

Agenda item 9

Council Issues

1. Executive Statements

- 1.1 Currently one executive statement of ten minutes is permitted at each meeting, with an additional ten minute statement at the October meeting to allow for an 'autumn financial statement'. This has not given the flexibility that the administration seek. At recent meetings more than one Cabinet Member has sought to address Council and this has been permitted by the Chairman subject to the overall time limits permitted.
- 1.2 The Constitutional Working Group discussed a more flexible arrangement whereby up to twenty minutes would be available at each meeting, to be allocated by the Leader. No one would be allowed more than ten minutes and there would be three minutes available to each of the opposition group leaders after each statement.
- 1.3 Currently, in addition to the reply by group leaders, any member is permitted to ask questions of the maker of an executive statement. It was proposed that this right be removed and that no questions would be permitted, although group leaders (or their nominee) would be able to respond to each statement.
- 1.4 This proposal would therefore see questions being entirely replaced with statements from group leaders (or their nominees). Members wishing to ask a question could do so at the oral questions part of the meeting, although the constitution only permits each member to ask two oral questions at each meeting.
- 1.5 The Constitutional Working Group considered these changes at their meeting in January 2023, consensus could not be agreed and the Labour and Liberal Democrat Group Leaders asked for it to be reported to Council that they did not support this change.
- 1.6 After considering the debate at the meeting, the Leader's proposal is therefore to trial the proposal at the May, July and October meetings.

Recommendation:

(1) That paragraph 16.11.1 (iii)-(ix) be replaced with:

- (iii) No executive statement may last more than 10 minutes. The executive statements made at a meeting shall not in total last more than 20 minutes. The maximum length of the statement shall be notified in accordance with (iv).
- (iv) The subject of any proposed statement, the identity of the person who will be making it and the length allocated to it must be notified to the Head of Democracy and Transparency by 5pm on the Friday

prior to the Council meeting. The Head of Democracy and Transparency will send an e-mail notification to all Members of the Council.

- (v) In exceptional circumstances where it has not been possible to provide notification and identify the person making the statement by 5pm on the Friday prior to the Council meeting, such notification shall be made to the Head of Democracy and Transparency as soon as possible for notification to the leaders of all political groups and for the agreement of the Chairman of the Council that it may proceed.
- (vi) At the meeting, the Leader of the Council or Cabinet Member will be entitled to address the Council on the subject of the Statement for the time allocated.
- (vii) After a statement has been made or after all statements have been made, the Chairman then invite leaders of opposition groups (or a member nominated by them) to make a statement in reply for up to three minutes.
- (viii) At any meeting taking place after 1 September 2023, the Chairman will then invite questions from Members of the Council for a period of time at his discretion. The originator of the Statement shall respond to the questions as they are raised.

2. Date of October Council meeting

- 2.1 It has come to officers' attention that the date of the October Council meeting is now scheduled on the same date as one of the political party national conferences, which is likely to affect the attendance of a number of Members. Accordingly, it is proposed to move the date of the October meeting which is currently scheduled for Tuesday 10 October 2023.
- 2.2 It is proposed that the date of the October Council meeting be moved to Tuesday 17 October 2023.

Recommendation:

That the October meeting of Council be held on Tuesday 17 October 2023.

3. Minor changes to the constitution

- 3.1 Two changes to the constitution are proposed.
- 3.2 The first is to correct a job title that does not exist and therefore will make the constitution more accurate. It is proposed to amend paragraph 20.9 as it currently refers to the Head of Scrutiny, a post that does not exist.

- 3.3 The second is to resolve a timing issue when Council falls on a day other than Tuesday. It is proposed to amend paragraph 16.11.1 of the Constitution.

Recommendation:

That the following amendments to the constitution be made with effect from the close of this meeting:

Amend paragraph 20.9 of the constitution to read:

20.9 Agenda Items

Any member of an Overview and Scrutiny Committee or Task and Finish Group shall be entitled to give notice to the Proper Officer that he wishes an item relevant to the functions of the Committee or Task and Finish Group to be included on the agenda for the next available meeting of the Committee or Task and Finish Group. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

At each Overview and Scrutiny Committee meeting members of the relevant Overview and Scrutiny Committee can suggest additions for that Committee's work programme.

The Overview and Scrutiny Committee will add the item to the agenda and may either:

- (i) commission work to commence immediately;
- (ii) request a scoping document to be prepared to assist the decision; or
- (iii) reject the suggestion.

Any member can write to the Head of Democracy and Transparency giving an outline of the item and issue to be scrutinised and the reasons. This will then be placed on the agenda of the next meeting of the Scrutiny Board for consideration for allocation to the appropriate Overview and Scrutiny Committee. The Scrutiny Board may recommend that the item be:

- (i) given priority over other items; or
- (ii) placed on the pending list; or the Scrutiny Board may reject the request.

Amend paragraph 16.11.1 (iv) to read as follows:

(iv) The subject of any proposed statement and the identity of the person who will be making it should be notified to the Head of Democracy and Transparency by 5pm two working days prior to the Council meeting. The Head of Democracy and Transparency will send an e-mail notification to all Members of the Council.

4. Pension Board Terms of Reference

- 4.1 The Pension Fund Strategy Board, Investment Steering Committee and Pension Advisory Board terms of reference are Committees of the Council as found within Article 8 of the Constitution.
- 4.2 In December 2022 the Pension Strategy Board reviewed proposed updates and minor changes to the terms of reference and recommended them to the Council for adoption.
- 4.3 Council is asked to agree the revised terms of reference and for the constitution to be updated accordingly.

Recommendation

That the terms of reference for the Essex Pension Fund Strategy Board, the Investment Steering Committee and the Pension Advisory Board are agreed and that paragraphs 8.1.4 - 8.1.6 of the constitution are amended to read:

8.1.4 Essex Pension Fund Strategy Board

Membership: There are eleven Members of the Essex Pension Fund Strategy Board (PSB) including:

All Voting* Members	How Nominated or Appointed	Term of Office
7 Members of the Council	Appointed by the Council	1 year as appointed at the annual meeting of the Council or as changed from time to time by the Constitution
1 Member Councillor representing Borough, City and District Councils in Essex	Nominated by Essex Borough and District Leaders/Chief Executives	4 years from the date of appointment
1 Member Councillor representing Southend on Sea City Council and Thurrock Borough Council	Nominated jointly by and from either Southend-on-Sea City and Thurrock Councils	4 years from the date of appointment
1 Member representing other Employing Bodies	Nominated by other employers at the employer forum or such other process as agreed by the Chairman and the Director for Essex Pension Fund and must be in the employment of or hold office in relation to an Essex Pension Fund (EPF) employer	6 years from date of appointment

1 member representing Scheme Members	Nominated by Unison and must be a member of the Essex Pension Fund	6 years from date of appointment
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*voting is subject to other provisions within this document.

The Constitution does not permit non-Essex County Council members to have substitutes.

Quorum

A meeting of the PSB shall only be quorate when:

- i) At least 4 members are present, and
- ii) At least 3 of the members present are Essex County Council members.

Term of Office

The Term of Office may be extended by up to six months if considered necessary for the purpose for the appointment process, for example, due to the timing of local authority elections, with the agreement of the Director for Essex Pension Fund.

Any PSB Member may be re-appointed for further terms following the appropriate appointment process.

A Member may resign by giving notice to the Director for Essex Pension Fund and shall cease to be qualified to be a member of the PSB if they cease to hold the office or employment which qualifies them for the role.

Role and Function

The PSB will exercise on behalf of the Council all of the powers and duties of the Council in relation to its functions as Administering Authority of the Essex Pension Fund except where they have been specifically delegated by the Council to another Committee or to an Officer. Its principal aim is to consider pensions matters with a view to safeguarding the interests of all pension fund Members. In doing so, the PSB will take account of advice from the Director for Essex Pension Fund and the Fund's professional Advisers.

The role of the PSB will include the following specific functions:

- (i) to monitor and oversee the work of the Essex Pension Fund Investment Steering Committee (ISC) through its quarterly reports;
- (ii) to ensure the proper administration of the Fund, including compliance with the Local Government Pension Scheme (LGPS) and other legislation, ensuring that it delivers best value and compliance with statutory and non-statutory best practice guidance where considered appropriate;

- (iii) to determine, review and monitor the Fund's aims, objectives, strategies, compliance statements and procedures relating to the funding strategy, including approving its Funding Strategy Statement;
- (iv) to make arrangements for the actuarial valuation, ongoing monitoring of liabilities and to undertake any asset/liability and other relevant studies as required;
- (v) to determine, review and monitor the Fund's policy in regard to Employer admission and cessation arrangements;
- (vi) to determine, review and monitor the Fund's other aims, objectives, policies, strategies, compliance statements and procedures for the overall management of the Fund, including but not limited to administration, communications and governance;
- (vii) to determine how the various Administering Authority discretions are operated for the Fund;
- (viii) to agree Administering Authority responses to consultations by Central Government, professional and other bodies;
- (ix) to consider any views expressed by employing organisations and staff representatives;
- (x) to both appoint and terminate the appointment of the Fund's advisers, including actuaries, governance advisers and specialist lawyers (where required) and periodically to review those arrangements;
- (xi) to agree the Fund's business plans and monitor progress against them;
- (xii) to consider the Fund's financial statements and to approve an Annual Report on the activities of the Fund in line with legislation and guidance; and
- (xiii) to agree a Knowledge and Skills Strategy and ensure its requirements are adhered to.

No matters relating to Essex County Council's responsibilities as an Employer participating in the Essex Pension Fund are delegated to the PSB.

Officers

The PSB may delegate a range of its functions to one or more officers of the Administering Authority. The PSB will be responsible for outlining expectations in relation to reporting progress of delegated functions back to the PSB. Any delegations the PSB makes to Officers should be notified to the Council's Monitoring Officer.

Chairman

- (i) Only members of Essex County Council may be the Chairman and Vice Chairman.
- (ii) The Chairman will be elected by the County Council at the annual meeting.
- (iii) The Vice-Chairman will be elected annually by members of Essex County Council at the PSB.

Training

The Essex Pension Fund has a dedicated Knowledge and Skills Strategy which applies to all members of the PSB and which includes the expectation to attend regular training sessions in order they may maintain an appropriate level of knowledge and skills to perform their role effectively.

Remuneration

Any Co-optee to the PSB who is not an employee, Officer or Member of their appointing organisation and who is not otherwise entitled to payment for time spent on the role is entitled to claim an allowance in accordance with Appendix 2. The agreed allowance to be paid is £16.08 per hour to include reasonable preparation time. Therefore it is considered that the following can be claimed:

- PSB attendance - up to four hours which includes preparation time = £64.32 per meeting
- ISC attendance - up to four hours which includes preparation time = £64.32 per meeting
- ISC Strategic meeting attendance - up to six hours which includes preparation time = £96.48 per meeting
- Extra activities = £16.08 per hour which includes:
 - attendance at internal training events hosted by Essex Pension Fund;
 - attendance at and preparation for Task and Finish Groups; and
 - attendance at and preparation for the Appointments Panel, as part of the Essex Pension Fund Advisory Board (PAB) appointments process.

This allowance does not include time spent on external training or observing at Essex Pension Fund Advisory Board meetings.

Essex Pension Fund Advisory Board

Members of the Essex Pension Fund Advisory Board (PAB) are permitted to attend the PSB, including during any items of private business. Comments may also be made by these persons subject to permission to speak being granted by the Chairman. In accordance with the Fund's Conflicts of Interest Policy, a member of the PAB may be asked to leave the room during an item where they have a potential conflict of interest.

8.1.5 Essex Pension Fund Investment Steering Committee

Membership: There are nine Members of the Investment Steering Committee (ISC).

All ISC Members shall be drawn from Essex Pension Fund Strategy Board (PSB) membership as follows:

Members	How Nominated or Appointed
7 Members of the Council (voting members)	All Council members of the PSB
1 Member representing Employers in Essex (non-voting member)	The Member of the PSB nominated by Essex Borough, City and District Leaders/Chief Executives
1 Member representing Scheme Members (non-voting member)	The Member of the PSB nominated to represent Scheme Members

The Chairman and Vice-Chairman of the ISC shall be the Chairman and Vice-Chairman of the PSB respectively.

Quorum

A meeting of the ISC shall only be quorate when there are three voting members present.

Term of Office for non-voting members

The Term of Office for non-voting members is as follows:

Members	Term of Office
The Member of the PSB nominated by Essex Borough, City and District Leaders/Chief Executives	4 years from the date of appointment
The Member of the PSB nominated to represent Scheme Members	6 years from date of appointment

The Term of Office for non voting members may be extended by up to six months if considered necessary for the purpose for the re-appointment process, for example, due to the timing of local authority elections, with the agreement of the Director for Essex Pension Fund.

Any ISC non-voting Member may be re-appointed for further terms following the appropriate appointment process in line with the PSB.

A Non-voting Member may resign by giving notice to the Director for Essex Pension Fund or Leader of the Council and shall cease to be qualified to be a member of the ISC if they cease to hold the office or employment which qualifies them for the role.

Role and Functions

- (i) to approve and review the asset allocation benchmark for the Fund;
- (ii) to determine, review and monitor the Fund's aims, objectives, policies, strategies and procedures relating to investment of the Fund's assets including the Investment Strategy Statement and any Environmental, Social and Governance (ESG) matters;
- (iii) to appoint and terminate Investment Managers (in relation to non-pooled assets), Custodians and Advisers to the Fund solely relating to investment matters;
- (iv) In relation to the LGPS ACCESS Pension Fund Pool;
 - a. to consider pooling matters including recommendations by the ACCESS Joint Committee;
 - b. to determine the transition of the assets held by Essex Pension Fund in relation to the Pool and the funds or sub-funds operated by the Operator;
 - c. to appoint the elected Councillor for Essex County Council (ISC Chairman) to the Joint Committee as and when required with the ISC Vice Chairman, or any other Member, able to deputise in their absence;
 - d. to advise the representative on the Joint Committee on such matters as may be required;
 - e. to monitor the performance of the LGPS ACCESS Pool and its Operator and recommending actions to the ACCESS Joint Committee or ACCESS Support Unit, as appropriate;
 - f. to receive and consider reports from the LGPS ACCESS Joint Committee and the Operator;
 - g. to undertake any other decisions or matters relating to the operation or management of the LGPS ACCESS Pool as may be required.
- (v) to assess the quality and performance of each Investment Manager and the relevant ACCESS Operator annually in conjunction with Essex Pension Fund investment advisers and the Section 151 Officer;
- (vi) to monitor compliance of the investment arrangements with the Investment Strategy Statement;
- (vii) to monitor and review the Fund's compliance with the LGPS Scheme Advisory Board adopted Code of Transparency and UK Stewardship Code;
- (viii) to assess the risks assumed by the Fund at a global level as well as on a manager by manager basis;
- (ix) to approve and to review annually the content of the Pension Fund Treasury Management Strategy; and
- (x) to submit quarterly reports on its activities to the PSB.

Training

The Essex Pension Fund has a dedicated Knowledge and Skills Strategy which applies to all members of the ISC and which includes the expectation to attend regular training sessions in order they may maintain an appropriate level of knowledge and skills to perform their role effectively.

Essex Pension Fund Advisory Board (PAB)

Members of the PAB are permitted to attend the ISC, including during any items of private business. Comments may also be made by these persons subject to permission to speak being granted by the Chairman. In accordance with the Fund's Conflicts of Interest Policy, a member of the PAB may be asked to leave the room during an item where they have a potential conflict of interest.

8.1.6 The Essex Pension Fund Advisory Board

1. Introduction

The Essex Pension Fund Advisory Board was appointed by Essex County Council (the Scheme Manager and Administering Authority to Essex Pension Fund) on 10 February 2015 as its Local Pensions Board in accordance with section 5 of the Public Service Pensions Act 2013 and Part 3 of the Local Government Pension Scheme (LGPS) Regulations 2013. As such, Parts 3 and 4 of the Constitution of Essex County Council do not apply to this Pension Fund Advisory Board unless expressly referred to within and permitted by these Terms of Reference and Rules of Procedure. The Pension Fund Advisory Board is referred to in these terms of reference as 'the Board'.

In these terms of reference:

"CoP" means any Code of Practice on Governance issued by TPR

"EPF" means the Essex Pensions Fund

"ISC" means the Essex Pension Fund Investment Steering Committee

"LGPS" means the Local Government Pension Scheme

"PSB" means the Essex Pension Fund Strategy Board"

"Scheme Manager", "Council" and "ECC" means Essex County Council

"TPR" means The Pensions Regulator

"Member" means a member of the Board

"Board" means the Essex Pension Fund Advisory Board.

The Board will exercise all its powers and duties in accordance with legislation and these Terms of Reference and Rules of Procedure. The Board shall have the power to do anything which is considered to facilitate, or is conducive or incidental to, the discharge of its functions.

2. Appointment and Membership of the Board

(A) The Board shall consist of nine Members and will be constituted as follows:

Members	How Nominated or Appointed
4 Employer representatives made up of one from each of the following groups of Employers in the Fund:	ECC (an elected Member)
	The District, City and Borough Councils of Essex (an elected Member)
	Southend-on-Sea City and Thurrock Unitary Authorities (an elected Member)
	All other Employers
4 Scheme Member representatives of which:	One will be nominated by the trade unions
	The rest will be drawn from the total Fund's active, deferred and pensioner membership
1 Independent Chairman	Through appointment process

(B) The Employer representatives in 2(A) above will be appointed by the respective authorities referred to in each of those clauses.

(C) The Other Employer representative as per clause 2A above, and Scheme Member representatives, and the Independent Chairman will be appointed through a clear and transparent process as determined by an Appointments Panel which will consist of:

- (i) the Chairman of the PSB
- (ii) the Scheme Member representative from the PSB
- (iii) the Director for Essex Pension Fund

and will be advised by the Independent Governance and Administration Adviser for EPF.

The Appointments Panel will also be supported by Officers of the EPF as considered as appropriate by the Appointments Panel.

The Appointments Panel will define any eligibility and/or selection criteria that will apply to Board Members within the scope of this procedure, beyond those already included in these Terms of Reference and Rules of Procedure, having due regard to the LGPS Regulations and any other relevant Code of Practice and guidance. The Appointments Panel will have the power to appoint or reject any nomination or applicant where they consider the individual does not meet the eligibility and/or selection criteria. Should any of the Appointments Panel members be unable to undertake their responsibilities they, or the remainder of the Appointments Panel in their absence, may delegate a suitable alternate to undertake Appointments Panel responsibilities on their behalf.

(D) Where any Employer, other than ECC, has a representative on the PSB or ISC, that Employer will not be permitted to also have a representative on the Board.

(E) No Officer of ECC who is either responsible for discharging any function in relation to the LGPS regulations or has delegated decision-making authority in relation to LGPS matters may be a member of the Board.

(F) No member of the PSB or ISC may be appointed to the Board.

(G) All Scheme Member and Employer representatives must have the capacity to represent their EPF Members and Employers as appropriate

(H) The Board shall appoint a Vice Chairman annually from amongst its Members at the first meeting of the Board after each annual meeting of the Council. This will be done by a nomination process followed by a show of hands from those in attendance at that first meeting.

3. Quorum and Meetings of the Board

(A) A meeting of the PAB shall only be quorate when:

i) 4 Members are present including at least the Chairman or Vice-Chairman, 1 Employer representative and 1 Scheme Member representative.

A meeting that is (or becomes at any point) inquorate will only continue if the Chairman (or Vice-Chairman) decides it should and in relation to items of business as agreed by the Chairman (or Vice-Chairman). Attendance will be recorded and monitored by the EPF.

(B) Substitutes will not be permitted.

(C) Meetings will normally be held at the offices in County Hall, Chelmsford offering a Hybrid approach allowing Members to dial in via telephone/video conferencing facilities.

(D) Following such procedure as determined by the Chairman, urgent business of the Board between meetings may in exceptional circumstances between Members of the Board including telephone/video conferencing and e-mails.

(E) The Board will normally meet four times in each calendar year and must meet a minimum of twice in each calendar year.

(F) It is expected that voting by the Board will only be in exceptional circumstances and the Board will, as far as possible, reach a consensus. Each Scheme Member representative and Employer representative will be entitled to vote where voting is considered necessary by the Chairman.

(G) Where voting is considered necessary by the Chairman, in the event of an equal number of votes being cast for or against a proposal, there shall be no casting vote but the proposal shall be considered to have been rejected.

(H) The results of any voting outcomes will be recorded in the Board meeting record.

(I) The Independent Chairman of the Board will not be entitled to vote.

(J) Meetings of the Board are not open to the general public. The following will be entitled to attend Board meetings as observers and may be asked to present information or answer questions by the Board. Comments may also be made by these persons subject to permission to speak being granted by the Chairman:

- i. Members of the PSB and ISC
- ii. The Executive Director, Corporate Services (Section 151 Officer), the Director for Essex Pension Fund, the other Officers holding managerial positions for EPF, and the Monitoring Officer
- iii. Other Officers or Advisers of the EPF or the Scheme Manager with responsibilities in relation to matters being considered by the Board or providing support to the Board including carrying out the administration for the Board
- iv. Other Employers participating in the EPF subject to approval in advance by the Chairman, or on request of the Chairman
- v. Any other person requested to attend by the Chairman
- vi. Any other person subject to approval in advance by the Chairman.

4. Term of Office

(A) Employer representative appointments will expire after a period of four years from the date of establishment of the PAB or the date of their appointment if later. This period may be extended to up to six years if agreed by the Director for Essex Pension Fund. It will automatically cease if the individual is no longer in the employment of that employer, no longer holds office in relation to that employer or is no longer an elected member of that employer, as appropriate.

(B) Scheme member representative appointments will expire after a period of four years from the date of establishment of the PAB or the date of their individual appointment if later. This period may be extended to up to six years if agreed by the Director for Essex Pension Fund. It will automatically cease if the individual is no longer a trade union representative or representative of EPF members (in accordance with the criteria set by the Appointments Panel).

(C) The Independent Chairman's appointment will expire after a period of four years from the date of establishment of the PAB or the date of their individual appointment if later. This period may be extended to up to six years if agreed by the Appointments Panel.

(D) Any Board member, including the Independent Chairman, may be reappointed for further terms following an appointment process.

(E) The Term of Office may be extended by up to six months if considered necessary for the purpose of the appointment process, for example, due to the timing of local authority elections, with the agreement of the Director for Essex Pension Fund.

(F) In relation to Scheme Members representatives who are appointed by the Appointments Panel, other than ceasing to be eligible (as set out above) a Board member may only be removed from office during the Term of Appointment by the unanimous agreement of the Appointments Panel. Such reasons may include non-compliance with this Terms of Reference and Rules of Procedure including inappropriate conduct, conflicts of interest, avoidance of training or low meeting attendance, not having the capacity to represent their members or for any other reason not meeting the criteria required to be a Board member.

(G) The removal of the Independent Chairman requires unanimous agreement from the Appointments Panel.

5. Role and Functions of the Board

The Board has the following roles and functions:

- (A) To assist the Scheme Manager:
 - to secure compliance with the LGPS regulations and any other legislation relating to the governance and administration of the LGPS
 - to secure compliance with requirements imposed in relation to the LGPS by TPR
- (B) To assist the Scheme Manager to ensure the effective and efficient governance and administration of the LGPS for the EPF.

In doing this, the Board:

- a) shall assist the Scheme Manager with such matters as the LGPS regulations and guidance may specify.
- b) shall be a “critical friend” to the PSB and the ISC.
- c) may provide oversight of decisions made by the PSB and ISC to ensure that due process has been followed.
- d) may review any decision made by or on behalf of the Scheme Manager or any action taken by the Scheme Manager.
- e) shall comment on and assist in identifying and managing breaches of the law in relation to EPF matters where required.
- f) at the invitation of the PSB, may also undertake other tasks, including (but not limited to):

- assisting the PSB by reviewing aspects of the performance of the EPF – for example by reviewing the risk management arrangements within EPF (although the PSB will remain accountable for risk management);
 - reviewing administration standards or performance or review efficacy of EPF Member and Employer communications;
 - reviewing published policies to ensure they remain fit for purpose and are complete;
 - reviewing EPF annual reports;
 - being part of any consultation process with the purpose of adding value to that process based on, for example, their representation of Employers and EPF Members;
 - discussing strategic matters such as communications where requested by the PSB.
- g) shall provide such information as is requested to other bodies including but not limited to the LGPS Scheme Advisory Board and TPR and provide an annual report of the work of the Board to the Scheme Manager.
 - h) will prepare a record of each meeting which will normally be published no later than 12 working days following the meeting using the appropriate systems of the Scheme Manager.
 - i) must provide a record of each meeting to the following PSB meeting and may make reports and recommendations to the PSB insofar as they relate to the role of the Board (see "Reporting and Escalation").

The Board is not a decision-making body in relation to the management of the EPF but makes recommendations to assist in such management. The EPF's management powers and responsibilities which have been, and may be, delegated by the Council to committees, sub-committees and officers of the Council, remain solely the powers and responsibilities of those committees, sub-committees and officers. The Board operates independently of the Essex PSB.

Though members of the Board include representatives of specific categories of stakeholder (i.e. pension Scheme Members and categories of Employers within the EPF) each Member is required to have due regard to this document. All Members Board are expected to work jointly in the best interest of EPF, rather than representing the interest of any individual stakeholders or organisations. This should not prevent Members from sharing their knowledge on how matters might impact specific stakeholders of the EPF.

6. Chairing

The role of the Chairman is to:

(A) Ensure that all Members show due respect for process, that all views are fully heard and considered and that decisions are democratically made where consensus cannot be reached.

(B) To uphold and promote the purpose of the Board and to interpret its Terms of Reference and Rules of Procedure when necessary.

(C) Ensure that Members have the facilities and make appropriate efforts to achieve the knowledge and skills as determined in the EPF Knowledge and Skills Strategy and other guidance or legislation and ensure a training record is monitored and maintained.

(D) Act as professional adviser for the Board or arrange such advice as required to be provided subject to agreement by the Director for Essex Pension Fund.

(E) Agree the agenda for each Board meeting.

(F) Approve records of each Board meetings.

(G) Ensure an attendance record is maintained to allow the Scheme Manager to make arrangements for remuneration and expenses to be paid.

(H) Agree with the Scheme Manager an appropriate budget for the Board, which is ratified by the Board before being formally approved by the Scheme Manager along with the EPF Annual Budget.

(I) Write reports required by the Scheme Manager on the work of the Board.

(J) Liaise with the Director for Essex Pension Fund on the requirements of the Board, including advanced notice for Scheme Manager officers to attend and arranging dates and times of Board meetings.

(K) To provide guidance on all points of procedure and order, and the Chairman's interpretation of these Terms of Reference and Rules of Procedure shall be final.

(L) Other tasks which may be deemed appropriate by the Scheme Manager for the Chairman of the Board.

(M) To commission advice or work on behalf of the Board.

(N) To liaise with the Chairmen of the PSB and ISC as deemed appropriate.

(O) Other tasks that may be requested by the members of the Board, within the remit of these Terms of Reference and Rules of Procedure and subject to agreement with the Director for Essex Pension Fund.

(P) To annually review and report on the activities of the Board.

7. Reporting and Escalation

(A) Where the Board wish to make a recommendation to the PSB or ISC they should do so in writing to the Director for Essex Pension Fund. The recommendation will normally be considered at the next available meeting of the body concerned. The next available meeting will normally be the first meeting which takes place 20 days after the recommendation is issued.

(B) As permitted by clause 2, the Board may review any decision made by or on behalf of the Scheme Manager or any action taken by the Scheme Manager. Where the Board has reviewed a decision or action and believe the wrong decision has been made or wrong course of action has been taken and wish this decision or action to be escalated, the following process shall be followed:

Stage 1: The Board may refer a decision or action to the original decision maker or responsible person if at least 3 employer representatives and 3 scheme member representatives believe that one or more of the following applies:

1. the decision maker/responsible person was not authorised to make the decision or take the action in question;
2. the decision/action was in breach of legislation and/or regulations;
3. the decision maker/responsible person did not follow professional advice given (or did not take professional advice) and it is believed that this could result in a materially bad outcome for the EPF;
4. the approach to making the decision or take the action did not follow one or more of the following principles:
 - (i) the decision-maker/responsible person did not ask themselves the right question(s);
 - (ii) the decision-maker/responsible person did not direct themselves correctly in law; in particular did not adopt a correct interpretation of the legislation and regulations relevant to the EPF;
 - (iii) the decision-maker/responsible person did not take into account all relevant facts;
 - (iv) the decision-maker/responsible person arrived at a perverse decision or took a perverse action (i.e. a decision or action which no reasonable decision-maker/responsible person could have reached)

5. New material has come to light that might have resulted in a different outcome provided that the original decision or action has not yet been irrevocably implemented.

Stage 2: If the Board is dissatisfied with the response of the decision maker/appropriate person, it will seek the advice of the Director for Essex Pension Fund (unless the Director was the original decision maker).

Stage 3: Where the decision-maker/appropriate person in question is the Director for Essex Pension Fund and the Board remains dissatisfied with the response or resolution from the Director for Essex Pension Fund it will seek the joint advice of the ECC's section 151 Officer and ECC's Monitoring Officer.

Stage 4: Where the Board remains dissatisfied with the joint response from the Executive Director, Corporate Services and ECC's Monitoring Officer. The Board will seek the advice of the National LGPS Advisory Board (and shall inform the Director for Essex Pension Fund, ECC's section 151 Officer and ECC's Monitoring Officer that it has done so)

8. Standards and Conflicts of Interest

A conflict of interest is defined in the Public Service Pensions Act 2013 as: “in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”

(A) Members shall comply with the EPF Conflicts of Interest Policy insofar as it relates to Members.

(B) Members of the Board must provide, as and when requested by the Scheme Manager, such information as the Scheme Manager requires to identify all potential conflicts of interest and ensure that any member of the Board or person to be appointed to the Board does not have a conflict of interest at appointment or whilst a member of the Board.

(C) Part 24 of the ECC’s Members’ Code of Conduct shall apply in relation to the standards of conduct of Members insofar as they can be reasonably considered to apply to the role of members of the Board, including the non-disclosure of confidential information.

(D) Members must adhere to the requirements of the EPF Procedure for Monitoring and Reporting Breaches of the Law and should be mindful of the individual legal requirements in relation to reporting breaches of the law in relation to EPF matters.

9. Knowledge and Understanding

Under the requirements of the Public Service Pensions Act 2013, Members must be conversant with:

- a) the legislation and associated guidance of the LGPS, and
- b) any document recording policy about the administration of the LGPS which is adopted by the EPF.

In addition, a Members must have knowledge and understanding of:

- The law relating to pensions, and
- Any other matters which are prescribed in regulations.

It is for individual Members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a Member.

In line with this requirement Members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Members are therefore required to:

- participate in training events (a written record of relevant training and development will be maintained)
- undertake a personal training needs analysis or other method to identify gaps in skills, competencies and knowledge.
- Comply with the EPF Knowledge and Skills Strategy insofar as it relates to Members.

10. Remuneration and Expenses

(A) Subject to (B) below, an allowance may be made to Scheme Member representatives for attending meetings relating to Board business at a rate of £16.08 per hour, in line with the PSB Co-optee allowance at Appendix 2.

This allowance includes reasonable preparation time. Therefore it is considered that the following can be claimed:

- PAB attendance - up to four hours which includes preparation time = £64.32 per meeting
- Extra activities = £16.08 per hour which includes:
 - attendance at internal training events hosted by EPF; and
 - attendance at and preparation for Task and Finish Groups.

This allowance does not include time spent on external training events or observing at PSB or ISC meetings.

(B) It is hoped that Employers of Members who represent people who are members of the pension scheme will provide appropriate capacity to allow the representative to perform this role within their normal working day without any reduction in pay or leave. If that is the case, the representative will not be entitled to any allowance.

(C) Employer and pension scheme member representatives shall be entitled to claim travel and subsistence allowances at the rates contained in the Schedule of Member Remuneration in Scheme Manager's Constitution.

(D) The Chairman shall be paid remuneration and expenses as determined by the Appointments Panel. The Chairman will be expected not to claim all or part of the remuneration if the duties are carried out within their normal working day of other paid employment without any reduction in pay.

11.Receipt of advice and information

The Board will be supported in its role and responsibilities by the Independent Chairman and by EPF Officers who will provide a secretariat role. In addition, Board Members will receive the final reports, minutes and agendas relating to all PSB and ISC and may attend PSB and ISC meetings (including during exempt items).

Insofar as it relates to the role of the Board, the Board may also:

(A) request and receive information and reports from the PSB, ISC or any other body or officer responsible for the management of the EPF,

(B) examine decisions made or actions taken by the PSB, ISC or any other body or officer responsible for the management of the EPF,

(C) may attend all or any part of a PSB or ISC meeting (including during exempt items) unless they are asked to leave as a result of a conflict of interest.

The Secretariat will provide such information as is requested that is available without unreasonable work or costs. Any requests for information and advice that have not been provided by the Secretariat are subject to the approval of the Director for Essex Pension Fund who will be required to consider positively all reasonable requests in relation to the role of the Pension Board whilst being mindful of value for money.

12.ACCESS Joint Committee

The ACCESS Joint Committee operates on the basis member authorities have a limited number of opportunities to send observers to observe those parts of the meetings of the Joint Committee which are held in private (as a statutory joint committee the public are entitled to attend unless excluded in accordance with the law). The Scheme Manager currently allows Members some of its slots to observe the meetings.

Any Member who observes an ACCESS meeting is expected to the Board at the next available meeting.

No information regarding the ACCESS Joint Committee Part 2, (exempt or confidential business), may be released outside of the ACCESS Joint Committee meeting or meeting of the Board.

12.Administration

The Chairman will agree an agenda with the Secretariat prior to each Board meeting. The agenda and any papers for the Board will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency. Draft records of each meeting including all actions, decisions and matters where the Board was unable to reach a decision will be drafted and normally circulated to all Board members within 12 working days after the meeting. These draft records will be subject to formal agreement by the Chairman taking consideration of comments by Board members (which may be done electronically between meetings).

The records of the meetings may, at the discretion of the Chairman, 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.

The Board must comply with the General Data Protection Regulation and the Scheme Manager's data protection policy. It must also adhere to the Scheme Manager's requirements, controls and policies for Freedom of Information Act compliance.

13.Accountability

The Board will collectively and individually be accountable to ECC, as the Scheme Manager to the EPF.

14.Review, Interpretation and Publication of Terms of Reference and Rules of Procedure

These Terms of Reference and Rules of Procedure have been agreed by ECC. The Council will monitor and evaluate the operation of the Board and may review this Terms of Reference and Rules of Procedure from time to time.

These Terms of Reference and Rules of Procedure is incorporated into the Council's Constitution and published on the Council's website and may be amended by the same means as permitted for the Constitution. It will also form part of the EPF's Governance Policy and Compliance Statement which will be made available in accordance with the requirements of the LGPS Regulations.

15.Publication of Board information

In accordance with the Public Service Pensions Act 2013, Essex County Council is required to publish information about the Board including:

- who the Board Members are
- representation on the Board
- the role of the Board.

In accordance with good practice, ECC may publish other information relating to the Board as considered appropriate from time to time and which may include:

- the agendas and meeting records
- training and attendance logs
- an annual report on the work of the Board.

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

- on the EPF website – www.essexpensionfund.co.uk
- on the ECC website – <http://www.essex.gov.uk>,
- within the EPF Annual Report and Accounts,
- within the EPF's Governance Policy and Compliance Statement.

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.