict their ability to participate in meetings or decision-making. They also need to appreciate that they have a legal duty under the Regulations to provide information to the Scheme Manager in respect of conflicts of interest.

The Member will need to consider how any conflict can best be managed to comply with the statutory requirements. Options may include.

- a) the member withdraws from the discussion and any decision-making process on the relevant item(s); or
- b) the member resigns from the LPB if the conflict is so fundamental that it cannot be managed in any other way.