

**To: Joint Audit Committee**

**Date: 16<sup>th</sup> December 2015**

**By: Ian Perkin, Treasurer**

**Title: Surrey Police Pension Board**

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### **1).Purpose of Report/Issue:**

To update the Joint Audit Committee on the new statutory governance arrangements that have been put in place to comply with the requirements of Home Office Circular 016/2014

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### **2).Background**

The primary legislation under which the police pension scheme operates is the Public Service Pensions Act 2013. This legislation places more statutory emphasis on governance than has previously been the case in public service pay as you go schemes and HO Circular 016/2014 sets out the arrangements and responsibilities with which Surrey Police must comply.

Under the legislation the Home Secretary is the responsible authority who can make scheme regulations, with the Police Advisory Board for England & Wales (PABEW) giving the Home Secretary advice, having taken over the pensions function from the Police Negotiating Board, which ceased to exist on 31 August 2014.

At the local level (that is, in the 43 forces in England and Wales), the Chief Constable will be the designated scheme manager with the responsibility to administer the pension scheme according to scheme regulations in respect of his or her force. This means that Chief Constables have the responsibility for the administration of the scheme in respect of police officers in their own forces, with the specific exception that the responsibility for a Chief Constable's own pension rests with the relevant police and crime commissioner (PCC) as the pension supervising authority.

Since April 2015 it has been a legal requirement under the Act for Chief Constables to be assisted by a pension board to ensure compliance with scheme regulations and the requirements of the Pension Regulator (TPR).

The Act stipulates that Chief Constables must ensure compliance with scheme regulations and the requirements of the TPR on matters such as record-keeping and publishing information. The Act also provides that they must be assisted in these matters by a pension board. Once established, a

pension board may determine its own procedures, subject to the approval of the Chief Constable. There is therefore no set requirement for a specific agenda or frequency of meetings.

The Chief Constable must appoint the chair and deputy chair of the pension board and the chair then appoints the voting and independent members, with the Chief Constable's approval. The primary legislation stipulates that there must be equal numbers of employer and scheme member representatives and scheme regulations will specify those to total from 4 to 12. There may also be up to 4 independent members.

The legislation requires that members of pension boards have knowledge and understanding of the rules and regulations of the scheme and other matters of law relating to pensions. The degree of knowledge and understanding required is that appropriate for the purposes of enabling individual board members to properly exercise the functions and responsibilities that are expected of them.

Before appointing or approving an appointment of any person the Chief Constable must be satisfied that the person does not have a conflict of interest. This should be kept under regular review and if a member of the board does have a conflict of interest, the appointment must be terminated. A member or a proposed member of a board must provide any information the Chief Constable may reasonably require in order to determine whether such a conflict exists.

Although the act places more emphasis on governance than has previously been the case, it is not intended that the arrangements should be unduly burdensome. The government and TPR recognise that much of this is new and supports a pragmatic approach, for example with regard to the degree of knowledge and understanding that is required to exercise the functions of a member of the pension board. The arrangements that need to be put in place allow a sufficient level of flexibility, so that pension boards can develop the function over time.

In relation to the Chief Constable's own pension, where any provision in the scheme requires the supervising pensions authority (PCC) to make a determination, decision, exercise a discretion, or otherwise form an opinion, that power is to be exercised by that body and not the police pension authority (Chief Constable). The other main responsibility of the pension supervising authority is in respect of pension forfeiture and PCCs will also have an overall interest in pensions financing arrangements. The expectation is that the pension supervising authority be represented on pension boards and it is not expected that specific boards would need to be set up in respect of these responsibilities.

The legislation does not prescribe the size of a pension board but does stipulate that there must be equal numbers of employer and scheme member representatives. Police pension boards are to consist of at least 4 and no more than 12 persons appointed by the Chief Constable or the board chair. The chair of the board may be independent – that is neither an employer nor a employee representative. However, if there is no independent chair, there

must be an arrangement agreed by both sides for the chair to alternate between an employer representative and an employee representative. Side representative members and the independent chair, if there is one, will be entitled to vote in proceedings, though there is no requirement to hold votes. Independent members of the board who are neither an employer nor an employee representative will not be entitled to vote. Again the Home Office will not prescribe the way the board is constituted. The recommendation in respect of the chair is that an independent chair is preferable, but the regulations allow for either an independent chair, or for a joint arrangement to be agreed, so that for example an HR or finance manager from a force might share the duties with a staff association representative. Employee representatives may be active, deferred or pensioner members. The National Association of Retired Police Officers, for example, may be invited to nominate prospective members.

### **3).Local Arrangements**

To comply with the new legislative requirements the Chief Constable has established a new Police Pension Board, with the following membership;

**Chair** Ian Perkin –Treasurer (OPCC)  
**Deputy Chair** Huw Williams – Police Constable (Surrey Police Federation)

#### **Employer Representatives**

Paul Bundy – Head of Finance  
Bill Davies – Head of Employee Services (Surrey/Sussex)

#### **Employee Representatives**

Charlie Doyle – Chief Superintendent  
Tony Suter – Retired Scheme Member

The Board met for the first time on the 2<sup>nd</sup> September 2015 and the next meeting is scheduled for the 20<sup>th</sup> January 2016, with further meetings to be held quarterly. In addition a training afternoon for board members is to be delivered by Penningtons Manches LLP on the 13<sup>th</sup> January to educate members on those aspects of police pension regulations that are relevant to the discharge of the Pension Board's functions.

So that the Joint Audit Committee members are aware of the functions and responsibilities of the Surrey Police Pension Board, a copy of the draft Terms of Reference that the Board will be asked to approve at their January meeting are attached to this report.

#### **4).Recommendation**

The Committee is invited to comment on and note the report.

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## **PENSION BOARD TERMS OF REFERENCE FOR POLICE PENSION BOARD FOR SURREY**

**Version adopted and approved on 20/01/16**

### **1. INTRODUCTION**

The purpose of this document is to set out the Terms of Reference for the Police Pension Board for Surrey (the Board). The Board is established by Chief Constable Lynn Owens, as Chief Constable of the Surrey Police (the “Scheme Manager”) under the powers of Section 5 of the Public Service Pensions Act 2013 and Regulation 13 of the Regulations on 01/04/15.

### **2. POWERS OF THE POLICE PENSION BOARD**

The Board will exercise all its powers and duties in accordance with the law and this Terms of Reference.

### **3. FUNCTIONS OF THE BOARD**

The role of the Pension Board is defined by Regulation 13(1) of the Regulations as to assist the Scheme Manager:

to secure compliance with:

- the Regulations;
- any other legislation relating to the governance and administration of the Scheme (and any statutory pension scheme that is connected with it); and
- any requirements imposed by the Pension Regulator in relation to the scheme (and any statutory pension scheme that is connected with it); and also
- in the performance of the Scheme Manager’s functions under the Regulations.

[The Scheme Manager considers that assisting the Scheme Manager should be interpreted as helping the Scheme Manager, including doing work requested by the Scheme Manager in relation to such aspects of governance and administration of the Scheme as the Scheme Manager determines. The specific functions of the Board as determined by the

Scheme Manager above the Board's core statutory role are set are as set out in Annex A to these Terms of Reference.]

#### **4. COMPOSITION OF THE PENSION BOARD**

##### **Membership**

The Board shall consist of a minimum of 6 voting members (who must employer or employee representatives) and maximum of twelve, and be constituted as follows:

Employer representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required. Substitutes shall not be appointed.

Employee Representatives shall either be scheme members, active or deferred or have capacity to represent scheme members of the Fund. Employee representatives should be able to demonstrate their capacity to attend and complete the necessary preparation for meetings and participate in training as required.

There shall be an equal number of Employer Representatives and Member Representatives.

There shall also be the Chair (Employer) and the Deputy Chair who (Employee) also have the power to vote.

##### **Appointment and Removal of Chair and Deputy Chair**

The scheme Manager has a responsibility under the Regulations to appoint the Chair and Deputy Chair of the Board for a term not exceeding a period of 3 years.

Where the Scheme Manger does not appoint an independent Chair:

the office of Chair must be filled alternatively by an Employer Representative and an Employee Representative; and where the Chair is an Employer Representative, the Deputy Chair must be an Employee Representative, and vice versa.

If the Chair or the Deputy Chair's term of office:

terminates by natural expiry, the Scheme Manager may re-appoint the Chair or the Deputy Chair for a further term as set out above; or

terminates for any other reason, the Scheme Manager will appoint another person to replace the outgoing party externally or from the existing membership of the Board.

The Chair will ensure that meetings are properly conducted and the decision of the Chair on all points of procedure and order shall be final. The role of the Deputy Chair is to assist the Chair in carrying out their functions and to carry out those functions if the chair is not present. The Chair or Deputy Chair may delegate any of their functions apart from the responsibility to appoint Board Members.

## **Appointment and Removal of Board Members**

The Chair of the Board shall appoint the Employer Representatives and Member Representatives, subject to the approval of the Scheme Manager. The eligibility and selection criteria for selecting Board Members and details as to how Board Members are to be removed are set out in the Police Pension Board Members Appointment and Removal Rules at Annex B.

## **5. DECISION MAKING AND ADMINISTRATION**

### **Notice of Meetings, Agendas and Minutes**

The Chair of the Board will prepare an agenda of the Board prior to each Board meeting.

Notice of meetings should be provided to all Board Members at least 1 month in advance of each meeting. If a Board Member decision is required as a matter of urgency a shorter notice period will be used.

Board Members will be required to notify the Chair of any agenda items at least 7 working days in advance of the meeting. All agenda items are at the desecration of the Chair.

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.

Minutes of each meeting, including all actions and agreements, will be recorded and circulated to all Board Members within 10 working days after the meeting. These minutes will be subject to formal agreement by the Chair taking consideration of comments by Board Members (which may be done electronically between meetings).

The minutes may, at the discretion of the Chair, be edited to exclude items on the grounds that they would involve the likely disclosure of exempt information as required under the Data Protection and Information Security Policy (Part 2)

### **Location and Timing**

Subject to the ability of the Board to meet by telephone or by other electronic means as set out below, the Board will normally meet at Police Head Quarters, in Guildford, Surrey.

The Board will meet 4 times in each calendar year on a 3 monthly cycle. The Chair may call or agree to call, additional meetings in exceptional circumstances. There shall also be ability for the Chair, with the consent of the Board membership and/or the Scheme Manager to require a special meeting to be convened on notice.

## **Quorum and Appointment of Proxies**

A meeting of the Board is quorate when:

at least 4 Members are present one of whom is the Chair or Deputy Chair  
and  
there are an equal number of Employer and Member Representatives  
present

The Board may meet in person, by telephone or by other electronic means, so long as each Board Member can contribute to the business of the meeting. All Members of the Board are expected to regularly attend meetings. Records of attendance of all Members will be maintained and reported to the Scheme Manager on an annual basis.

Substitute members can be appointed to the Board subject to completion of nomination process and at the discretion of the Chair.

If for any reason a Board Member cannot attend a Board an appointed substitute (as long as they are representing the same group as the Board Member that they are substituting, can attend and vote at the meeting in their place. Such substitution only remains valid for the meetings that the Board Member cannot attend.

## **Voting and Decision-making**

Where all the Board Members are present at the meeting, a decision will require approval of a majority of Board Members present at the meeting.

Where a majority of the Board Members are present at the meeting, unanimous approval of all Board Members present is required.

The Board Members may also make decisions by written resolution signed by all the Board Members. (to be determined on a case by case basis)

Each Employer and Member Representative on the Board will have an individual voting right. The Chair and Deputy Chair also have voting rights. An Independent Member does not have a voting right unless they are appointed as the Chair or Deputy Chair

If there is a tied vote on any issue, the Chair has a casting vote.

The results of any voting outcomes will be reported in the Board Minutes

## **Creation of Working Groups/Sub-Boards**

The Board has the power to set up working groups or sub-boards on whatever terms that the Board determines.

If the Board decides to create a working group or sub-board than it will prepare terms of reference for each of these sub-committees.



## **6. BUDGET**

The board will have a budget for the following purposes:

- Fees and expenses for Board members;
- Legal, technical and other professional advice;
- Cost of secretarial support;
- Accommodation and administrative support to conduct its meetings and other business accommodation costs;
- Training for members; and
- Anything else that the Scheme Manager determines

The terms of the budget are set out in the Board's Budget, Fees and Expenses Document. The amount of the budget shall be as notified to the Board by the Scheme Manager on an annual basis.

## **7. FEES AND EXPENSES**

Fees and expenses of Board Members will be as set out in the Board's Budget, Fees and Expenses Document.

## **8. CONFLICTS OF INTEREST**

The members of the Board shall always act within these Terms of Reference and in accordance with the Board's conflict of Interest Policy.

Though members of the Board include representatives of specific categories of stakeholder (i.e. scheme members and employers) each Board Member is required to have due regard to the role of the Board as outlined in these Terms of Reference. Accordingly all members are expected to work jointly with the key purpose of oversight of the management of the scheme putting aside any individual views of any stakeholders. This should not prevent Board Members from sharing their knowledge on how matters might impact specific stakeholders of the scheme.

The Chair of the Board must be satisfied that the Board is acting within:  
the conflicts of interest requirements of the PSPA and the Regulations;  
and  
in the spirit of the Code of Practice in relation to conflicts of interest; and  
in accordance with the Board's Conflict of Interest Policy.

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

## **9. ADVICE AND INFORMATION**

The Board may appoint professional advisers, or other advisors to advise the Board on such matters that the Board determines. This will be on a 'as required' basis. For the avoidance of doubt, any expert adviser is not a Board Member.

The process for their appointment and agreeing their fees shall be on terms as the Board determines and are set out in the Fees and Expenses document.

The Board will be supported in its role and responsibilities by the Independent Member.

The Board should request such information and documents from the Scheme Manager that it requires to carry out its functions. The Scheme Manager will be required to consider positively all reasonable requests in relation to the role of the Board whilst being mindful of value for money.

## **10. KNOWLEDGE AND SKILLS**

Under the requirements of the PSPA, a member of the Board must be conversant with:

- the rules of the Scheme and
- any document recording policy about the administration of the Scheme which has been adopted in relation to the scheme.

In addition, a member of the Board must have knowledge and understanding of:

- the law relating to pensions; and
- any other matters which are prescribed in regulations.

The degree of knowledge and understanding referred to above is that appropriate for the purpose of enabling the individual properly to exercise the functions of a member of the Board.

It is for individual Board 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 of the Board and therefore must comply with the Board's Knowledge and Understanding and Training Policy and participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

## **11. STANDARDS OF CONDUCT**

The Code of Conduct shall apply in relation to the standards of conduct of Board Members.

## **12. REPORTING ON THE BOARD'S ACTIVITIES**

The Chair shall provide the approved minutes of each meeting to the Scheme Manager and produce an annual report on the Board's activity.

The Chair shall also report to the Surrey Police and PCC Joint Audit Committee.

## **13. REPORTING BREACHES ETC.**

The Board shall report breaches of law in accordance with its Reporting Procedures policy.

## **14. ACCESS TO THE PUBLIC AND PENSION BOARD INFORMATION**

The following will be entitled to attend Board meetings in an observer capacity:

Officers or advisers of the Force or other employers involved with the management of the Scheme subject to approval in advance by the Chair, or on request of the Chair

Any other person requested to attend by the chair; and

Any other person subject to approval in advance by the Chair

Members of the press and public can attend the meeting but the Chair reserves the right to hold part of the meeting in private (Part 2) on the grounds that it involves the likely disclosure of exempt information under the Data Protection and Security Information Policy.

Any such attendees will be permitted to speak on request of the Chair

## **15. INDEMNITY/INSURANCE**

Indemnity Insurance will be provided to members of the Board by the Local Authorities (Indemnity for Members and Officers) Order 2004

## 16. REVIEW, INTERPRETATION AND PUBLICATION OF TERMS OF REFERENCE

These Terms of Reference have been agreed by the Board and will be reviewed annually.

The Terms of Reference are only effective once the Scheme Manager has provided confirmation that it approves them.

Changes to these Terms of Reference will only be approved by the Board, with the Scheme Manager's approval.

## 17. DEFINITIONS AND INTERPRETATION

The following words apply to the Terms of Reference:

<b>“Board Member”</b>	Means a member of the Board (this includes a reference to an Employer Representative, Member Representative and an Independent Member).
<b>“Chair”</b>	Means the appointed Chairperson of the Pension Board.
<b>“Code of Conduct”</b>	Means the code of conduct adopted by the Board.
<b>“Code of Practice”</b>	Means The Pensions Regulator's Code of Practice no. 14 entitled “Governance and administration of public service pension schemes”.
<b>“Conflicts of Interest”</b>	Is as defined in the PSPA.
<b>“Conflicts of Interest Policy”</b>	Means the policy on conflicts of interest as adopted by the Board.
<b>“Deputy Chair”</b>	Means the appointed deputy chairperson of the Board.
<b>“Employer Representative”</b>	Means a person appointed to the Board for the purpose of representing employers for the Scheme and any connected scheme.
<b>“Independent Members”</b>	Means neither an Employer Representative or a Member Representative.

<b>“Member Representative”</b>	Means a person appointed to the Board for the purpose of representing members of the Scheme and any connected scheme.
<b>“Police Pension Board Member Appointment and Removal Rules”</b>	The document adopted by the Board setting out the nomination and selection procedure and how Board Members are to be appointed and removed.
<b>“PSPA”</b>	The Public Service Pensions Act 2013 (as amended).
<b>“Reporting Procedure”</b>	Means the procedure adopted by the Board setting out the Board’s procedure for reporting breaches of law and other matters.
<b>“Scheme Manager”</b>	The Chief Constable
<b>“Scheme”</b>	The Police Pension Scheme.
<b>“Knowledge and Understanding and Training Policy”</b>	Means the training policy as adopted by the Board

All references to job titles of officers are to officers within the Force unless otherwise stated.

## 18. STANDARD AGENDA

The standard agenda will consist of the following:

- Conflicts of interest
- Review of minutes, actions and decisions made since the last Board meeting
- Review of reports from Equinity paymaster and Local Government Pension Scheme (LGPS)
- Financial reports
- Risks and Issues Register
- SLA and service performance reports if applicable
- Feedback from stakeholders, including any members forum
- Details of any complaints about the scheme administration
- Any other business acceptable to the Chair.

## ANNEX A

### Functions of the Board above it's core statutory role

The purpose of the Board is to assist the Scheme Manager in the following matters above the Board's core statutory role:

1. set the scope and direction of the administration and any new strategic approach.
2. scrutinise the level and quality of service, challenging and directing service providers to improve Scheme performance, focus on continuous improvement and value for money and identify opportunities to enhance the range and quality of services offered by the Scheme;
3. challenge the performance of the service providers; benchmarking the scheme administration, identify and promote good practice and address any areas of weakness with the service providers;
4. establish the effectiveness, efficiency and value for money of Scheme administration;
5. oversee the procurement of administration services , making recommendations on the scope of the service, budget, evaluation criteria and signing off preferred provider proposals;
6. commission additional services from the administrator to meet changing needs of the membership and employers.
7. ensure the scheme administrator supports the employers to communicate the benefits of the Scheme;
8. ensure that the administrator support members with a range of tools to improve their understanding of the pension benefits;
9. develop and manage an internal controls risk management framework;
10. improve pension data quality;
11. oversee the development of processes and systems to incorporate any new statutory requirements;
12. oversee and provide challenge to Scheme budget forecasting;
13. ensure that an effective audit strategy is in place for the scheme and approve and monitor audit delivery plans;
14. monitor common areas of complaints and disputes, addressing issues arising from cases referred to the internal dispute resolution procedure and/or the Pension Ombudsman; and
15. any such other matters as the Scheme Manager determines from time to time.

## **ANNEX B**

### **Police Pension Board Appointment and Removal Rules**

These rules set out the procedures which have been agreed and adopted by the Board for the appointment and removal of Representatives (i.e. the Employer and Member Representatives and Independent Board Members).

#### **Appointment of Representative Board Members**

##### ***Nomination and selection procedure***

Representative Board Members will be chosen by way of a two state nomination and selection process as follows:

##### ***Nomination Process***

The Employer Representative Board Members are nominated by the Scheme Manager.

Individuals are only eligible to be nominated as a Board Member if they meet the Eligibility Criteria is as follows:

The Employer Representatives must be the Chief Finance Officer for the Surrey Police and Crime Commissioner, the Head of Employee Services for Surrey and Sussex Police and the Chief Finance Officer of Surrey Police

The Employee Representatives must be a member of the Surrey Police Federation, the Superintendence Association and a current member of the scheme.

##### ***Selection Process***

If more Board Members have been nominated than are required, the Chairman of the Board will select who will serve on the Board.

#### **Term of Office and Removal of Representative Employer and Member Representative Board Members**

- Employer and Member Representatives are appointed for a period of 3 years from the date of establishment of the Board or the date of their appointment, if later.
- The period may be extended up to 3 years if jointly agreed by the Scheme Manager and Chair.
- Any Board Member may be re-appointed for further terms in line with the nomination process above

An appointment will automatically cease if:

- A Board Member no longer meets the Eligibility Criteria;
- A Board Member has a conflict of interest which, in the opinion of the Scheme Manager (on the advice of the Chair), cannot be managed in accordance with the Pension Board Conflict of Interest Policy;
- A Board Member dies or, in the opinion of the Board, becomes incapable of acting; and
- A Board Member wishes to resign, and has given one month's notice in writing to the Chair.

Further, if a Board 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, then the Chair of the Board and the Scheme Manager can decide, whether the member should be given an opportunity to change their behaviour. Where issues of the nature arise, the Chair will hold an initial informal discussion with the Board Member about these concerns.

Where a vacancy arises for a representative member mid-term the nomination process will apply.

### **Review of the Rules**

The Board will keep these Terms of Reference under review having due regard to the Regulations, the Code of Practice and guidance (statutory or otherwise). The Board will amend these Terms of Reference as and when it sees fit.