Public Document Pack

Tony Kershaw
Director of Law and Assurance

If calling please ask for:

Adam Chisnall on 033 022 28314
Email: adam.chisnall@westsussex.gov.uk

www.westsussex.gov.uk

County Hall
Chichester
West Sussex
PO19 1RQ
Switchboard
Tel no (01243) 777100

15 October 2020

Pensions Committee

A virtual meeting of the Committee will be held at **10.00 am** on **Friday, 23 October 2020**.

Note: In accordance with regulations in response to the current public health emergency, this meeting will be held virtually with members in remote attendance. Public access is via webcasting.

The meeting will be available to watch live via the Internet at this address:

http://www.westsussex.public-i.tv/core/portal/home

Tony Kershaw
Director of Law and Assurance

Agenda

Part I

10.00 am 1. **Declarations of Interests**

Members and officers are invited to make any declaration of personal or prejudicial interests that they may have in relation to items on the agenda and are reminded to make any declarations at any stage during the meeting if it becomes apparent that this may be required when a particular item or issue is considered.

It is recorded in the register of interests that:

- Mr Donnelly is a Horsham District Councillor
- Cllr Elkins is a Member of the Littlehampton Harbour Board and Arun District Council
- Cllr Hunt is the Chairman of the Chichester Harbour Conservancy
- Cllr Jupp is a Member of Horsham District Council and has a daughter who works for Blackrock
- Cllr Walsh is a Member of Arun District Council and Littlehampton Town Council

These financial interests only need to be declared at the meeting if there is an agenda item to which they relate.

10.01 am	2.	**Part I Minutes of the last meeting** (Pages 5 - 10) The Committee is asked to agree the Part I minutes of the meeting of the Committee held on 22 July 2020 attached (cream paper).
10.02 am	3.	**Urgent Matters** Items not on the agenda, which the Chairman of the meeting is of the opinion, should be considered as a matter of urgency by reason of special circumstances.
10.03 am	4.	**Part II Matters** Members are asked to indicate at this stage if they wish the meeting to consider bringing into Part I any items on the Part II agenda.
10.04 am	5.	**Pension Advisory Board Minutes - Part I** The Committee is asked to note the confirmed Part I minutes from the meeting of the Pension Advisory Board on 26 February 2020 and the agenda from the meeting of the Pension Advisory Board on 7 September 2020.
	(a)	**26 February 2020 - Part I Pension Advisory Board Minutes** (Pages 11 - 16)
	(b)	**7 September 2020 - Pension Advisory Board Agenda** (Pages 17 - 20)
10.05 am	6.	**Business Plan** (Pages 21 - 30) Report by the Director of Finance and Support Services. The Committee is asked to note the update on the Business Plan and note the risk matrix for the Fund.
10.20 am	7.	**Administration Performance** (Pages 31 - 42) Report by the Director of Finance and Support Services. The Committee is asked to note the update.
10.35 am	8.	**Scheme Changes** (Pages 43 - 64) Report by the Director of Finance and Support Services. The Committee is asked to note the update, including the impact on the pensions administration team and the actuary. The Committee is also asked to agree the amendments to the funding strategy statement as a result of employer flexibilities.

10.55 am	9.	**Date of the next meeting**
		The next meeting of the Pensions Committee will be at 11.00 a.m. on 17 November 2020.

Part II

10.55 am	10.	**Exclusion of Press and Public**
		The Committee is asked to consider in respect of the following item(s) whether the public, including the press, should be excluded from the meeting on the grounds of exemption under Part I of Schedule 12A of the Local Government Act 1972, as indicated below, and because, 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.
11.05 am	11.	**Part II Minutes of the last meeting** (Pages 65 - 72)
		To confirm the Part II minutes of the meeting of the Committee held on 22 July 2020, for members of the Committee only (yellow paper).
11.07 am	12.	**Pension Advisory Board Minutes - Part II** (Pages 73 - 74)
		The Committee is asked to note the confirmed Part II minutes from the meeting of the Pension Advisory Board on 26 February 2020 (yellow paper).
11.10 am	13.	**AVCs** (Pages 75 - 80)
		Report by the Director of Finance and Support Services attached for members of the Committee only (yellow paper). The Committee is asked to consider the recommendations within the report.
11.20 am	14.	**Investment Strategy Statement** (Pages 81 - 100)
		Report by the Director of Finance and Support Services attached for members of the Committee only (yellow paper). The Committee is asked to consider the recommendations within the report.
11.40 am	15.	**Private Debt and Infrastructure** (To Follow)
		Report by the Director of Finance and Support Services attached for members of the Committee only (yellow paper). The Committee is asked to consider the recommendations within the report.

12.20 pm 16. **ACCESS** (Pages 101 - 106)

Report by the Director of Finance and Support Services attached for members of the Committee only (yellow paper).

The Committee is asked to consider the recommendations within the report.

Break

1.00 pm 17. **Review of Pension Investment Performance** (To Follow)

Paper by the Director of Finance and Support Services and Independent Fund Adviser summarising transactions and performance during the quarter and giving comments on the quarter, for members of the Committee only (yellow paper).

1.15 pm 18. **Presentation by Baillie Gifford**

The Committee to receive a presentation on portfolio performance.

To all members of the Pensions Committee

Pensions Committee

22 July 2020 – At a virtual meeting of the Pensions Committee held at 10.00 am.

Present: Cllr Hunt (Chairman)

Cllr Bradford, Cllr J Dennis, Cllr Elkins (left at 2.32pm), Cllr N Jupp, Cllr Urquhart (left at 2.30pm), Cllr Walsh (left at 1.53pm.) and Ms Taylor (left at 1.53pm.)

Apologies were received from Mr Donnelly

Part I

13. Declarations of Interests

13.1 Cllr Hunt welcomed everyone to the meeting and confirmed that following agreement at the Governance Committee on 20 May 2020 the name of the Panel has been changed from the Pensions Panel to the Pensions Committee.

13.2 Cllr Walsh confirmed that he is no longer a member of the Littlehampton Harbour Board; but was still a member of Arun District Council and Littlehampton Town Council.

13.3 Cllr Jupp declared an interest as a member of Horsham District Council.

13.4 Cllr Elkins declared an interest as a member of the Littlehampton Harbour Board and Arun District Council.

13.5 Cllr Hunt declared an interest as the Chairman of the Chichester Harbour Conservancy.

14. Part I Minutes of the last meeting

14.1 Resolved – That the Part I minutes of the Pensions Panel held on 4 May 2020 be approved as a correct record, and that they be signed by the Chairman.

15. Pension Fund Business Plan 2020/21

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

15.2 Katharine Eberhart, Director of Finance and support services, introduced the Business Plan which gave a summary of the previous year and outlined plans for the upcoming year. One of the Plan's deliverables was to respond to Scheme changes which was pertinent in light of the McCloud Judgement and also the recent response from Government on the £95k Cap.

15.3 Steven Law, Hymans Robertson, explained that the McCloud impact for the Fund concerned members in the scheme prior to 31 March 2012 and were still in the scheme 31 March 2014 would now see the better of benefits of the previous Final Salary 1/60ths scheme and the new CARE scheme up to 2022. After this time the reformed Career Average Revalued Earnings (CARE) benefits would continue. This could be large data collection exercise for the administration team. Cost sharing has been un-paused and will including an offset due to the impact of McCloud.

15.4 £95k Cap legislation had been released which concerned exit packages for members. Hymans Robertson were awaiting secondary legislation to see the impact of this for the Local Government Pension Scheme (LGPS). The Chairman requested that a briefing paper on this be circulated to the Committee members. **ACTION –** Steven Law agreed to provide a briefing paper and confirmed that the upcoming Goodwin case may also have an impact on the fund, but at present the impact was unclear.

15.5 Katharine Eberhart outlined other key actions for the year; including the Investment Strategy review and developing responsible investment principles. It was also reported that the County Council was changing its core business system over the year which would increase workload for the pensions team.

15.6 The Committee made comments including those that follow.

- Noted the red risk regarding data quality and asked who held the responsibility for this. – *Katharine Eberhart confirmed that this responsibility was held by West Sussex County Council but explained that a work plan was in place for data cleansing with Hampshire Pension Services. There was confidence in the administration team to resolve the issues for data quality. The risk would be updated to reflect the progress made.*
- Queried the contracts for private equity and if there was any roll over options. – *Rachel Wood, Pension Strategist, explained that there were extension options.*
- Sought clarity on the amber risk for remote working. – *Rachel Wood explained that this related to an establishment of business as usual activities and that no issues had occurred. The amber alert was cautionary due to the transition of arrangements and to be mindful of potential pressures on remote working arrangements such as McCloud.*
- Asked if there was a revised target date for the ACCESS Pool asset transfer. – *Rachel Wood explained that this would be covered later on the agenda.*
- Queried the training arrangements. – *Rachel Wood explained that the inter-authority agreements were being completed and that training would then be organised.*
- Noted that the key contract dates were approaching and queried the tender arrangements. – *Rachel Wood reported that the approach would be considered for the contractual arrangements with Savills and Hymans Robertson.*
- Sought clarity on how Brexit may impact contract arrangements. – *Rachel Wood confirmed that the impact on appointments would need to be considered.*

15.7 Resolved – that the Committee notes the updates to the 2019/20 Business Plan and agrees the proposed activities for the 2020/21 financial year.

16. Pension Administration Performance

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

16.2 Katharine Eberhart introduced the report and highlighted that all case types completed in the quarter had been within the timescales set and that the administration team had adjusted well to remote working. It was reported that a breach had been reported for the publication of the 2019 Annual Benefit Statements (ABS), but no action would be taken by the Regulator. ABS work for 2020 was proceeding well with 81% of the work completed. Specific employers were being targeted to ensure all necessary data was received in order to complete the ABS.

16.3 The Committee made comments including those that follow.

- Queried the process for chasing employers for missing data. - *Katharine Eberhart explained that it was the employer's responsibility and interest to ensure data was submitted. Rachel Wood confirmed that the situation had improved since the publication of the report. Katherine Eberhart explained that the situation was not unusual, and that improved administration had led to effective detection and targeting of data issues.*
- Sought clarity over the position regarding email addresses for members. – *Rachel Wood explained that there were legacy issues linked to absent email addresses; but confirmed that acquiring an email address for a new active member was expected.*

16.4 Resolved – that the update on the Administration Performance is noted.

17. Annual Report

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

17.2 Rachel Wood introduced the report and explained that it was a regulatory requirement to issue an annual report, and that the format of the report focussed on key messages with some detailed information required for compliance with guidance outlined within the appendices. Forwards had been included from the Chairmen of the Pensions Committee and the Pension Advisory Board. A forward from the ACCESS committee would be included in the final version. The report outlined de-risking and responsible investment activities undertaken. Strong administration service and communication had continued, as reflected with the accreditation of Customer Service Excellence for Hampshire Pension Services. The financial statements of the fund would be considered by the Regulation, Audit and Accounts Committee in due course.

17.3 A correction was provided for the employer figures on page 42 of the report; the correct figures were 246 employers, of which 198 were active and 48 who were no longer active. Page 49 also showed an incorrect benchmark figure which should be -2%. Corrections would be made for the final version.

17.4 Resolved – that the draft annual report is approved.

18. Exit Credits - Funding Strategy Statement Update

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

18.2 Rachel Wood introduced the report and gave an update on exit credit regulations and the management of surplus funds. A new exit credit policy had been written for consideration by the committee.

18.3 The Committee raised concerns for future liabilities following an employer exit from the fund. – *Rachel Wood explained that work would be done with the actuary to consider a prudent view on future events. Once an exit payment had been made, there was no ability to charge an employer in the future for any deficits. The approach proposed in the policy should reduce the risks for the fund. Steven Law, Hymans Robertson, added that there were no guarantees on the future and so it was important to take an approach which would put in the fund in a good position to absorb risks.*

18.4 Resolved – that the Committee unanimously agrees to adopt the Exit Credit Policy for inclusion in the Funding Strategy Statement, subject to consultation with employers. The Committee acknowledges that the Director of Finance and Support Services will consider any feedback on the Exit Credit Policy from employers and, subject to material feedback being received which alters the policy's intent, reflect any amendments to the policy and adopt without further referral to the Committee.

19. Pension Fund Covid-19

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

19.2 The Chairman reported that an appendix had been included for context which contained exempt information. The Committee were asked if they would like to discuss the appendix before making a resolution on the report; or if they were happy to discuss the appendix separately during the Part II section of the meeting. The Committee agreed that the discussion could be held during the Part II section of the meeting.

19.3 Katharine Eberhart introduced the report which outlined the approach to Covid-19 risks and the impacts on fund assets. A graph within the report showed what the impact on funding would have been had de-risking exercises not been undertaken. Work was being undertaken to consider the risks for individual employers during the pandemic. It was reported that one employer may be leaving the scheme due to insolvency.

19.4 The Committee made comments including those that follow.

- Sought clarity on the number of employer exits that were reported and asked if the figures were normal. – *Steven Law confirmed that the numbers were normal and a reflection of the contract situations for employers in the fund such as academies with cleaning contracts. This would be common for the fund as academisation and related outsourcing continues.*
- Queried of the contribution rates for these short term contractors were appropriate for the associated risks. – *Steven Law confirmed that the risks were managed via comparatively higher contribution rates or were secured under pass through arrangements.*

19.5 Resolved – that the Committee notes the report and agrees the short term risk management approach.

The Committee discussed the Part II appendix during the Part II section of the meeting and noted the approaches that had been taken for individual employers.

20. Date of the next meeting

20.1 The Committee noted that its next scheduled meeting would take place on 23 October 2020.

21. Exclusion of Press and Public

The Chairman noted that no Committee member disagreed with the meeting entering the Part II section of the meeting as set out on the agenda.

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.

22. Part II Minutes of the last meeting

The Committee agreed the Part II minutes of the Pensions Panel held on 4 May 2020.

23. Additional Voluntary Contributions

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

The Committee considered the report and agreed with the officer recommendations.

24. Asset Liability Modelling and Investment Strategy (including Output from the Investment Strategy Task and Finish Group)

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

The Committee considered the report and agreed with the officer recommendations subject to some amendments as agreed by the committee.

25. Review of Pension Investment Performance

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

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

The Committee welcomed the advice.

26. Presentation by Baillie Gifford

The Committee received an update from Lynn Dewar, Paul Roberts and Tim Gooding from Baillie Gifford on the portfolio performance for the quarter.

27. Presentation by UBS

The Committee received an update from Malcolm Gordon, Steve Magill, Kayvan Vahid and George Griffiths from UBS on the portfolio performance for the quarter.

The meeting ended at 2.45 pm

Chairman

Pension Advisory Board

26 February 2020 – At a meeting of the Board at 9.30 am held at County Hall, Chichester, PO19 1RQ.

Present: Peter Scales (Chairman)

Kim Martin, Becky Caney, Chris Scanes (Arrived at 9.42.) and Tim Stretton

Apologies were received from Richard Cohen, Miranda Kadwell, Nadine Muschamp and Adam Chisnall

Officers in attendance: Rachel Wood (Pension Fund Investment Strategist), Tara Atkins (Principal Pensions Consultant (Administration & Employers)) and Rob Castle (Assistant Democratic Services Officer)

Part I

49. **Declarations of Interests and Conflicts**

49.1 No interests or conflicts were declared, but Rachel Wood, Pension Fund Investment Strategist told the Board that a Conflicts Policy relating to the pensions fund would come to a future Board meeting.

50. **Part I Minutes of the last meeting**

50.1 Resolved – That the part I minutes of the meeting of the Board held on 20 November 2019 be approved as a correct record and signed by the Chairman.

51. **Terms of Reference**

51.1 The Board considered its revised Terms of Reference (copy appended to the signed minutes) and discussed the following points: -

- In paragraph 7 it was highlighted that the Board should meet no fewer than four meetings a year yet only 3 months are mentioned for proposed dates. – **ACTION**: Rachel Wood to investigate and update the Terms of Reference at their next review.
- The Chairman's terms of office were not restricted.
- The Board queried whether the Chairman needed to be present for the Board to be quorate – *Rob Castle checked this post meeting and determined that the Chairman did not need to be present for the Board to be quorate. In the absence of the Chairman, the Board should elect a Chairman for the meeting.*

51.2 Resolved – that the Board notes its revised Terms of Reference with the clarification over meetings addressed

52. **Progress Report**

52.1 The Board considered the progress report on matters arising from previous meetings (copy appended to the signed minutes). The following points were discussed: -

- It was hoped to invite the Pension Regulator to a future Board meeting in conjunction with a Pensions Panel training session.
- The breach log would be reported consistently between the Pensions Panel and the Board going forward.

52.2 Resolved – that the Board notes the report.

53. **Pensions Panel Minutes - Part I**

53.1 The Board considered the confirmed part I minutes from the 25 October 2019 Pensions Panel meeting; and the Agenda from the 27 January 2020 Pensions Panel meeting (copies appended to the signed minutes).

53.2 The Board learned that the Retail Prices Index could be replaced by the Consumer Prices Index in future actuarial valuations and discussed death grants.

53.3 Resolved – That the Board notes the minutes and agenda.

54. **Business Plan Update**

54.1 The Board received a report by the Chairman of the Pension Advisory Board (copy appended to the signed minutes).

54.2 The Board discussed the report and made the following points regarding Appendix A: -

- Under business planning and performance the number of members that attended the employer AGM in July should read four not three – **ACTION**: The Chairman to update the report.
- Under governance arrangements the special presentation made by internal audit was not made at the February meeting - **ACTION**: Rachel Wood to advise when the presentation would take place.
- Under governance arrangements the review of internal procedures and controls relating to third party contracts by internal audit did not take place in February - **ACTION**: Rachel Wood to advise when the review would take place.
- Under communications a note to be added that communications were further reviewed at the February meeting – **ACTION**: The Chairman to update the report.
- Under Pension Advisory Board 2019/20 training the entry for Internal Audit to be deleted and entry for Becky Caney attending CIPFA LPB Spring Seminar to be deleted – **ACTION**: The Chairman to update the report.
- Dates to be added to the Pension Advisory Board 2019/20 training table – **ACTION**: Rachel Wood to add dates to the table when it is incorporated into the Board’s annual report.
- All Board members to be made aware that the Annual General Meeting will take place on 22 July.

54.3 - The Board made the following points regarding Appendix D: -

- The Council was compliant with the Competition and Markets Authority's order that pension scheme trustees and managers set objectives for their investment consultants.
- Data quality was showing as red in the risk register – a data improvement plan was in hand to improve this.

54.4 Resolved – That the Board agrees the recommendations in the Business Planning and Performance report.

55. **Regulations and Guidance update**

55.1 The Board received a report by the Chairman of the Pension Advisory Board (copy appended to the signed minutes) who introduced the report telling the Board that: -

- A further report and training was required on provider AVCs to understand how they worked.
- Appendix B showed a snapshot of the Pensions Regulator's website which was a source of information and set out the Regulator's expectations of public service organisations.
- Regarding responsible investment it was important to understand how this affected the Board and how non-financial factors could affect the financial position of companies e.g. in their share values..

55.2 Points covered in discussion: -

- Training would be available after the Council had carried out a review of AVCs.
- Guidance on responsible investment would be updated after a hearing in the Supreme Court.

55.3 Resolved – That the Board notes the current issues relating to the Scheme Regulations and Guidance.

56. **Governance Reviews and Surveys**

56.1 The Board received a report by the Chairman of the Pension Advisory Board (copy appended to the signed minutes) who told the Board that the new regulations re compliance would need new guidance, individual assessments and key performance indicators.

56.2 Resolved – That the Board notes the current position on progress on the Scheme Advisory Board (SAB) governance review and on surveys from tPR and SAB.

57. **Review of Pension Fund Policy Documents**

57.1 The Board received a report by the Director of Finance and Support Services (copy appended to the signed minutes) which was introduced by Rachel Wood, Pension Fund Investment Strategist, who asked members to consider the list of policy documents at Appendix A. The Board were informed that: -

- The Pension Fund had asked all employers for comments.
- Re McCloud – the Pension Fund had found a way of keeping rates as they were.
- There had been little change to the Treasury Management Strategy.

57.2 The Board made the following comments on the list of policy documents: -

- The list would come to the next Board meeting on 12 June 2020.
- The Funding Strategy Statement had been reviewed in February.

57.3 Resolved – that the Board notes the register of Policy Documents and that the Funding Strategy Statement and the Treasury Management Strategy comply with the regulatory requirements.

58. Administration procedures and performance

58.1 The Board received a report by the Director of Finance and Support Services (copy appended to the signed minutes).

58.2 The Board welcomed Andrew Lowe, Head of Pensions, Investment and Borrowing at Hampshire County Council, to the meeting.

58.3 Tara Atkins, Principal Pensions Consultant, and Andrew Lowe, introduced the report and informed the Board: -

- Performance was heading in the right direction with all but the backlog at 100% in January.
- The Data Improvement Plan had key milestones for the end of March to tie in with the end of the financial year.
- The Contributions’ Monitor showed no late payments.
- The number of people using the Portal was increasing and should continue to rise as new starters were encouraged to use it.
- There had been two low risk data breaches since the report was written.
- In January 2019 Hampshire took over 2,000 calls, all of which were dealt with in the allotted time. This January, with West Sussex joining Hampshire, there was nearly double the amount of calls, but all were still dealt with in the allotted time – there had also been over 3,000 emails to answer this January, 1,500 of which had dealt with at first point.

58.4 The following points were made in discussion: -

- A team within the Pensions team dealt with all calls and emails.
- Those leaving employment and those in retirement were being encouraged to use the Portal.
- Membership numbers had increased due to recent more reliable reporting.
- The number of leavers increased at the end of the school year as many teaching and non-teaching staff left employment at this time.

- Hampshire's IT team led on cyber breaches.
- There had been no cyber breaches relating to data, only scam/spam emails – discussions were taking place about what needed to be reported.

58.5 Resolved – That the Board notes the update.

59. **Communication Strategy**

59.1 The Board received a report by the Director of Finance and Support Services (copy appended to the signed minutes) which was introduced by Tara Atkins, Principal Pensions Consultant who told the Board that feedback on the draft pensioners' newsletter had been received from the administration team – the final newsletter would be reflected within the papers for the June meeting of the Board for comments.

59.2 The following points were made in discussion: -

- The Board's section in the newsletter would be more detailed next year to avoid it being the same each time.
- Hard copy payslips will now only be issued to retired members where pensions varied by £5 or to those that asked for them.
- Employer Matters was issued twice a year – there were stop press alerts for anything important between issues.
- Online systems were good for those in employment whereas deferred/retired members might prefer hard copies of newsletters/payslips.
- Retirement courses were run for everyone in the scheme .

59.3 Resolved – That the Board notes the schedule of communications.

60. **Training**

60.1 The Board received a document outlining the training that been recorded for Board members (copy appended to the signed minutes).

60.2 The following points were made in discussion: -

- **ACTION**: Adam Chisnall to update the document to show that Tim Stretton did not attend the CIPFA Local Pension Board Spring Seminar on 20/02/20 and that LGA Employer training had taken place.
- The results for the Pension Regulator Toolkit training were for West Sussex collectively, not individuals - **ACTION**: Adam Chisnall to liaise with Kim Martin to establish the results for individuals.
- A report on internal audit work will go to the Regulation, Audit & Accounts Committee (RAAC) in March and to the Board in June – the report will include progress against last year's plan, intended activity for this year and the link between RAAC and the Board.
- CIPFA slides could be used as a training tool – **ACTION**: Adam Chisnall to liaise with Miranda Kadwell re presenting these to a future Board meeting.
- The Board will receive training on Access with the Pensions Panel – **ACTION**: Rachel Wood to look for a date for this training, possibly including tPR.

- **ACTION**: The Chairman to circulate the slides from the seminar he recently attended.

60.3 Resolved – That Board members will continue to report progress on training.

61. **Date of Next Meeting**

61.1 The Board noted that its next scheduled meeting would take place on Friday 12 June 2020 at 9.30 a.m. at County hall, Chichester.

62. **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.

63. **Part II Minutes of the last meeting**

The Board agreed the Part II minutes of the 20 November 2019 meeting and they were signed by the Chairman.

64. **Pensions Panel Minutes – Part II**

The Board noted the contents of Part II minutes from the 25 October 2019 Pensions Panel meeting.

65. **ACCESS Update**

The Board considered the report by the Director of Finance and Support Services from the 27 January 2020 Pensions Panel (copy appended to the signed minutes).

The Board noted the report.

The meeting ended at 12.03 pm

Chairman

Tony Kershaw
Director of Law and Assurance

If calling please ask for:

Adam Chisnall on 033 022 28314
Email: adam.chisnall@westsussex.gov.uk

www.westsussex.gov.uk

County Hall
Chichester
West Sussex
PO19 1RQ
Switchboard
Tel no (01243) 777100

27 August 2020

Pension Advisory Board

A virtual meeting of the Board will be held at **9.30 am** on **Monday, 7 September 2020**.

Note: In accordance with regulations in response to the current public health emergency, this meeting will be held virtually with members in remote attendance. Public access is via webcasting.

Items 1 to 15 in Part I of the agenda will be available to watch via the internet at the address below. Items 16 to 18 in Part II of the agenda contain exempt information, as indicated, and therefore will not be broadcast.

http://www.westsussex.public-i.tv/core/portal/home

Tony Kershaw
Director of Law and Assurance

Agenda

Part I

1. **Virtual Meeting Arrangements** (Pages 5 - 10)

   Report by the Director of Law and Assurance.

   The Board is asked to note the steps taken by the County Council to comply with requirements for formal Virtual Meetings. The Board is also asked to note the documents to Board members in June and ask any outstanding questions if applicable.

2. **Declarations of Interests and Conflicts**

   Members and officers must declare any pecuniary or personal interest, or any potential conflicts of interest in any business on the agenda. They should also make declarations at any stage such an interest becomes apparent during the meeting. Consideration should be given to leaving the meeting if the nature of the interest warrants it. If in doubt, contact Democratic Services before the meeting.

3. **Part I Minutes of the last meeting** (Pages 11 - 16)

The Board is asked to agree the Part I minutes of the meeting of the Board held on 26 February 2020 (cream paper).

4. **Pension Advisory Board Membership**

The Constitution for the Pension Advisory Board concerning membership terms is as follows:

'The term of office for employer and scheme member representatives is 4 years. This can be extended following reselection up to a maximum of three terms.'

The Board are asked to note that the Chairman has agreed to re-appoint Kim Martin as an Employer representative for a second 4 year term. The new term will begin at the end of the current term which is due to end in December.

5. **Urgent Matters**

Items not on the agenda, which the Chairman of the meeting is of the opinion, should be considered as a matter of urgency by reason of special circumstances.

6. **Part II Matters**

Members are asked to indicate at this stage if they wish the meeting to consider bringing into Part I any items on the Part II agenda.

7. **Progress Report** (Pages 17 - 18)

This report contains updates on matters arising from previous meetings.

The Board is asked to note the report and the progress on actions.

8. **Business Planning and Performance** (Pages 19 - 34)

Report by the Chairman of the Pension Advisory Board.

The Board is asked to consider and agree the draft business plan for 2020/21 and that the Pensions Committee is informed accordingly.

9. **Regulations and Guidance update** (Pages 35 - 40)

Report by the Chairman of the Pension Advisory Board.

The Board is asked to note the current issues relating to Scheme Regulations and Guidance.

10. **Review of Pension Fund Policy Documents** (Pages 41 - 100)

Report by Director of Finance and Support Services.

The Board is asked to note the register of policy documents and provide feedback on the policies presented at the meeting.

11. **Administration procedures and performance** (Pages 101 - 110)

The Board is asked to consider the Administration Report from the 22 July 2020 Pensions Committee by Director of Finance and Support Services.

12. **Communication Strategy** (Pages 111 - 136)

Report by the Director of Finance and Support Services.

The Board is asked to note the schedule of Communications drawn from the Communication Strategy and provide feedback on the Communications presented at the meeting

13. **Pension Fund Covid-19** (Pages 137 - 146)

Report by the Director of Finance and Support Services.

The Board is asked to note report.

14. **Training** (Pages 147 - 166)

The Board is asked to review the training log.

15. **Date of Next Meeting**

The next meeting of the Board will be held at 9.30 am on 13 November 2020.

Part II

16. **Exclusion of Press and Public**

The Board is asked to consider in respect of the following item(s) whether the public, including the press, should be excluded from the meeting on the grounds of exemption under Part I of Schedule 12A of the Local Government Act 1972, as indicated below, and because, 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.

Exempt: paragraph 3, financial or business affairs of any person (including the authority).

17. **Part II Minutes of the last meeting** (Pages 167 - 168)

The Board is asked to agree the Part II minutes of the meeting of the Board held on 26 February 2020 (yellow paper).

18. **Additional Voluntary Contributions** (Pages 169 - 178)

The Board is asked to consider the following report which went to the Pensions Committee on 22 July 2020.

Report by the Director of Finance and Support Services attached for members of the Board only (yellow paper).

To all members of the Pension Advisory Board

Key decision: Not applicable
Unrestricted

Report to Pensions Committee

23 October 2020

Business Plan Update

Report by Director of Finance and Support Services

Summary

The Pensions Committee approved its Business Plan for 2020/21 in July 2020. The Business Plan sets out the aims and objectives of the fund over the coming year, its core work and how the objectives will be achieved.

The Pensions Committee's approach, historically, has been to review its business plan annually at the start of the year and consider the risks faced by the Fund. A report based on any emerging key business issues, any issue with the highest levels of risk identified, or any other matter the Director of Finance, Performance and Procurement wishes to bring to the attention of the Committee is then provided each quarter.

Recommendations

(1) The update on the Business Plan is noted.

(2) The risk matrix for the Fund is noted.

Proposal

1 Background and context

1.1 The Fund's overarching objectives are set out below:

Governance: Act with integrity and be accountable to stakeholders for decisions, ensuring that they are robust, and well based, ensuring sound governance, risk management and compliance and that the management of the Fund is undertaken by people who have the appropriate knowledge and expertise.

Investments and Funding: To minimise the long-term cash contributions which employers need to pay to the Fund, by recognising the link between assets and liabilities and adopting an investment strategy which balances risk and return.

Administration and Communication: Deliver a high quality administration service to all stakeholders with processes and procedures to ensure that the Fund receives all income due and payments are made to the right people at the right time, clear communication and robust accounting and reports.

2 Update

2.1 The following provides an update on progress against the Business Plan deliverables:

<table>
<tr><th></th><th>Context and 2020/21 Actions</th><th>Update</th></tr>
<tr><td rowspan="12">Governance and Administration</td><td colspan="2">Pension Administration</td></tr>
<tr><td>A good performing administration function is key to our stakeholders and for ensuring the quality of information held by the Fund for calculating benefits and liabilities.

In addition to compliance with statutory deadlines (including Annual Benefit Statements by 31 August) and completion of the data improvement plan by 31 March 2021, the roadmap for the administration team over the year reflects the greater use of technology to assist delivery of the service.</td><td>The table below shows the % of Annual Benefit Statements produced in line with the statutory deadline:

<table><tr><th></th><th>% Produced</th></tr><tr><td>Active</td><td>95.1%</td></tr><tr><td>Deferred</td><td>99.9%</td></tr></table>
Online retirement quote functionality and the use of the member Portal when a member joins or retires from the Scheme have now been implemented. The timetable of the roll out of the Employer Hub is to be confirmed following engagement with employers.</td></tr>
<tr><td colspan="2">GMP (Guaranteed Min Pension)</td></tr>
<tr><td>Following the end of contracting out each Administering Authority is required to review its records for who it pay as Guaranteed Minimum Pension to against HMRC records and update on changes. The Fund intends to complete the GMP reconciliation and rectification work by 31 March 2021.</td><td>Work is progressing in relation to HMRC query responses. This will inform further timescales.</td></tr>
<tr><td colspan="2">Robust accounting</td></tr>
<tr><td>The Pension Fund is required to produce accounts in line with statutory deadlines. The accounts are subject to external audit review and assurance. The successful completion of external audit work by 30 September 2020 is a key priority. To ensure continuous improvements, officers will also complete full lessons learnt by 30 September 2020 and develop project and engagement plan for the 2020/21 Audit by 31 December 2020.</td><td>The statutory deadline for the completion of the audit was moved to 30th November for 2020/21. The accounts will be presented to the Regulation. Audit and Accounts Committee on the 20 November 2020. Lessons learnt will be completed by the 30 November.

Full lessons learnt actions will inform 2021/22planning and engagement with EY.</td></tr>
<tr><td colspan="2">Annual Reporting</td></tr>
<tr><td>The Pension Fund is required to produce an Annual Report in line with statutory deadlines, and with regard to statutory guidance. The 2019/20 Report will be considered by the Committee at their meeting on 22 July and the Pension Advisory Board in September.</td><td>The Report has been approved by the Committee in July and reviewed, for compliance, by the Pension Advisory Board in September. The Board noted the exceptions to the CIPFA requirements on preparing the Annual Report and congratulated Officers on the work carried out to comply with the guidance.</td></tr>
<tr><td colspan="2">Accounting system</td></tr>
<tr><td>The County Council is changing its core accounting system to Oracle. Officers will work with colleagues across the County Council to ensure processes, procedures</td><td>Project work is ongoing.</td></tr>
</table>

Context and 2020/21 Actions	Update
and reporting are in place within the core accounting system implemented to replace the current SAP system by no later than 31 December 2021.	
AVC Provider	
The Fund has 244 AVC members with a value of £2.4 million (invested through Standard Life and Utmost Life). The Fund intends to complete a review AVC provision and implement recommendations by 31 December 2020.	Update covered in Agenda Item 13.
Respond to Scheme Changes	
The Fund must ensure it complies with all legislative requirements, statutory guidance and requirements of the Pensions Regulator and communicates matters appropriately. There are a number of relevant Scheme changes being implemented which officers and the Committee will cconsider, respond to and communicate with stakeholders on changes.	The Exit Credit Policy has been adopted for inclusion in the Funding Strategy Statement following a period of consultation with employers. Other aspects are covered under Agenda Item 8.
Ensure appropriate contractual terms	
The Fund must ensure it has appropriate terms are in place with all service providers. Officers will review agreements with service providers in line with contract end dates.	Actuarial - the Actuarial agreement with Hymans is due to expire at the end of October. Director of Finance and Support Services has agreed a three year extension after which the contract will be retendered. External Valuer – proposal for future arrangements being considered by relevant officers. Property: Update covered in Agenda Item 17. Balanced Mandate: Update covered in Agenda Item 16.
ACCESS Pool	
The ACCESS Pool has been set up to meet the Government's investment reform criteria. A revised Inter Authority Agreement between participating ACCESS Authorities will be completed by the Authority and training on ACCESS Governance will be provided to the Pensions Committee and Pension Advisory Board.	Update covered in Agenda Item 16.
Investment Strategy	
It is important to ensure that the investment strategy remains aligned to meet the Pension Committee's long term objectives. The Committee will consider recommendations following the completion of the Asset Liability Modelling work and review the Fund's Investment Strategy Statement document by 30	Update covered in Agenda Item 14.

	Context and 2020/21 Actions	Update
	September 2020. It is also anticipated the Fund will make its first investment in the ACCESS Authorised Contractual Scheme by 30 September 2020 following the completion of appropriate due diligence. Further investment will be taken following consideration of the sub-funds available to meet West Sussex's requirements.	
	Responsible Investment	
	There is continued focus on LGPS stakeholders on as to how they can best address and manage Responsible Investment (RI) issues such as Environmental, Social and Governance matters. The Committee will agree and publish the Fund's Responsible Investment Policy by 30 September 2020 and implement the strategy, taking advice as appropriate.	Update covered in Agenda Item 14.
	Competition & Markets Authority	
	Under the CMA Order the Fund was required to set objectives for providers of investment consultancy services. It is necessary to review these each year. The Fund will undertake a review to be completed by 31 December 2020.	
Funding	**2019 valuation**	
	The Fund completes a full valuation every three years (latest at 31 March 2019). Amendments will be made to the Funding Strategy Statement as required and a full lessons learnt exercise to further improve future valuation exercises will complete by 30 September 2020.	Work has been carried out to improve the process going forward. This includes improved co-ordination with the administration team to provide member data to the Actuary and clear ownership over the process and individual tasks. Additional steps will also be taken as part of future valuation exercises to provide appropriate training and engagement with employers, particularly around admission bodies.
	Employer risk framework	
	The Pension Fund has a growing employer population from a variety of sectors. The Fund will development a framework to monitor and take steps to mitigate risk presented to the Fund in respect of participating employer liabilities to be developed and implemented by 31 December 2020.	The Committee considered Employers and risks posed to the Fund due to changes in financial covenant as part of its July meeting. External advice has been commissioned to complete due diligence on some employers financial position and business plans. The Director of Finance and Support Services will consider the review and recommendations and take steps (where appropriate) to manage risk. Employer exits continue to be managed in discussions with the admission bodies and its related employer.
	Work by the Scheme Advisory Board	

	Context and 2020/21 Actions	Update
Other	Responsible Investment and the Good Governance project are key work items for the SAB during the year. The Fund will engage as appropriate.	
	Priorities of the Pensions Regulator	
	The 2019 Governance and Administration survey results are due to be published shortly and will inform tPR priorities for the coming year. Cyber security and data quality are expected to main high profile areas of interest.	

3 Risk

3.1 The Committee received a full report when they met in July about the impact of Covid-19 on the Pension Fund. The key risks from the report have been noted below with updated comments.

Impact on investments and funding level: The Funding level has returned to the 2019 valuation position (113.6% estimated at 9 October 2020 v 111.6% at 31 March 2019).

Employers and risks posed to the Fund due to changes in financial covenant: In addition to the items referred to within the main business plan commentary, there have not been any further approaches from employers to consider a deferment to their contribution payments but one employer has entered into insolvency. The Fund is working to complete its exit position. The Fund is aware of some re-structuring activity by employers which could result in a reduction in active membership and / or additional retirements (either voluntary or as a result of redundancy). Currently this relates to relatively small employers.

Impact of death rates emerging: The increased death rates due to COVID-19 that is currently unfolding in the UK and globally will inevitably affect all pension schemes. Data is still being collected and analysed but there are no particular spikes or notable impacts for the Fund currently.

Impact on cashflow: There is a potential for reduction in employer contributions and investment income, alongside a potential increase in benefit payment. The analysis below compares 2019/20 figures to the first six months of 2020/21.

	6 month comparison based on 2019/20 Outturn	6 month as at 30 September 2020	Difference	Difference
	£'000	£'000	£'000	%
Income				
Contributions	-69,042	-67,211	1,831	-3%
Property	-8,269	-8,618	-349	4%
Total	**-77,311**	**-75,829**	1,482	-2%
Expenditure				
Pension benefits	49,050	50,889	1,840	4%
Death benefits	1,294.00	1,316	22	2%
Lump sums	6,944	7,405	461	7%
Total	**57,288**	**59,610**	2,323	4%
Net Position	**-20,023**	**-16,219**		

Impact on the administration team: The administration team continue to fully support business as usual activity and project work.

3.2 The latest risk register for the Pension Fund is summarised below with the status previously reported to the Committee included for comparison:

	Risk Theme	Action	RAG Jul-20	RAG Oct-20
1	Increased likelihood of employer insolvency/restructuring impacting on the Fund cashflows in via contributions and out via benefits paid/early retirement lump sums and death benefits, resulting in the Fund becoming cash flow negative earlier than expected. Also, risk of employers not being able to meet liabilities at exit.	Communication with employers to ensure they are aware of Deferral of Employer Contributions policy and to invite early discussion with regards to any workforce changes. *Communication with ceding employers to understand the impact and support being provided to pass through employers.* Implement cashflow monitor and projections and review on a monthly basis. Review employer covenant and take appropriate action. *Liaising with legal advisers to understand actions following insolvency*	Amber	Amber
2	Remote working results in increased pressure on the Fund, Council and partner organisations.	Continue to discuss resourcing and business continuity arrangements with partner organisations to ensure they meet expectations and requirements. Business priorities to be kept under review.	Amber	Amber

	Risk Theme	Action	RAG Jul-20	RAG Oct-20
3	Political and/or employer pressure results in change to investment strategy due to ESG factors resulting in the Fund being required to restrict Fund Manager investments and/or the Fund being challenged on fiduciary duty.	Ensure active engagement by Fund Managers with companies in all areas. Regular dialogue with Fund Managers regarding reasoning behind the stock being held. Keep up to date with Scheme Advisory Board and Government guidance. *Engagement with employers to inform them of the Fund approach to ESG and RI and to enable them to respond to any queries.*	Amber	Amber
4	Insufficient funds to meet liabilities resulting in increased contributions required from employers or changing to a higher risk investment strategy	Prudent assumptions adopted by the Fund Actuary. Monitor, maintain and review the Investment Strategy Statement and Funding Strategy Statement. Regularly review investment performance and funding levels. *Monitor and review the cash flow of the Fund.*	Green	Green
5	Insufficient resources to comply with the Administering Authority's Regulatory responsibilities, particularly in the context of scheme changes.	Develop and monitor Business Plan on a regular basis. Ensure service contracts are clearly specified and obligations met. Scope the potential impact of scheme changes. Implement appropriate remote working to ensure business continuity and review third party business continuity plans.	Amber	Amber
6	Poor quality data resulting in error and misstatement.	Implement and monitor the Data Improvement Plan to completion. Work proactively with administration team and employers as part of the end of year process. Maintain robust accounting records. *Good progress made against data improvement plan.*	Red	Amber
7	Officer, Committee and Board knowledge and understanding resulting in poor decision making and disengagement on key issues.	Training strategy under review to ensure fit for purpose. Work with external organisations to understand how training is going to be delivered in current circumstances and communicate with Committee and Board members. Papers for Committee and Board drafted to provide training on key issues including scheme changes.	Amber	Green
8	The introduction of asset pooling impacts on the Fund's ability to implement its investment strategy successfully or the Administering Authority is considered to not	Continued strong involvement in the work of the ACCESS Group at officer and at Fund Chairman level. Working closely with the Access Support Unit and Operator in	Amber	Amber

	Risk Theme	Action	RAG Jul-20	RAG Oct-20
	comply with the relevant statutory guidance.	respect of future requirements.		
9	Failure to secure value for money through managing contracts with third parties	Strong contract management. Compliance with procurement requirement and standing orders for provision of services to the Fund.	Green	Green
10	Political environment (locally or nationally) impact on investment markets and legislative requirements.	Investment manager and adviser framework in place to assist in considering the potential impact. Work closely with investment managers, other suppliers and advisers to understand potential impacts and responses.	Amber	Green
11	Conflict of interest for members and employers	Clearly defined roles and responsibilities for those working for the Pension Fund. Maintenance of Conflict of Interest policy and register by the County Council.	Green	Green
12	Increase in variety and number of employers participating in the Scheme resulting in risk of non-compliance with obligations.	Clear Admission Agreements in place. Guidance published and reviewed relating to the Scheme requirements. Proactive engagement with employers. Development of employer risk framework to monitor and take steps to mitigate risk presented to the Fund in respect of participating employer liabilities.	Amber	Amber
13	Cyber crime resulting in personal data for members being accessed fraudulently.	Strong IT environment for administration system and web-based Portals but remote working and experience at other Authorities means that this needs to be kept under close review.	Green	Amber

4 Consultation, engagement and advice

N/A

5 Finance

N/A

6 Risk implications and mitigations

N/A

7 Policy alignment and compliance

N/A

Katharine Eberhart
Director of Finance and Support Services

Contact Officer: Rachel Wood, Pension Fund Strategist, 0330 222 3387, rachel.wood@westsussex.gov.uk

Appendices
None

Background papers
None

This page is intentionally left blank

Key decision: Not applicable
Unrestricted

Report to Pensions Committee

23 October 2020

Administration Performance

Report by Director of Finance and Support Services

Summary

Pension Administration services have been provided by Hampshire County Council since 4 March 2019. 100% compliance with the key performance indicators has continued. The Data Improvement Plan continues to be worked through with an expected completion date for a substantial number of items identified following the transfer of administration services of 31 March 2021.

The administration team continue to work remotely in line with government guidance. Employers have been kept up to date about working arrangements and asked to speak with the team about any issues they foresee as a result of their own working arrangements.

Recommendations

(1) The update is noted.

Proposal

1 Background and context

1.1 Hampshire County Council provides the Pension Administration Service for West Sussex County Council. The administration team are based in Winchester and the County Council work closely with Hampshire County Council as our Pension Administration Partner.

1.2 The Pensions Committee has a key objective within its Business Plan to deliver a high-quality administration service to all stakeholders with processes and procedures to ensure that the Fund receives all income due and payments are made to the right people at the right time.

1.3 At 30 September 2020 the Scheme had 79,875 members as analysed below. It is anticipated that there could be a higher variance over the coming months as a result of the administration team completing end of year work.

	30/06	30/09	Movement
Active	28,595	27,492	-3.86% (1,103)
Deferred	29,529	30,419	+2.93% (890)
Pensioners	21,800	21,964	+0.75% (164)
Total	**79,924**	**79,875**	**-0.06% (49)**

2 Administration Performance

Business as Usual Activity

2.1 The Pension Committee have agreed an Administration Strategy which sets out performance expectations for employers and the Administering Authority. The current Authority's performance against service standards for key processes are summarised below and shown in detail in Appendix A. With some exceptions the expectation is that most cases work is completed within 15 working days of receipt of accurate details.

Case Type	Quarter Total Cases	Quarter Completed on Time (%)	12 Month Total Cases	12 Month Completed on Time (%)
Active Retirement	73	100%	380	100%
Deferred Retirement	160	100%	654	98.85%
Estimates	279	100%	1,138	100%
Deferred Benefits	920	100%	3,136	100%
Transfers In/Out	31	100%	220	98.93%
Divorce	41	100%	194	95.21%
Refunds	135	100%	651	100%
Rejoiners	62	100%	331	100%
Interfunds	56	100%	369	95.95%
Death Benefits	143	100%	543	100%
Total	1,900		7,616	

2.2 For the last nine months, the Pensions Team have been performing at 100% in all areas.

Annual Benefit Statement

2.3 As at the 31 August statutory deadline, 99.9% of deferred statements and 95.1% of active statements had been published, as summarised below.:

	Deferred No.	Active No.
2020		
Statements Required	29,093	28,595
Statements Produced	29,075	27,191
Statements Missing	18	1,404
Percentage of Statements Produced	99.9%	95.1%
2019 Comparison		
Statements Missing	1,697	6,750
Percentage of Statements Produced	93.9%	77.0%

2.4 The 18 deferred members which remain without a statement are complex cases which require reworking. The Pensions Team continue to work on these. For active members, the reasons for the statements not being produced are shown below. Work has continued with chasing employers for the missing information. Cases, where appropriate have been escalate to the Pension Fund.

Cause	Impact No.
Missing Current/Previous Earnings	1,267
CARE pension missing/incomplete	114
Service/Other data error	23
Total	**1,404**

Pension Savings Statements

2.5 As at the statutory deadline of 6 October 2020 100.0% of Pension Saving Statements were produced. The Statement is sent to members who are close to or have exceeded the annual allowance and shows the growth in a members pension benefits in the Scheme and tests them against the annual allowance. the position is summarised below:

	No.
Statements Required	85
Statements Produced	85
Statements Missing	-
Percentage of Statements Produced	100.0%

3 Employer Performance

3.1 To ensure the Administering Authority can ensure compliance of the statutory regulations, timely and accurate information is necessary from Scheme Employers, this includes a timely Annual return being needed by Employers. As part of the efforts to drive good data improvements, the administration team now review Employer Performance for timeliness, financial control and data quality as part of the Annual Return process. As a result of their activities, Hampshire Pension Fund have seen improvements in both the quality and timeliness of data provided by their employers.

3.2 The definition of the performance categories are shown below along with the number of employers in each section:

	Timeliness	Financial control	Data quality
No issue	The team received **162 (82%)** of returns before the deadline of 30 April	**161 (81%)** returns had no reconciliation issues	There were no or very minor data quality issues (below 2% of active membership) for **99 (50%)** of employer returns
Minor concern	The team received a further **32 (16%)** of returns between 1 May and 31 May	**32 (16%)** of returns had minor reconciliation issues and quickly resolved	There were some data quality issues (between 2 and 5% of active membership for **34 (17%)** of employer returns
Significant Concern	The remaining **4 (2%)** of returns were received more than a month late	The remaining **5 (3%)** had major reconciliation issues and/or slow/failed to respond	The remaining **65 (33%)** of employers had major data quality issues (more than 5 queries or 5% of membership, whichever is higher) and/or slow/failed to respond

3.3 The following points are highlighted:

- The total amount of data queries (across all employers) was 2,381 (against a total active membership of 29,002). This is 8% of total membership. This compares with 7,254 in 2018/19 (26% of total membership).
- No employer was red across all criteria and 67 employers were green across all criteria (33%).
- 69 employers are rated as red in one or more areas.

3.4 As this is the first year of adoption by the West Sussex fund the Director of Finance and Support Services will write to all employers rated 'red' on data quality to request that they reconcile the data held by the administration team with their own records to highlight any potential issues prior to the 2020/21 End of Year work being undertaken.

4 Breach Reporting

4.1 There are a number of regulatory requirements within the Local Government Pension Scheme (LGPS) for which there is a statutory duty to report to the Pensions Regulator if a material breach occurs.

4.2 Since the Committee met in July there has been two low risk data breaches reported, which has been logged through the County Council's IT Security Incident Report. The breaches were caused by a member's retirement letter being sent to the wrong email address and a member's P60 being double enveloped with the P60 for another member.

4.3 There has been a breach with regards to the production of annual benefit statements that is currently being investigated as to whether this is constituted as a material breach. In line with the Pension Fund's Breaches Policy a recommendation, taking into account the cause, effect, response and wider implications of the breach will be considered by the Director of Finance and Support Services. If the breach is considered to be of material significance the Pensions Regulator will be informed and the Committee will be updated.

5 Contribution Receipt

5.1 All LGPS Contributions are expected to be received by the Fund on the 22nd of each month. The majority of employers have adhered to this requirement and a clear escalation procedure has been followed where an employer has consistently made late payment. The contribution monitor is available at Appendix B.

6 Scheme Changes

6.1 A report on wider Scheme Changes has been included elsewhere on this agenda.

6.2 In addition, revised Government Actuary's Department (GAD) factors have been produced for Divorce, Transfers in and out of the Scheme and Trivial Commutation. Officers are liaising with the Pensions Team to ensure compliance to the changes from 1 November 2020.

7 Member Portal Access

7.1 LGPS members can register for a pensions account on the member portal so that they can see their annual benefit statements online, as well as access and update their personal details. Pensioner members can view their payslips and P60s.

7.2 It is now mandatory for an employer to provide an email address for all new joiners as part of the new starter notification process. Employers are engaging with this new requirement, however some do not have staff email addresses available and will require a change to their internal processes. This is a change to the process and allows the Pensions Team to promote the member portal as the preferred route of communication. The member portal is also promoted in all deferred and retirement letters and was promoted as part of the Annual Benefit Statement process.

7.3 Since the Committee met in July there has been a 3.66% increase in registrations. Current registrations have been tabulated below:

	Number	% of population
Active	10,880	39.58%
Deferred	5,289	17.39%
Pensioner	1,850	8.42%
Total	18,019	22.56%

8 Other options considered (and reasons for not proposing)

N/A

9 Consultation, engagement and advice

N/A

10 Finance

The Pension Fund has financed the data improvement plan being completed by the administration team and has funded additional work in relation to specific employer work to bring the records up to date.

11 Risk implications and mitigations

The following risks from the Pension Fund's risk register are considered relevant in the context of this report:

Risk	Mitigating Action (in place or planned)
Poor quality data resulting in error and misstatement.	Implement and monitor the Data Improvement Plan to completion. Work proactively with administration team and employers as part of the end of year process.
Increase in variety and number of employers participating in the Scheme resulting in risk of non-compliance with obligations.	Proactive engagement with employers.
Cyber crime resulting in personal data for members being accessed fraudulently.	Strong IT environment for administration system and web-based Portals.

12 Policy alignment and compliance

The Pensions Committee has an overarching objective to deliver a high quality administration service to all stakeholders with processes and procedures to ensure that the Fund receives all income due and payments are made to the right people at the right time, clear communication and robust accounting and reports.

Katharine Eberhart
Director of Finance and Support Services

Contact Officer: Rachel Wood, Pension Fund Strategist, 0330 222 3387, rachel.wood@westsussex.gov.uk

Appendices

Appendix A - Administration Performance Previous 12 Months (1 October 2019 to 30 September 2020)

Appendix B – Contribution Receipts Previous 12 Months (1 September 2019 to 31 August 2020)

Background papers

None

This page is intentionally left blank

Administration Performance Previous 12 Months (1 October 2019 to 30 September 2020)

The table below shows performance against the relevant targets. The casework reported does not include periodic tasks (such as the triennial valuation, publication of the Annual Benefit Statements, End of Year processes or notification of changes to Regulations) response times to enquiries made by members (which has a five working day expectation) and work in progress

	Q3 2019/20	Q3 2019/20	Q4 2019/20	Q4 2019/20	Q1 2020/21	Q1 2020/21	Q2 2020/21	Q2 2020/21	12 Month	12 Month
	No on time	% on time	No on time	% on time	No on time	% on time	No on time	% on time	No on time	% on time
Active Retirement	99	100.0%	95	100.0%	85	100.0%	73	100%	**380**	**100%**
Deferred Retirement	153	99.4%	144	100.0%	198	100.0%	160	100%	**654**	**99%**
Estimates	324	100.0%	326	100.0%	209	100.0%	279	100%	**1,138**	**100%**
Deferred Benefits	824	100.0%	798	100.0%	594	100.0%	920	100%	**3,136**	**100%**
Transfers in / out	92	95.7%	73	100.0%	24	100.0%	31	100%	**220**	**99%**
Divorce	81	71.6%	40	100.0%	32	100.0%	41	100%	**194**	**95%**
Refunds	179	100.0%	199	100.0%	138	100.0%	135	100%	**651**	**100%**
Rejoiners	99	100.0%	63	100.0%	107	100.0%	62	100%	**331**	**100%**
Interfunds	101	91.1%	131	100.0%	81	100.0%	56	100%	**369**	**96%**
Death Benefits	126	100.0%	129	100.0%	145	100.0%	143	100%	**543**	**100%**
Total	**2,078**		**1,997**		**1,613**		**1,900**		**7,616**	

The table below shows work in progress as at 30 June 2020. The day count reflects the time from date of receipt of the initiating request. Therefore it includes time whilst cases are on hold with the administration team pending further information. The casework reported does not include work being work on under the historic leavers and interfunds project, which forms part of the data improvement plan.

	Cases in progress 0-5 days from receipt	Cases in progress 6-10 days from receipt	Cases in progress 11-15 days from receipt	Cases in progress 16-20 days from receipt	Cases in progress 21-30 days from receipt	Cases in progress 31 + days from receipt	**Cases in progress Total**
Active Retirement	9	8	1	0	0	0	**18**
Deferred Retirement	21	4	7	0	0	0	**32**
Estimates	62	40	36	11	7	5	**161**
Deferred Benefits	126	151	69	76	0	0	**422**
Transfers in / out	0	5	2	1	1	6	**15**
Divorce	6	1	1	0	0	1	**9**
Refunds	3	1	0	0	0	0	**4**
Rejoiners	6	4	0	0	0	0	**10**
Interfunds	7	5	1	2	0	0	**15**
Death Benefits	17	5	12	8	0	0	**42**
Total	**257**	**224**	**129**	**98**	**8**	**12**	**728**

Contribution Receipts Previous 12 Months (1 September 2019 to 31 August 2020)

The table below shows Scheme Employer performance in respect of their statutory responsibilities to paying their contributions to the Fund.

It should be noted:

- Whilst there were late payments recorded in April, May, June, July and August 2020 the late payments relate to different employers.
- All late contribution payments have now been received as at 30 September 2020, other than for two, one of which is a new employer and the other has been chased. Officers will monitor receipt closely, and will escalate accordingly.

	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	Jun	Jul	Aug	12 Mth
Late	1	0	0	0	1	0	2	4	1	1	1	3	1
On time	194	195	197	199	199	198	196	193	196	196	190	192	195
% Late of Active Employers	0.5%	0.0%	0.0%	0.0%	0.5%	0.0%	1.0%	2.0%	0.5%	0.5%	0.5%	1.5%	0.59%
Average Days Late	15	0	0	0	2	0	170	19.25	8	79	12	17	27
Total Amount Overdue (£)	644	0	0	0	5165	0	15,277	35,927	650	5,195	2,024	11,230	6,343
% Late of total contributions	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.33%	0%	0.05%	0.02%	0.10%	0.6%

This page is intentionally left blank

Key decision: Not applicable
Unrestricted

Report to Pensions Committee

23 October 2020

Scheme Changes

Report by Director of Finance and Support Services

Summary

The report includes a summary of significant developments that impact the Fund. The McCloud judgement was determined in summer 2019 and the Government published a consultation on the remedy in July 2020. The Fund now needs to put in place procedures to ensure it complies with the amended Regulations introduced to comply with the judgement. The potential workload on the pensions administration team is summarised below. As a result of the McCloud judgement, the previously paused cost mechanism is now commenced with a proposed completion date in 2021.

The report also sets out the issues arising from:

- the Goodwin case whereby an Employment Tribunal has determined aspects of the Teachers Pension Scheme (and therefore potentially aspect of the LGPS) are discriminatory on the grounds of sexual orientation.
- Exit Payments in Local Government which, through primary and secondary legislation, put in place an overall cap on the value of public sector exit payments at £95k and amends LGPS regulations which will impact on redundancy packages for all LGPS members, whether the £95k exit cap is breached or not.
- Further changes to the LGPS Regulations in relation to the ability for employer contributions to be reviewed between formal valuations, to agree payment plans when employers have ab exit debt and the introduction of a deferred employer status – whereby an employer continues to contribute to the Scheme even after their last active leaves, rather than being considered an exiting employer.

Recommendations

(1) The update, including the impact on the pensions administration team and the actuary is noted.

(2) The amendments to the funding strategy statement as a result of employer flexibilities are agreed.

Proposal

1 Background and context

1.1 The benefit structure of the LGPS is set nationally. In April 2014, a series of changes were made to the Scheme to reform the benefits structure. These changes were implemented as part of a wider project across Government to reform public service pensions and put them on a more sustainable, affordable and fairer footing for the longer term. Some protections introduced as part of the reformed benefit structure have since been challenged on the grounds of discrimination, and a resultant pause was place on mechanism introduced to protect the taxpayer from increased costs (cost mechanism).

1.2 Separately the Government has faced further challenge about discriminatory provisions with public sector Schemes (Goodwin), introduced changes to limit exit packages from the public sector to £95,000 and provided a further partial response on its May 2019 consultation on changes to the local valuation cycle and management of employer risk.

2 Rectification as a result of the McCloud judgement

2.1 In June 2019, the Supreme Court rejected the Government's appeal against a ruling which found that the transitional protection introduced to the firefighters' and judges' pension schemes in 2015 amounted to age discrimination for younger workers.

2.2 MHCLG have now set out proposals to remove the unlawful age discrimination identified in the McCloud judgment from the Local Government Pension Scheme. Similar proposals have been set out by HM Treasury for unfunded public service pension schemes (NHS in England and Wales, NHS Scotland, Teachers in England and Wales, Teachers in Scotland, Fire in England, Fire in Wales, Fire in Scotland, Police in England and Wales, Police in Scotland, Civil Service in Great Britain, UK Armed Forces, and the Civil Service).

2.3 The remedy extends the 'transitional protections' underpin that was promised to active members in 2012 who were within 10 years of normal retirement age to all other active members, regardless of age. This underpin gives a member the better of Career Average Revalued Earnings (CARE) or final salary benefits for the eligible period of service.

- Eligibility is restricted to members who were active in the LGPS on 31 March 2012 and who went on to have membership of the CARE scheme (from 1 April 2014), without a break in service of 5 years.

- The underpin period applies between 1 April 2014 and 31 March 2022, but ceases when the member leaves active membership or dies in service;

- The final salary for comparison purposes applies at the point that the member leaves active status or reaches age 65 therefore preserving the final salary link beyond 2022 as long as they are accruing benefits.

2.4 The changes will be retrospective and will apply to anyone who has left, retired or died and who meets the eligibility criteria. In some cases, this will mean retrospectively recalculating benefits for pensioners, and paying arrears and interest.

2.5 The Consultation closed on 8 October 2020 and the County Council's response has been included (Appendix A). In summary the County Council:

- Agreed that the proposal from Government is consistent with the Court of Appeal's ruling (backdated to 1 April 2014), that the changes remove the discrimination highlighted in the McCloud case, that the changes should apply to members of all ages and that the underpin should be until 31 March 2022 (per the previous protections).

- Highlighted in a number of places the work required in relation to data collection and to assess the impact on member benefits (our estimate indicates that over 16,000 member records need to be reviewed), the lead in time required for software providers to develop their programmes to support the changes and the need for consistency and guidance where gaps are present in the data. In respect of the latter we ask for clarification about what is considered to be 'reasonable efforts' and welcome the data collection templates introduced by the LGA which assists with consistency.

- Highlighted some areas where it would be beneficial to have clarity (whether specific members are considered to qualify for the underpin and how the changes interact with the Exit Payment Regulations) and refer to potential further legal challenge from younger members as a result of the proposed remedy not extending the underpin protection to those who joined the Scheme after 31 March 2012.

- Referred to the importance of clear, consistent communication across the LGPS and across all Public Sector Schemes and the impact that the changes will have on the clarity of the Annual Benefit Statements

- Advised that from a funding point of view the 2019 valuation included additional prudence and therefore we do not anticipate revisiting employer contribution rates until the 2022 valuation.

<u>Potential scope of the administrative work required</u>

2.6 The changes present a significant challenge to administering authorities and to employers, not least of which will be a major data collection exercise to enable the final salary underpin to be calculated. Whilst benefits accruing from 1 April 2022 will be career average for all members, the new underpin will require 2008 scheme pay to be recorded for some members for the next 40 years. In addition, for the period from 2014 to 2022, changes in part time hours and service breaks will need to be collected and allowed for.

2.7 As well as collecting the required data the Fund will need to make changes to ongoing administrative systems, update its processes and communications to account for the changes, recalculate and compensate leavers since 2014 if they are impacted by the change and revise how the Fund recalculates leavers' benefits. This represents a significant task.

2.8 Current estimates indicate that over 16,000 member records would require review as a result of the revised underpin.

2.9 The additional resource required to review and rectify member records will be chargeable to the Pension Fund.

<u>Quantifying the funding cost for each employer</u>

2.10 The Fund Actuary does not expect the McCloud remedy to have a significant impact on liabilities or contributions rates for most employers.

2.11 The following actions have been taken by the team:

- The administration team have regular project calls with Civica who provide pension administration software, to develop their response to the changes required and the team are working to scope the likely resource requirement based on members in scope.
- A member news article was provided on the website, which navigates members to the Local Government Association (LGA) Questions and Answers document and regular communications have been provided to employers, via stop presses, updating them of the latest position from LGA and Ministry of Housing, Communities and Local Government (MHCLG). These communications have included the data collection requirements and a data collection spreadsheet.

3 Unpausing of the Cost Mechanism

3.1 The Independent Public Service Pensions Commission recommended in 2011 that the new public service pension schemes should include an employer cost control mechanism to protect the taxpayer from unforeseen increases in scheme costs. The government accepted this recommendation and made provisions for the establishment of such a mechanism in the Public Service Pensions Act 2013 (the Act).

3.2 Two mechanisms were introduced for the LGPS to assess the costs of the reformed scheme: the employer cost cap (ECC) process as operated by HM Treasury, and the future service cost (FSC) process as operated by the LGPS Scheme Advisory Board. It was intended that the Scheme would be assessed every three years against the cost control mechanisms using the data provided to individual actuaries for funding valuations. Both processes could lead to changes to the scheme design or to the level of members' contributions if the mechanisms demonstrate that the cost of the LGPS has moved sufficiently from the target.

3.3 Whilst the government worked to address the unlawful discrimination identified by the courts (McCloud) work on the cost control mechanism was paused. Uncertainties about benefit entitlements have receded and therefore the employer cost cap process will now be restarted. The objective would be to complete the process by next year, taking into account the cost of the proposals to remedy age discrimination as set out in the McCloud consultations.

3.4 At present this is being kept under review but there is no immediate action.

4 Discrimination on the grounds of sexual orientation (Goodwin)

4.1 The Goodwin case relates to a recent tribunal ruling around discrimination on the grounds of sexual orientation, whereby the survivor benefit payable to a male spouse of a female member is less than the equivalent benefit payable to a female spouse of a female member.

4.2 This only impacts the survivor pensions of female members with pre-1988 service who die after 2005. Therefore

4.3 At this stage it is unclear if the Government intend to challenge this ruling and to date, there are no draft regulations or consultation on how to rectify impacted members. However for the reason set out above it is anticipated that there will be a very small overall impact on liabilities, particularly given prudent assumptions made by the Fund Actuary in relation to spouses' pensions for the West Sussex Scheme.

4.4 At present this is being kept under review but there is no immediate action.

5 Exit Payments in Local Government (£95k Cap)

5.1 In 2015 the Government first announced its proposals to prohibit six-figure exit packages from the public sector, by imposing a £95,000 cap on such packages.

5.2 The overall legislation applies to exit packages for local government employers (mainly, but not exclusively, councils and academy trusts

5.3 Primary legislation (Restriction of Public Sector Exit Payment Regulations 2020) has been brought in to put in place an overall cap on the value of public sector exit payments at £95k. This applies to all public sector employees in the LGPS (and the unfunded public sector schemes).

5.4 Secondary legislation for the LGPS, currently out for consultation by MHCLG, puts in place flexibilities for members to manage the £95k cap, but also includes amendments to the compensation regulations which will impact on all LGPS members, whether the £95k exit cap is breached or not. The consultation will close on 9 November 2020.

5.5 The timing differences between the primary and secondary legislation coming into force creates a period of uncertainty for employees at risk of redundancy and for employers in understanding the costs.

5.6 The following aspects are highlighted:

- Total exit packages including strain cost cannot exceed the overall cap contained in the Exit Payment Regulations (£95k). Without the secondary legislation, if the £95k cap applies, the member would be required to pay the difference between the value of their exit package and £95k in order to receive their pension unreduced. However guidance is expected on how the timing difference between primary and secondary legislation should be dealt with by Administering Authorities.

- The combination of the primary and secondary legislation means any member retiring on redundancy grounds, regardless of the value of the redundancy package, whose LGPS benefits go into immediate payment (unless fully reduced) will receive no discretionary redundancy payment. In addition, they will effectively lose their statutory redundancy payment as the member will have to pay the Fund a sum equal to their statutory redundancy payment or their pension will be reduced to recoup this amount. Those on low pay will be impacted. It is expected that (through secondary legislation) members will have the right to choose which elements they want to give up (currently all provided in full):

Option	A	B	C	D
Statutory Redundancy	None	Full	Full	Full
Discretionary Redundancy	None	None	Full	Full
Pension Payment	Full	Partially reduced	Fully reduced	Deferred

5.7 There is considerable uncertainty for members, employers and funds on how to deal with the new legislation and the sector, particularly the actuaries are working with government to gain clarity

5.8 If the changes proposed go ahead the administration involved will be significantly increased to ensure that the correct payments are made given exceptions and some options for the member. Delays in the GAD factors and software updates will also impact.

5.9 The following steps have currently been taken:

- The administration team have made employers aware of the approval by the House of Lords of The Restriction of Public Sector Exit Payments Regulations 202, provided a summary of the impact on members and notified employers of the MHCLG consultation to amend the Local Government Pension Scheme (LGPS) regulations to allow for the Exit payment regulations coming into force.

- Employers have been advised that the administration team will continue to provide redundancy estimates, however these will be caveated that they are calculated on current regulations and strain cost factors which are due to change. The communication also advises that employers will need to have regards for the pending changes and ensure they communicate accordingly with their employees who may be impacted.

5.10 It is assumed there will be a further consultation in due course when draft regulations, although time is now tight to get this in place by the end of 2020.

6 Further changes to the LGPS Regulations - Employer Flexibilities

6.1 MHCLG has published new Regulations on employer flexibilities which will come into force from 23 September 2020. This follows their consultation in May 2019 on changes to the local valuation cycle and management of employer risk.

6.2 The newly introduced flexibilities relate to:

- The ability to review contribution rates between formal valuations due to significant changes to the liabilities (already allowed), significant changes in covenant (this is new) and if an employer requests it (this is new).

- The power to agree payment plans when employers have exit debts.

- The introduction of deferred employer status, which allows an employer to stay in the Fund even if their last active leaves with contributions set at triennial valuations (for deficit recovery).

6.3 The update to the Funding Strategy Statement has been prepared by Officers to ensure that this opportunity is not increasing risk to the Fund by limiting the circumstances which this option might apply (i.e. where there is a guarantee from a secure scheduled body still active in the fund, or those that have a sufficiently strong covenant (in which case they will need to consider how this might be assessed)). As a result the Funding Strategy now includes:

- A definition of a "Deferred Employers" as "a Scheme employer which enters into a deferred debt agreement with the Administering Authority to defer their obligation to make an exit payment and continue to make contributions at the secondary rate ("a deferred debt agreement"). Further information about Deferred Employer status has been included under "Exiting employers"".
- The basis for setting employer contribution rates for a "deferred Employer" using the same discount rate as prior to their deferral, with a probability of meeting their funding target of 75% (which is the most prudent basis for employers participating in the Scheme) using a maximum time horizon of 50% of the duration of the liabilities or a period set by the Administering Authority.
- To reflect that the Administering Authority will consider a request from the Scheme employer to review contributions where the Scheme employer has undertaken to meet the costs of that review and sets out the reasoning for the review (which would be expected to fall into one of the above categories, such as a belief that their covenant has changed materially or significant restructuring impacting their membership).
- To advise that "Except in exceptional circumstances such as an employer nearing cessation, market volatility, and changes to asset values will not be considered as a basis for a change in contributions outside a formal valuation".
- To set out the basis for a Deferred Debt Agreement.

The section from the Funding Strategy Statement in relation to Exiting employers which covers this fifth aspect has been appended as this reflects the most substantial amendments.

7 Other options considered (and reasons for not proposing)

7.1 N/A

8 Consultation, engagement and advice

The County Council receives advice from its actuarial advisers, Hymans Robertson, the Local Government Association and Scheme Advisory Board in relation to Scheme matters. Legal advice is sought as appropriate.

9 Finance

The Pension Fund will be required to cover additional resourcing costs associated with the McCloud rectification work. The impact will be discussed with the administration team.

10 Risk implications and mitigations

The following risks from the Pension Fund's risk register are considered relevant in the context of this report:

Risk	**Mitigating Action (in place or planned)**
Insufficient resources to comply with the Administering Authority's Regulatory responsibilities.	Work closely with the administration team on the response to the Scheme changes and the resource impact.

11 Policy alignment and compliance

The Business Plan includes the objective to implement Scheme changes and consider, respond to and communicate with stakeholders on relevant matters.

Katharine Eberhart
Director of Finance and Support Services

Contact Officer: Rachel Wood, Pension Fund Strategist, 0330 222 3387, rachel.wood@westsussex.gov.uk

Appendices

Appendix A - Amendments to the statutory underpin – Response by West Sussex County Council

Appendix B – Extract from Funding Strategy Statement (Exiting Employers)

Background papers

N/A

County Hall
Chichester
West Sussex
PO19 1RG

west sussex county council

8 October 2020

Private and Confidential
Local Government Finance Stewardship
Ministry of Housing, Communities and Local Government
2nd floor, Fry Building
2 Marsham Street
London SW1P 4DF

LGPensions@communities.gov.uk

Dear Sir/Madam,

Local Government Pension Scheme (England and Wales) Amendments to the statutory underpin

Thank you for inviting West Sussex County Council, as both Administering Authority and a participating employer in the Local Government Pension Scheme (LGPS) to respond to the Department's consultation paper on the statutory underpin.

The Annexe to this letter sets out our formal response to the questions set out in the consultation paper.

The County Council agrees with the consultation response provided by Hymans Robertson, who acts as our Fund Actuary and advisor to the Local Government Pension Scheme, Scheme Advisory Board.

Yours sincerely

Katharine Eberhart
Director of Finance and Support Services

Annexe

Question 1 – Do you agree with our proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members?

We agree that your proposal would be consistent with the Court of Appeal's ruling.

Question 2 – Do you agree that the underpin period should end in March 2022?

We agree that the underpin should only be until 31 March 2022 and see no reason to extend this. This is then consistent with the original commitment for members within 10 years of retirement on 31 March 2012.

Question 3 – Do you agree that the revised regulations should apply retrospectively to 1st April 2014?

We agree that 1 April 2014 is the correct date to retrospectively apply the revised regulations. This is because this is the date on which the Court of Appeal found the age discrimination to apply from.

Question 4 – Do the draft regulations implement the revised underpin which we describe in this paper?

We agree that the draft regulations implement the underpin as described within the consultation.

Question 5 – Do the draft regulations provide for a framework of protection which would work effectively for members, employers and administrators?

We believe that the protection would work effectively, however consideration should be given with regards to the amount of additional work and data that is required of employers and LGPS Administrators.

Consideration should also be given for the number of employers who will not hold all required data to calculate the underpin for their eligible members e.g. historic salary details for ex-employees. We would therefore welcome guidance on how Pension Funds should account for any missing data required to calculate the underpin and how this should be communicated with employers and impacted scheme members. If there are gaps in the data this will question the effectiveness of the regulations, as the underpin would not be able to be calculated accurately.

Question 6 – Do you have other comments on technical matters related to the draft regulations?

We do not have any specific comments relating to technical matters related to the draft regulations. However, we would refer to the technical comments made by Hymans Robertson and the Scheme Advisory Board in this regard.

Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?

We agree that the underpin should be extended to those members who leave without an immediate entitlement to pension (and by extension to those who have already left without an immediate entitlement to benefit).

We would note that this extends the underpin to more members than those who the age discrimination claim intended to address but understand the Government's policy intention for the underpin to apply to members of all ages in more circumstances than was previously the case.

Question 8 – Are there any other comments regarding the proposed underpin qualifying criteria you would like to make?

We would welcome clarity on those members who are referred to within the consultation where at the point of leaving they will only be entitled to a refund or aggregation. It is unclear if the member were to join another employer under the LGPS whether they would then be considered as qualifying members for the purposes of the revised underpin.

We consider that there may be further legal challenge from younger members as a result of the proposed remedy not extending the underpin protection to those who joined the Scheme after 31 March 2012 who will receive a final salary pension for the period to 31 March 2014.

Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?

We agree that the underpin qualifying criteria should apply in a single record.

There are examples within the LGPS already where there is a requirement to know across funds what benefits are being paid to ensure that a double payment is not made. Death Grants is an example. This adds complexity to administering LGPS benefits, which should be avoided where possible.

Question 10 – Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?

We agree that an additional 12 month period should be applied, to ensure that those who would otherwise lose their underpin entitlement, are given an opportunity to aggregate their records in order to preserve their entitlement.

We believe that a discretion to allow administering authorities to extend the additional 12 month aggregation period, should also be reflected to take into account circumstances where a member has not been able to make the choice in the time period through no fault of their own.

Question 11 – Do you consider that the proposals outlined in paragraphs 50 to 52 would have 'significant adverse effects' in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?

We believe that the proposals would not have significant adverse effects.

This is because:

- Administrators are unlikely to have taken unaggregated membership into account when calculating the current underpin for members that have retired since 2014.
- Most members who have retired since 2014 are better off under the CARE scheme because of the accrual rate, and cost of living adjustment against pay increases.

It is likely that going forward the following members may be affected:

- Concurrent members where membership ends on the same day, so it is not possible to aggregate;
- Members opted out on or after 11 April 2015, as the regulations do not permit aggregation if they re-join the Scheme.
- Members who have two periods of membership, the first is on a higher salary, the member chooses not to aggregate them, but at a later stage the second period of memberships salary becomes higher than the first.

Question 12 – Do you have any comments on the proposed amendments described in paragraphs 56 to 59?

We agree that the proposed amendments appear to be consistent with the Government's stated policy of ensuring appropriate protection for scheme members and their survivors.

Question 13 – Do you agree with the two-stage underpin process proposed?

We agree the two-stage underpin approach is consistent with the government's stated policy intention.

Question 14 – Do you have any comments regarding the proposed approaches outlined in the application of the underpin to qualifying members at different stages of their membership of the scheme, and at different life events?

A consistent approach, and clear communication, across all Public Sector Schemes is welcome.

If a member has made a choice at the point of their benefits being deferred we do not believe that a further choice should to be given at the point of transfer given the administrative complexities. There is however a risk of legal challenge which should be considered if a member is not then given a further choice following the move to a Public Sector Scheme, if it means they are worse off at retirement.

Question 15 – Do you consider there to be any notable omissions in our proposals on the changes to the underpin?

We would refer to the technical comments made by the Scheme Advisory Board in this regard. However we would like to highlight the need for clarity on how the proposed remedy will interact with the restriction of Public Sector Exit Payments regulations when enacted, in the following circumstances when a member:

- is awarded an exit payment capped at £95K in the period between the exit payment regulations becoming effective and the changes to the underpin taking effect, and
- then receives a retrospective increase to their benefits because of the changes to the underpin.

Question 16 – Do you agree that annual benefit statements should include information about a qualifying member's underpin protection?

We agree that it would be useful for members who may be affected by the underpin to receive details of the underpin.

Communication with members needs to be consistent and clear across all Administering Authorities. As many members already find the annual benefit statement confusing, consideration could be given to using alternative options, including separate communications alongside the benefit statement.

Any requirement must reflect a lead in period to take into account the ability and timescales for software providers to update their programming to facilitate this.

Question 17 – Do you have any comments regarding how the underpin should be presented on annual benefit statements?

Guidance should reflect the complexity that the underpin will add to the annual benefit statements and we would welcome the adoption of consistent presentation and wording.

Question 18 – Do you have any comments on the potential issue identified in paragraph 110?

We agree that the approach in respect of increases impacting annual allowance calculations would be consistent with what is already in place for the existing underpin.

We acknowledge that this approach may cause a spike in the members benefits in the pension input period in which the underpin crystallisation date occurs.

There is also a risk that the proposed solution may not work for those members with relatively low career average pensions in respect of the underpin period, but relatively high final salary benefits because of career progression.

Whilst there could be an alternative approach to assess a member's notional underpin on an annual basis, this could result in a member paying a tax charge on a benefit that is not understood at retirement. It is difficult to know the scale of the issue in terms of the number of members who will be impacted.

Question 19 – Do the proposals contained in this consultation adequately address the discrimination found in the 'McCloud' and 'Sargeant' cases?

We believe that they do.

Question 20 – Do you agree with our equalities impact assessment?

We believe that the assessments seem reasonable.

Question 21 - Are you aware of additional data sets that would help assess the potential impacts of the proposed changes on the LGPS membership, in particular for the protected characteristics not covered by the GAD analysis (age and sex)?

We are not aware of any additional data sets.

Question 22 – Are there other comments or observations on equalities impacts you would wish to make?

We do not have any additional comments or observations to make.

Question 23 – What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?

Member communications need to be clear and through a variety of formats e.g. use of webinars, posters, factsheets and through employers.

It will be important that members understand the process, why the changes are taking place and the part that they play in it e.g. that the process is automatic and when it will take place.

Employer communications need to take place early to ensure that they understand the data required, the impact on future data retention and payroll changes and to provide training where appropriate. It will also be important that there is a consistent approach set out for what is required should any of the data not be available.

We welcome the provision of a data capture template by the Local Government Association which will allow for a consistent approach across all Funds in obtaining the required data.

Question 24 – Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?

Our initial analysis indicates that over 16,000 member records need to be reviewed Whilst the underpin won't be for several years for many of them, there will be a sufficient number where the underpin test will need to be applied retrospectively.

This will add additional administrative burden on pension administration teams, especially as several administrators will also be being affected by the remedy for Police and Fire, as well as other significant legislative changes e.g. Reforming Local Government exit payments.

There is a large amount of data from employers which needs to be collected and held within Pension Administration systems. The underpin test will then need to be applied retrospectively. Whilst it is hoped that administration systems will be able to be adjusted to carry out these calculations, there are likely to be some complex cases which will need to be carried out manually. Alongside this there will be a significant communications challenge for administering authorities.

We would welcome clarity on what is deemed as ‘reasonable efforts’ by the authority to obtain data and what the default position should be if the data cannot be obtained.

Question 25 – What principles should be adopted in determining how to prioritise cases?

Retrospective cases should be prioritised e.g. retirements or where a member has died. We would then anticipate those members who are closest to their underpin crystallisation date.

However, we would need to understand any timescales by which such cases are expected to have been completed – the expectation around annual benefit statements is an example of matters which would inform this.

Question 26 – Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators?

Following consideration of ways where simplification could be added, there is concern that this would move away from the policy intention that no individual should lose out, and therefore we do not believe that there are any ways effective ways to simplify the process.

Question 27 – What issues should be covered in administrative guidance issued by the Scheme Advisory Board, in particular regarding the potential additional data requirements that would apply to employers?

As reference in our answer to Question 23, we would welcome guidance on a consistent approach across all Funds as to what to do when the relevant historical data is not available.

We consider that this should be set out in a framework for employers and administering authorities when making assumptions about service and salary history.

Question 28 – On what matters should there be a consistent approach to implementation of the changes proposed?

As referenced within our response to Question 23 and 27, we believe that a consistent approach should be taken across all Funds when there is an absence of data.

We welcome the provision of a data capture template by the Local Government Association which will allow for a consistent approach across all Funds in obtaining the required data.

We also believe that a standard template and wording for annual benefit statements should be provided.

Question 29 – Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?

We would refer to comments made by Hymans Robertson in this regard.

We included additional prudence within the discount rate at the 2019 valuation to reflect for this uncertainty around the benefit structure. We do not anticipate revisiting employer contribution rates until the 2022 valuation.

In addition, we would highlight:

- Additional administration resource
- Additional employer resource
- Communications
- Project management
- Additional software charges

EXTRACT

Funding Strategy Statement

Exiting employers

General Principles

The Administering Authority may consider any of the following as triggers for the cessation on an employer's participation in the Fund:

- Last active member ceasing participation in the Fund;
- The insolvency, winding up or liquidation of the Admission Body;
- Any breach by the Admission Body of any of its obligations under the Agreement that they have failed to remedy to the satisfaction of the Administering Authority; or
- A failure by the Admission Body to pay any sums due to the Fund within the period required by the Fund; or

  The failure by the Admission Body to renew or adjust the level of the bond or indemnity, or to confirm an appropriate alternative guarantor, as required by the Administering Authority.

Under these circumstances, the Administering Authority may put in place a Deferred Debt Agreement or instruct the actuary to carry out a cessation valuation to determine whether there is any deficit or surplus.

Assessment

<u>Deferred Debt Agreement</u>

The Administering Authority may enter into a written agreement with an exiting Scheme employer for that employer to defer their obligations to make an exit payment and continue to make secondary contributions (a 'deferred debt agreement').

The employer must meet all requirements on Scheme employers and pay the secondary rate of contributions as determined by the Fund Actuary until the termination of the deferred debt agreement.

The Administering Authority will consider deferred debt agreements in the following circumstances:

- The Scheme employer requests the Fund consider a deferred debt agreement;
- The Scheme employer is expected to have a deficit if a cessation valuation was carried out;
- The Scheme employer is expected to be a going concern; and
- The covenant of the Scheme employer is considered sufficient by the Administering Authority to support.

The Administering Authority may require:

- Security be put in place covering the Scheme employer's deficit on their cessation basis plus market risks (further details are set out in 'Other Actuary Matters' below;
- All costs of the arrangement are met by the Scheme employer, such as the cost of ongoing monitoring the funding level and security requirements.

A deferred debt agreement terminates on the first date on which one of the following events occurs:

- the deferred employer enrols new active members;

- the period specified, or as varied, under the Agreement elapses;
- the take-over, amalgamation, insolvency, winding up or liquidation of the deferred employer;
- the administering authority serves a notice on the deferred employer that the administering authority is reasonably satisfied that the deferred employer's ability to meet the contributions payable under the deferred debt arrangement has weakened materially or is likely to weaken materially in the next 12 months; or
- the Fund actuary assesses that the deferred employer has paid sufficient secondary contributions to cover the exit payment due if the employer becomes an exiting employer on the calculation date (i.e. the Scheme employer is now fully funded on their cessation basis).
- The employer requests early termination of the agreement and settles the exit payment in full as calculated by the Fund actuary on the calculation date (i.e. the Scheme employer pays their outstanding cessation debt on their cessation basis).

On the termination of a deferred debt agreement a deferred employer becomes an exiting employer and a cessation valuation will be completed.

<u>Cessation Valuation</u>

On cessation, the Administering Authority will instruct the actuary to carry out a cessation valuation to determine whether there is any deficit or surplus.

The actuary will adopt an approach which, to the extent reasonably practicable, protects other employers in the Fund from the likelihood of any material loss emerging in future. This may include making an allowance for future administration costs associated with administering the benefits of the former employer's members and the risk of members living longer than anticipated.

Where there is a deficit:

- The normal approach is for payment of this amount in full by the Admission Body as a single lump sum payment.
- If it is not possible for the deficit to be paid as a single lump sum the Administering Authority may permit the employer to make regular contributions to fund the remainder of the employer obligations over an appropriate period alongside provision of suitable security (bond, indemnity or guarantee). The Administering Authority would take account of the interests of all employers and LGPS funds when determining the payment terms and would reserve the right to invoke the cessation requirements in the future. Where the administering authority has agreed to spread an exit payments, the administering authority may obtain a revision of the rates and adjustments certificate to show the proportion of the exit payment to be paid by the exiting Scheme employer in each year after the exit date over such period as the administering authority considers reasonable.
- In some instances, the Administering Authority has the discretion to defer charging a cessation liability for up to three years if the employer is expected to acquire one or more active members in the Scheme over the period by issuing a written notice ("a suspension notice").
- In the event that the Administering Authority is not able to recover the required payment in full and there is no guarantor, then the unpaid amounts fall to be shared amongst all of the other employers in the Scheme. This may require an immediate revision to the Rates

and Adjustments Certificate affecting other employers in the Fund or instead be reflected in the contribution rates set at the next formal valuation following the cessation date.

Where there is a surplus:

- The Administering Authority will determine the amount of exit credit to be paid in accordance with the Regulations and in line with the Exit Credit Policy (included later in this document). In making this determination, the Administering Authority will consider the extent of any surplus, the proportion of surplus arising as a result of the Admission Body's employer contributions, any representations (such as risk sharing agreements or guarantees) made by the employer and any employer providing a guarantee to the Admission Body.
- Where the Administering Authority determines an exit credit is payable, it must be paid within six months of the date on which the employer ceased to participate in the Fund, six months from the date their deferred employer arrangement ended, or such longer time as the Administering Authority and exiting employer agree.

Employers with no remaining active members

When an employer ceases their participation in the Fund, and provided their exit obligations are met, they will have no further obligation. However as member benefits are guaranteed, it is expected that one of two situations will eventually arise:

- The employer's asset share runs out before all its ex-employees' benefits have been paid. In this situation the other employers participating in the Fund will be required to contribute to pay all remaining benefits: this will be done by the actuary apportioning the remaining liabilities on a pro-rata basis at successive formal valuations; or
- The last ex-employee or dependant dies before the employer's asset share has been fully utilised. In this situation the remaining assets would be apportioned pro-rata by the actuary to the other employers participating in the Fund at successive formal valuations.

Application

The application of the above factors by employer group is shown below:

Type of employer	Basis	Exit Liability Payment Terms	Exit Credit Payment Terms[1]
Local Authorities and Police	Gilts cessation basis	Immediate, Payment Plan or Suspension Notice	Within six months of the date on which the employer ceased or their deferred employer status ends
Designating Employers	Gilts cessation basis	Immediate, Payment Plan or Suspension Notice	Within six months of the date on which the employer ceased or their deferred employer status ends
Academies	Gilts cessation basis	Immediate, Payment Plan or Suspension Notice	Within six months of the date on which the employer ceased or their deferred employer status ends
Other Scheduled Bodies	Gilts cessation basis	Immediate, Payment Plan or Suspension Notice	Within six months of the date on which the employer ceased or their deferred employer status ends
Admission Body with no Guarantor	Gilts cessation basis	Immediate or Payment Plan but note Administering Authority Discretions.	Within six months of the date on which the employer ceased or their deferred employer status ends
Admission Body with Guarantor	Ongoing basis	Immediate or Payment Plan but note Administering Authority Discretions.	Within six months of the date on which the employer ceased or their deferred employer status ends
Admission Body on pass through / other risk sharing arrangements	Ongoing basis [2]	Immediate or Payment Plan but note Administering Authority Discretions.	Within six months of the date on which the employer ceased. or their deferred employer status ends

[1] Subject to the determination of the Administering Authority as required under the Regulations. More information can be found in **Error! Reference source not found.**.

[2] It should be noted that in most circumstances, the Fund assumes all liabilities and assets of employers admitted under 'pass through' remain with the Scheme Employer as they typically retain nearly all the pensions risks involved. The Fund refers to the contractual agreement between the employer and the Scheme Employer for instruction on how any exit credit/debt is to be determined, if available.

The amount of the payment will be determined by the Director of Finance and Support Services, per the County Council's Constitution.[3] The reasons for the decision will be documented.

Once the determination has been made the Administering Authority will pay the exit credit within six months of the exit date, or such longer time as the Authority and the exiting employer may agree. Once the exit credit has been paid, no further payments are due from the Authority to the exiting employer in respect of the surplus.

[3] Part 3, Section 2v, No. 257

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank