

Essex Pension Fund Strategy Board	PSB 05
Date: 23 September 2020	

Essex Pension Fund (EPF) Policies

Report by the Interim Director for Essex Pension Fund in consultation with the Independent Governance & Administration Adviser (IGAA)

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1. Purpose of the Report

1.1 To provide the Board with the:

- new Policy for Recording and Reporting Breaches of the Law; and
- new Risk Strategy.

1.2 To provide the Board with the progress in regard to the revised Knowledge and Skills Strategy for Board/Committee Members.

2. Recommendations

2.1 That the Board **approve** the:

- Policy for Recording and Reporting Breaches of the Law; and
- Risk Strategy.

2.2 That the Board note the:

- progress of the Knowledge and Skills Strategy for Board/Committee Members; and
- content of the report.

3. Background

Policy for Recording and Reporting Breaches of the Law

- 3.1 The overriding requirements in relation to the recording and reporting Breaches of the Law in relation to Local Government Pension Scheme (LGPS) funds are contained in various elements of legislation and guidance, including:
- Section 70(1) and 70(2) of the Pensions Act 2004; and
 - The Pensions Regulator's Public Service Pension Code of Practice.
- 3.2 The Pensions Regulator's Code of Practice says "identifying and assessing a breach of the law is important in reducing risk and providing an early warning of possible malpractice in public service pension schemes. Those people with a responsibility to report breaches, including Scheme Managers and Pension Board Members, should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations".

Risk Strategy

- 3.3 The management of risk is key to good governance and the development of an overarching Risk Strategy outlining the principles of risk management adopted by the Fund will further strengthen its governance.
- 3.4 Guidance for LGPS funds is contained in:
- the Chartered Institute of Public Finance and Accounting (CIPFA) Managing Risk in the LGPS ; and
 - the Pensions Regulator (tPR) Code of Practice.
- 3.5 The purpose of a risk strategy is to explain the Fund's approach and outline the principles of risk management. Good Governance is at the heart of the Fund's approach to Risk Management and by identifying and managing risk through an effective risk management strategy, the Fund can:
- demonstrate best practice in governance;
 - improve financial management;
 - minimise the risk and effect of adverse conditions;
 - identify and maximise opportunities that might arise; and
 - minimise threats, including reputational damage.

Knowledge and Skills Strategy for Board/Committee Members

- 3.6 The development of a knowledge and skills strategy will aid Essex Pension Fund Strategy Board (PSB), Investment Steering Committee (ISC) and Essex Pension Fund Advisory Board (PAB) Members in performing and developing personally in their individual roles, with the ultimate aim of ensuring the Fund is managed by individuals who have appropriate levels of knowledge and skills.
- 3.7 CIPFA launched technical guidance for Representatives on Pension Fund Committees (PSB/ISC) and Local Pension Board (PAB) Members within a knowledge and skills framework and The Pensions Regulator (tPR) Code of Practice 14: Governance and administration of public service pension schemes came into legal effect on 1 April 2015.
- 3.8 A further review of the Knowledge and Skills Strategy will be carried out within 2020/21 when the outcomes of various reviews have been announced. This includes:
- New CIPFA Code / Framework;
 - TPR Code of Practice 14 review to become the Singular Modular Code;
 - Review of tPR online Toolkit; and
 - Revised requirements for the Governance Compliance Statement from Ministry of Housing, Communities and Local Government (MHCLG) on the back of the Good Governance project.
- 3.9 The Knowledge and Skills Strategy will then be further amended to incorporate any changes from the above named reviews and will be brought back to the Board for further approval.

4. Development of the EPF Policies

Policy for Recording and Reporting Breaches of the Law

- 4.1 Members and Officers have, and will continue, to comply with the Essex County Council (ECC) Code of Conduct which includes requirements and procedures where matters relating to Council business are unlawful or where there has been a breach of a Council's policy or procedure.

- 4.2 However, one of the conclusions of tPR's deep dive report¹ into the governance and administration arrangements of 10 LGPS funds was that "it is important that Scheme Managers recognise, and maintain, a separation between the Fund and Local Authority to avoid an over-reliance on the Local Authority's policies and procedures."
- 4.3 In addition, the ECC's Code of Conduct does not encompass those Members who sit on the PAB who are not ECC Members or Officers.
- 4.4 Fund Officers, in consultation with the Independent Governance & Administration Adviser (IGAA), have therefore produced the draft Policy for Recording and Reporting Breaches of the Law at Appendix A (with linked documents at Appendices Ai and Aii to this report) for approval by the Board. This Policy provides further clarity on how breaches of the law in relation to Essex Pension Fund can be dealt with.
- 4.5 The Pensions Regulator's Code of Practice says that Breaches policies should be kept under regular review.

Risk Strategy

- 4.6 The Fund has adopted the principles contained in CIPFA's Managing Risk in the LGPS document and tPR's code of practice in relation to the Fund. In addition, this strategy has been developed incorporating the link to ECC and their Risk Strategy that was published during January 2020.
- 4.7 The Strategy has also been developed in line with 4.2 to avoid an over-reliance on ECC's policies and procedures.
- 4.8 This Risk Strategy demonstrates how the Fund's internal controls are monitored and reported to the PSB and PAB and is attached at Appendix B for the Boards approval.

Knowledge and Skills Strategy for Board/Committee Members

- 4.9 Fund Officers have reviewed the Knowledge and Skills Strategy and have developed a revised Strategy to incorporate CIPFA, tPR, Markets in Financial Instruments Directive (MiFID II) requirements and Ministry of Housing, Communities and Local Government (MHCLG) Statutory Governance Guidance.

¹ September 2019 - <https://www.thepensionsregulator.gov.uk/en/document-library/research-and-analysis/governance-and-administration-risks-in-public-service-pension-schemes-an-engagement-report#0beb0d2047954672b2a73de451ef7eab>

- 4.10 To ensure the Strategy is embedded, individual training plans will be developed on completion of the Training Needs Analysis, to plan the required training over a two-year rolling programme.
- 4.11 Training plans will be delivered through a variety of methods including:
- One-to-One Briefings with an Officer;
 - Members' Briefing Notes for meetings;
 - Bitesize training at meetings;
 - In-house Training Events / Workshops;
 - External Conferences & Training Seminars; and
 - E-Learning / Webinars.
- 4.12 A draft of the Knowledge and Skills Strategy has been provided at Appendix C of this report for the Board to note the progress to date.

5. Link to Essex Pension Fund Objectives

Policy for Recording and Reporting Breaches of the Law

- 5.1 Developing and publishing a Breaches Policy will assist the Board in achieving the following Fund objectives:
- Ensure compliance with the LGPS regulations, other relevant legislation and the Pensions Regulator's Codes of Practice;
 - Act with integrity and be accountable to our stakeholders; and
 - Ensure the confidentiality, integrity and accessibility of the Fund's data, systems and services is protected and preserved.

Risk Strategy

- 5.2 Developing and publishing a Risk Strategy will assist the Board in achieving the following Fund objectives:
- Act with integrity and be accountable to our stakeholders;
 - Understand and monitor risk and compliance;
 - Continually measure and monitor success against our objectives.

Knowledge and Skills Strategy for Board/Committee Members

5.3 Developing and publishing a Knowledge and Skills Strategy for Board/Committee Members will assist the Board in achieving the following Fund objectives:

- Act with integrity and be accountable to our stakeholders;
- Ensure the Pension Fund is managed and its services delivered by people who have the appropriate knowledge and expertise; and
- To ensure the Fund's investments are properly managed before, during and after pooling is implemented.

6. Risk Implications

Policy for Recording and Reporting Breaches of the Law

6.1 Failure to develop and publish a Breaches Policy could result in:

- Non-compliance with regulations caused by lack of knowledge by staff, changes in government policy/LGPS reforms and systems not kept up-to-date leading to reputational damage and financial loss;
- Failure of governance arrangements to match up to statutory requirements and recommended best practice leads to financial loss and reputational damage; and
- Failure to comply with General Data Protection Regulation (GDPR) and keep data secure, leading to reputational issues or legal/financial penalties.

Risk Strategy

6.2 Failure to develop and publish a Risk Strategy could result in:

- Failure of governance arrangements to match up to statutory requirements and recommended best practice leads to financial loss and reputational damage;
- New risks are not identified or risk register is not kept up to date; and
- Inadequate, inaccurate or misrepresented management information leads to financial loss or reputational damage.

Knowledge and Skills Strategy for Board/Committee Members

6.3 Failure to develop and publish a Knowledge and Skills Strategy for Board/Committee Members could result in:

- Failure of governance arrangements to match up to statutory requirements and recommended best practice leads to financial loss and reputational damage;
- A lack of expertise, insufficient knowledge and maintenance of the PSB, ISC and PAB arising out of high turnover and/or changes within the LGPS benefit structure, regulations and associated directives/deliverables; and
- The implementation of MiFiD II (January 2018) leads to the Fund being categorised by some / all of its service providers as a 'retail client' - the result of which could reduce the range of sub asset classes in which the Fund is able to invest, and may even require disinvestment from the current portfolio.

7. Communication Implications

- 7.1 The Policy for Recording and Reporting Breaches, Risk Strategy and Knowledge and Skills Strategy for Board/Committee Members will be published on the Fund's website.
- 7.2 Other than ongoing reporting to the PSB, there are no communication implications.

8. Finance and Resource Implications

- 8.1 None.

9. Background Papers

- 9.1 None.