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Pensions Panel

25 October 2019 – At a meeting of the Pensions Panel held at 10.00 am at County Hall, Chichester.

Present: Mr Hunt (Chairman)

Mr Bradford, Mrs Dennis, Mr Elkins, Mr Jupp, Mrs Urquhart, Dr Walsh and Mr Donnelly

Apologies were received from Ms Taylor

Absent: Vac - General

Also in attendance:

Part I

29. Declarations of Interests

29.1 None declared.

30. Part I Minutes of the last meeting

30.1 The Panel queried the progress with appointing for the Employer Representative vacancy. – *Rachel Wood, Pension Fund Investment Strategist, confirmed that work was continuing with the Director of Law and Assurance on the job role that would be distributed.*

30.2 Resolved – That the Part I minutes of the Pensions Panel held on 24 July 2019 be approved as a correct record, and that they be signed by the Chairman.

31. Minutes from the Annual Meeting of the Pensions Panel and the Employers in the Fund

31.1 Resolved – That the minutes of the Pensions Panel AGM held on 24 July 2019 be approved as a correct record, and that they be signed by the Chairman.

32. Pension Advisory Board Minutes - Part I

32.1 The Panel considered the confirmed Part I minutes from the 22 May 2019 Pension Advisory Board meeting; and the Agenda from the 4 September 2019 meeting (copies appended to the signed minutes).

32.2 The Panel made comments including those that follow.

- Queried if the Board's regarding policy documentation had been addressed. – *Rachel Wood confirmed that the action had been picked up and resolved.*
- Sought clarity on the reported outcomes of McCloud on employer rates. – *Steven Law, Hymans Robertson, explained that protection*

would be rolled out to an increased membership. Whilst it was unclear who this would be rolled out to, costs would be increased.

32.3 Resolved – That the minutes and agenda be noted.

33. Actuarial Valuation 2019

33.1 The Panel considered a report by the Director of Finance and Support Services (copy appended to the signed minutes).

33.2 Rachel Wood introduced the report which set out the summary since the last meeting. The report confirmed that the current funding level was 112%, and that new rates following the valuation would be effective from 1 April 2020.

33.3 Steven Law gave a presentation to the Panel on the 2019 Valuation Results (copy appended to the signed minutes).

33.4 Steven Law spoke through the presentation which outlined the calculations and assumptions that formed the valuation work to ensure that the pension fund could deliver its requirements for members. The presentation included 2 updates from Central Government. The first confirmed there would be a 2022 valuation, but it was unconfirmed what would happen after this. The second concerned the value of liabilities and that contribution rates needed to take allowance of McCloud and cover this within the valuation.

33.5 Steven Law explained that it was no longer required for members to submit nomination forms which was previously required to pay death grants. The fund had the authority to choose to pay an alternative person than the one stated on a nomination form. Steven Law confirmed that there was general rules and criteria for these decisions. - The Chairman requested that clarity on this process should be available for the next meeting (document appended to the signed minutes).

33.6 The Panel made comments including those that follow.

- Queried if Retail Prices Index (RPI) would be removed from future valuation calculations. – *Steven Law predicted that it could be replaced with an alternative in the future.*
- Asked how life expectancy for future members was considered. – *Steven Law explained that this was allowed for in mortality projections portion of assumptions. The pace of increases in life expectancy is reflected in this assumption.*
- Commented on the consideration for salary increases and that average earnings could outpace the Consumer Prices Index (CPI); and asked if it would be prudent to expect salaries to match the market. – *Steven Law explained that the first year had lower paid staff get increases as the living wage was introduced, this was used to help with considering the average. Promotional increases are applied on top of the 0.5%.*
- Reported on the increases to British Telecom (BT) pensions for women following a change in pension calculations and asked if this was unique to BT. – *Steven Law explained this was not unique to*

BT and was linked to the Barber ruling and the Lloyds ruling concerning sexual discrimination in pension ages. The Lloyds ruling would impact the Local Government Pension Scheme (LGPS). A lower anticipated return rate had been picked for the LGPS which made approximate allowance for this and for the McCloud outcome.

- *Noted the overall funding level of 112% and queried the funding level for various employers. – Steven Law confirmed that employers had different values which were still being calculated. District Council's had long term plans, and their rates were not linked to their funding level on any one day. Funding levels were more significant for employers who can leave the fund in the short term.*
- *Queried the spike for cashflow considerations in 2021. – Steven Law explained that the data replacement ratio was 100%, which related to jobs being replaced by those retiring. The spike could indicate an expected rise in the number of leavers.*
- *Sought clarity on considered assumptions for new entrants and those with outsourcing strategies. – Steven Law explained that TUPE arrangements were considered and that this pension fund had no particular large outsourcing arrangements to consider. The assumption therefore was that the fund would stay the same.*

33.7 Resolved – that the Panel notes the update in the report and the contents of the presentation.

34. Business Plan

34.1 The Panel considered a report by the Director of Finance and Support Services (copy appended to the signed minutes).

34.2 Nadine Muschamp, Head of Finance, introduced the report and explained that the report provide an update on actions from the previous meeting. Appendix A gave a summary of the Pension Regulator's deep dive, for which officers were working with Hampshire County Council on any areas that needing picking up.

34.3 The Panel noted that the Annual Audit Letter would be considered at the upcoming meeting of the Regulation, Audit and Accounts Committee.

34.4 Resolved – that updates to the Business Plan are noted.

35. Equitable Life transfer to Utmost Life and Pensions (AVCs)

35.1 The Panel considered a report by the Director of Finance and Support Services.

35.2 The Panel noted that the report appendices contained exempt information and felt that the discussion on the report should be held in Part II.

Resolved - That under Section 100(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I, of Schedule 12A, of the Act by virtue of the paragraph

specified under the item and that, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information.

The Panel discussed the proposal and agreed to approve the Scheme and Change to the Articles pending criteria discussed during the Part II portion of the meeting.

36. Pension Administration Performance

36.1 The Panel considered a report by the Director of Finance and Support Services (copy appended to the signed minutes).

36.2 Nadine Muschamp introduced the report and explained that representatives from Hampshire County Council had sent their apologies for the meeting.

36.3 Nadine Muschamp confirmed that Hampshire County Council were committed to improving performance and noted the impact of legacy issues on their performance. Officers were working with Hampshire County Council on a data improvement plan which would be reported on at the next meeting.

36.4 Nadine Muschamp reported that as of 31 August approximately 49,000 Annual Benefit Statements (ABS) had been produced. Since then approximately 2,000 had also been provided. There were 7,000 remaining where further work was required. The outstanding ABSs would be reviewed with regard to if they constituted a breach.

36.5 The Panel made comments including those that follow.

- Expressed disappointment that all ABSs had not been submitted on time following Hampshire County Council's confidence. – *Nadine Muschamp gave assurances that identified issues were being worked on to ensure improvements were made for next year.*
- Queried if the 7,000 outstanding ABSs were from a mix of areas or were linked to a specific scheme. – *Steven Law confirmed that they were from a mix of areas and that Hampshire County Council had provided details of where they were to assist Hymans Robertson with the valuation work.*
- Raised concerns on the reduced performance for Divorce and Interfunds. – *Rachel Wood confirmed that Interfunds had fallen back and that Hampshire County Council had split legacy and business as usual work into two work streams. Divorce work was done by the same team where Hampshire County Council worked to ensure data was provided to members when required, albeit not always complying with the SLA. The Panel asked if these areas were more technically difficult than other areas. – Rachel Wood reported that the work was the same level as other areas and should be straight forward if the correct data is available.*
- Queried if the data issues were historic or linked to transfer arrangements; and if the issues would impact the valuation work. – *Steven Law reported that the majority of the issues were historic and the valuation would make assumptions on any uncertain areas.*

- Sought reassurance that correspondence on death cases included appropriate empathy. – *Rachel Wood confirmed this was the case.*
- Queried the process for nominating a beneficial for death benefits. – *Steven Law explained that the criteria was that an individual with a minimum relationship.*
- Asked if the backlog and data quality issues were linked to resourcing and if extra support was required. – *Nadine Muschamp explained that a plan was being worked on with Hampshire County Council to understand what was a reasonable work load. Consideration would then be given to see if additional resources were available. This would be reported to the next Panel meeting. The Chairman reminded the Panel that any new administration provider would have been more than the previous contract, even if the service has still be provided by Capita.*
- Sought clarity on the expectation of Hampshire County Council to achieve their SLA following the transfer. – *Katharine Eberhart, Director of Finance and Support Services, resolved to look into the contract wording, but reported that there had not been an expectation of immediate SLA compliance. The Chairman expected that improvements would be seen in January and that the Panel would be monitoring compliance closely. It was reported that Hampshire County Council were quick to resolve any specific issues that were raised. Panel members observed that there has been a reduction in complaints received.*
- Commented on the regulatory requirements for the level of training for Pension Advisory Board members. – *Steven Law reported that in the future the Pensions Panel members would be held to the same regard.*

36.6 Resolved – that the Panel note the update on Administration Performance; the updates to the Administration Strategy; and agree the Breaches Policy.

37. Date of the next meeting

37.1 The Panel noted that its next scheduled meeting would take place on 27 January 2020 at County Hall, Chichester.

38. Exclusion of Press and Public

Resolved - That under Section 100(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I, of Schedule 12A, of the Act by virtue of the paragraph specified under the item and that, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information.

39. Part II Minutes of the last meeting

The Panel agreed the Part II minutes of the Pensions Panel held on 24 July 2019.

40. Pension Advisory Board Minutes - Part II

The Panel noted the contents of the Part II minutes from the 22 May 2019 Pension Advisory Board meeting.

41. ACCESS Update

The Panel considered a report by the Director of Finance and Support Services.

The Panel noted the update.

42. Review of Pension Performance

The Panel considered a paper by the Director of Finance and Support Services.

The Panel received an update from Caroline Burton relating to the quarterly performance reports from the fund managers.

The Panel welcomed the advice.

43. Presentation by UBS

The Panel received an update from Malcolm Gordon, Steve Magill, Scott Wilkin and Karianne Lancee from UBS on the portfolio performance for the quarter.

The meeting ended at 12.55 pm

Chairman

Death grants and spouses benefits

Death Grants

A death grant is payable when an active, deferred or in some circumstances a pensioner member dies. Under the current regulations the value payable is;

Status	Death Grant
Active member	3 times assumed pensionable pay
Deferred member	5 times deferred pension
Pensioner member	(If the member has died within 10 years of retiring) the balance of 10 years' worth of pension

There is no specific LGPS regulation or guidance that funds must follow when determining the recipient of a death grant. It is not a pension matter per se, it's more a matter of the correct exercise of powers under public law principles that have accrued over time through case law.

The most often cited case is the Associated Provincial Picture Houses Limited v Wednesbury Corporation 1948 ("Wednesbury"). During the case the Lord Green gave his view that:

a person entrusted with a discretion must direct himself properly in law, calling his attention to the matters which he is bound to consider and excluding from his consideration matters which are irrelevant to what he has to consider. Failure to obey these rules may be said to be acting unreasonably. However, at the extreme end, there may arise something so absurd that no sensible person could ever dream that it lands within the powers of the authority.

This is why you often see quoted in Independent Dispute Resolution Process cases, words to the effect that:

a decision by an employer/administering authority can only be overturned if in reaching their view they have either acted ultra vires, failed to consider a relevant matter, considered an irrelevant matter or reached a decision that no reasonable person could have reached.

In short, the Fund must listen to all sides of the story, weigh up all the relevant arguments, not break the law and not do something out of the ordinary. An expression of wish form can help guide the Fund in its determination, but it does not necessarily need to follow this.

Funds usually consider how much weight to put on each piece of evidence available to it. Most funds naturally place considerable weight on an up to date expression of wish form which names the deceased's wife and children as beneficiaries. However, if a fund were faced with a decade old expression of wish form that named a former partner but you knew that the member had since got married and had children it would be difficult to make the judgment that that was really what the member intended. Among the things a fund might consider in making a decision are the member's domestic arrangements when they died, whether they left a will or not, and in some cases it may be necessary to talk to the member's surviving relatives.

For the West Sussex Scheme....

The Administering Authority Discretions include the following:

Decide to whom a death grant is paid

Where it is clear, having taken account of all the circumstances, payment is taken in accordance with the member's expression of wish. If no wish has been made, then payment is made to the legal spouse, cohabiting partner or civil partner following receipt of Grant of Probate or Form of Indemnity.

Where there is any doubt this is delegated to the Principal Pension Consultant (Administration and Employers)

Minute Item 33

Payment of Spouse's, civil partner's or cohabittees Pension

The situation when paying a pension is different, as the fund is not exercising a discretion. The LGPS regulations establish to whom you must pay a pension and the fund is simply establishing that the individual meets the criteria and then paying the pension to them. In the case of a spouse or civil partner that is a simple case of having sight of the legal paperwork. However, proof of meeting the cohabiting criteria is more difficult and does require some judgment. As it stands in the LGPS (and please note this area is constantly subject to legal challenge) a cohabiting partner must at the time of death:

- Have been able to marry or form a civil partnership with the deceased
- Not have been living with anyone else as if they were married or in a civil partnership
- Been financially dependent on the member or been financially interdependent with them.

The above situation must have endured for at least 2 years (we believe this criteria may eventually be challenged in court).

Typically when considering eligibility, funds will look for things like a joint mortgage statement, joint bank account or utility bills in both names. Even receipts for the family shopping could support a cohabiting partner's claim.

The ever expanding scope and definitions of who is eligible to receive these benefits has been reflected in the actuarial assumptions (i.e. the probability they will be paid on death is increasing), which leads to slightly higher liabilities.

For the West Sussex Scheme....

Verification of marriage, civil partnership etc. is obtained by Hampshire Pension Services or the team establish whether the deceased and their partner were living together, financially dependent on each other, and whether they were free to marry.