

## NHS PENSION BOARD – TERMS OF REFERENCE

---

### **Introduction**

1. The Public Service Pensions Act 2013 requires the establishment of a Pension Board with the responsibility for “assisting the Scheme Manager” in securing compliance with all relevant pensions law, regulations and directions – as well as the relevant Pension Regulator’s codes of practice. This role is one of providing assurance over and governance of the scheme’s administration.
2. The Pension Board is a new requirement under that Act, which has also specified that there should be equal numbers of member and employer representatives – currently six each.
3. The Pension Board will cover arrangements across England and Wales.
4. Regulation 4 of the National Health Service Pension Scheme Regulations 2015 (UK Statutory Instrument 94 of 2015), effective from 1 April 2015, establishes the Pension Board in law. Schedule 1 of those Regulations adds further detailed regulatory provisions relating to the Pension Board.
5. In addition to the member and employer representatives, there will be government representatives in attendance at Pension Board meetings, including DH, and Wales. Government representatives are not board members. It is proposed to instruct professional advisors, for example finance experts, GAD advisors and legal advisors on an “as required” basis to provide the breadth of specialist understanding to deliver compliance.
6. The scheme administrator (NHS BSA) will provide the necessary input into the Pension Board to support the Board to deliver on its assurance responsibilities. This may require their attendance at meetings for specified timeslots at the request of the Board, through the secretariat.
7. The DH will provide the secretariat and seek nominations and appoint based on the regulatory provisions. It is proposed that the Pension Board meets on a quarterly basis, as a minimum.

### **Accountability**

8. The Pension Board collectively and members individually are accountable to the Scheme Manager, which is ultimately the Secretary of State as the responsible authority for the NHS Pension Scheme.
9. In addition the Pension Board will continue to provide regular updates to the DH Pension Executive Steering Group (ESG) process as long as it continues. The DH team continues to be responsible for the contractual arrangements, including delivery against the contract and agreed KPIs, for the pension scheme administrator.

### **Responsibilities of the Pension Board**

10. The Pension Board is responsible for assisting the Scheme Manager in:
  - Overall assurance and governance of the NHS PS administration;

- Assuring effective and efficient administration of the scheme;
- Assuring that decisions made by the scheme administrator are fully legally compliant, including consideration of cases that have been referred to the Pension Regulator and/or the Pension Ombudsman; recommending changes to processes, training and/or guidance where necessary;
- Supporting continuous improvements;
- Assuring the scheme administrator supports employers to communicate the benefits of the NHS Pension Scheme and fully utilise it as part of the NHS total reward offer through effective communication to members;
- Assuring the scheme administrator supports members with a range of tools to improve their understanding of their pension benefits as part of the total reward offer, and to inform their personal financial and career planning;
- Supporting effective implementation of the Employer Charter;
- Enabling data quality improvements to deliver CARE pension outcomes;
- Compliance with the Pension Regulator's codes of practice;
- Fostering good working relationships with the Pension Regulator;
- Consideration of the annual report from the Pension Regulator, including any responses to recommendations;
- Producing an annual report outlining the work of the Board throughout the scheme year.

## Membership

11. The membership of the Pension Board will include:
  - Member representatives nominated by the staff side of the NHS Staff Council to ensure a broad representation of scheme membership; for example to include deferred and pensioner representation. Member representatives will be voting members;
  - Employer representatives that can offer the breadth of employer representation for the NHS PS. Employer representatives will be voting members;
  - An independent Chairperson appointed via the Public Appointments process. The Chair will hold the deciding vote if any vote taken by the member and employer representatives on the Board results in an equal vote;
  - Representatives from the Department of Health, who will not be voting members;
  - Representative from the Welsh Government, who will not be a voting member;
  - Attendance is expected of Board members at all meetings; no alternate representation or substitution is allowed;
  - The employer and member representatives will remain equal in number at all times.

## Decision Making Process

12. The Pension Board is expected to operate on a consensus basis; however each member (except government representatives) will have individual voting rights. In the event that consensus cannot be reached, a vote will be taken. The Chair will not vote at this stage; only if the vote is equal will the Chair have the deciding vote. The scheme manager should be made aware when a decision is reached in this manner.

## Quorum

13. Two-thirds of the voting members of the Pension Board will represent a quorum for Board meetings to go ahead. The Chair must be present for the meeting to be quorate.

Non-quorate meetings may proceed in exceptional circumstances, but no binding decisions should be made nor votes taken.

### **Conflicts of Interest**

14. The Public Service Pensions Act 2013 requires that members of the Pension Board do not have conflicts of interests. As such all members of the Pension Board will be required to declare any interests and any potential conflicts of interest in line with legal requirements in the Public Service Pensions Act 2013 and The Pension Regulator's code. These declarations are required as part of the appointment process, as well as at regular intervals throughout a member's tenure.
15. Annexed to these Terms of Reference is the questionnaire to be completed by Board members to ensure that the scheme manager can be satisfied that Board members do not have any conflicts of interest.

### **Training requirements**

16. Members of the Pension Board will be expected to have a good, sound knowledge and understanding of the scheme rules, the scheme's administration policies and pension law. This will require on-going updates and training as legal requirements change and develop including relevant regulations and directions from HMT and DWP. This is set out further in the Pension Regulator's Code of Practice number 14, "governance and administration of public service pension schemes".

### **Meeting arrangements**

17. The Pension Board will meet quarterly in the first year and this arrangement will be reviewed to ensure that it enables delivery of responsibilities. There will also be the possibility for ad-hoc meetings to be called if required at the Chair's discretion.
18. The DH will undertake the secretariat function for the Pension Board and as such will ensure that:
  - Facilities are available to hold meetings
  - An annual schedule of meetings is organised
  - Suitable arrangements are in place to hold additional meetings if required – ensuring adequate notice
  - Papers will be distributed 7 days before each meeting except for exceptional circumstances
  - Minutes of each meeting will normally be circulated 7 working days following each meeting

### **Expertise**

19. It may be necessary to draw on particular experts or expert groups to support the responsibilities of the Pension Board, such as actuaries and lawyers. This will be done on an 'as required' basis; any expert advisor attending the meeting is not a Board member and does not have a vote. If required, sub-groups may be established to assist the Board.

### **Relationship to the Scheme Advisory Board**

20. Whilst the function of the Scheme Advisory Board (SAB) is to provide advice to the Responsible Authority (i.e. Secretary of State) about the desirability of scheme changes – there may well be a need for some sharing of information or discussion between the Boards. The Pension Board Chair will hold regular meetings with SAB co-chairs; and the SAB minutes will form a standing agenda item for Pension Board meetings.

### **Remuneration**

21. Remuneration for Board members will be limited to a refund of actual expenses incurred in attending Board meetings, in accordance with the Department of Health's expenses policy. The Chair's remuneration is agreed on appointment.

### **Tenure**

22. Tenure period for Board members will run for a three to five year period on a rolling appointment basis – assuming a maximum of nine years in any continuous period of 12 years. Tenure will be decided by the scheme manager during the appointment process; board members will have different tenures to ensure continuation of membership in equal numbers for the employer and staff-side members. The Chair's tenure will be agreed on appointment, but will also be between three and five years.
23. Resignation of Board members will be documented in writing to the Pension Board Chair and Department of Health. A suitable notice period must be given, with 1 month being a minimum, to enable a replacement member to be found.
24. The performance of Board members will be assessed on a periodic basis to ensure that all members are adequately meeting their duties. Poor performance will result in corrective action being taken, and in exceptional circumstances the removal of the Board member.

### **Review**

25. These terms of reference will be reviewed periodically.

POTENTIAL CONFLICT OF INTEREST QUESTIONNAIRE FOR CANDIDATES APPLYING  
TO BE APPOINTED AS A MEMBER OF THE NHS PENSION BOARD

---

**Explanatory Note:** The Public Service Pensions Act 2013, Section 7(4) requires that any member of a Pension Board must not have a “conflict of interest”, which is defined as 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.”

This questionnaire has been designed in partnership to help potential NHS Pension Board members and the appointing authority ensure that the “no conflict of interest” requirement in the Public Service Pensions Act 2013 is fulfilled.

**Conflict of interest questionnaire for all candidates to be appointed as a member of the NHS Pension Board**

1. Name of candidate:
2. Are you currently in receipt of an NHS Pension? YES / NO
3. If you are currently in paid employment, what is your job title and the name of the organisation you work for:

If your answer to one or more of question numbers 4, 6 and 9 below is YES, the appointing authority may conclude you have a potential conflict of interest for the purposes of this role, subject to your responses to the remaining questions.

4. Do you believe that your duties in the paid employment in question 3 above create a potential conflict of interest for you? YES / NO

5. If your answer to 4 above was NO, what are your grounds for believing this:

6. Is any member of your immediate family\* employed in the pensions or a related industry\*\*? YES / NO

7. If your answer to question 6 above was YES, do you believe that this creates a potential conflict of interest for you? YES / NO

8. If your answer to 7 above was NO, what are your grounds for believing this?:

9. Do you or a member of your immediate family\* have personal investments or shares in any pension provider or life assurance provider (e.g. in Equity ISAs)? YES / NO

10. If your answer to question 9 above was YES, do you believe that this creates a potential conflict of interest for you? YES / NO

11. If your answer to question 10 above was NO, what are your grounds for believing this?

12. Do you have any other commitments, connections or responsibilities which could be reasonably perceived to be relevant to the role for which you have applied? If so, please specify them below, and be aware that they may be published in a public Register of Interests of Board members:

**DECLARATION**

I declare that the information given on this questionnaire is complete and correct to the best of my knowledge. I also certify that I will immediately inform the NHS Pension Board of any changes of circumstances that affect the answers I have given.

Signature:

Date:

**Thank you for completing this questionnaire.**

**You are advised to keep a copy of this questionnaire**

\* “immediate family” means a partner, spouse or other close relative with whom you have regular contact

\*\* related industry means, for example, life insurance providers