PENSION BOARD

MINUTES of a meeting of the Pension Board held at Committee Room, County Hall, Lewes on 7 September 2020. Please note that the members joined the meeting remotely.

PRESENT	Ray Martin (Chair) Councillor Chris Collier, Stephen Osborn, Diana Pogson and Lynda Walker
ALSO PRESENT	Kevin Foster, Chief Operating Officer Ian Gutsell, Chief Finance Officer Michelle King, Interim Head of Pensions Dave Kellond, Compliance and Local Improvement Partner Russell Wood, Principal Pensions Officer Nick Weaver, Head of Pensions Admin Nigel Chilcott, Audit Manager Danny Simpson, Principal Auditor Ian Colvin, Hymans Robertson Richard Warden, Hymans Robertson Robert McInroy, Hymans Robertson Martin Jenks, Senior Democratic Services Adviser Harvey Winder, Democratic Services Officer

21 MINUTES

21.1 The Board noted that the actions agreed at the last meeting were mostly complete.

21.2 The Board RESOLVED to:

1) agree the minute to be a correct record of the previous meeting;

2) note that the revised decision-making matrix would be completed in due course and circulated to the Board; and

3) request the revised Internal Audit Strategy and Plan for 20/21 is circulated to the Board once it has been amended to take account of the impact of Covid-19 on the Internal Audit team's work programme.

22 APOLOGIES FOR ABSENCE

22.1 Apologies for absence were received from Niki Palermo.

22.2 It was also noted that Cllr Appich had resigned from Board and the arising employer representative vacancy would be filled subject to agreement by the Governance Committee on 2 October 2020. The Board thanked Cllr Appich for her work.

22.3 The Board also thanked Michelle King for her work as Interim Head of Pensions and wished her well in her future endeavours.

23 DISCLOSURE OF INTERESTS

23.1 There were no disclosures of interest

24 URGENT ITEMS

24.1 There were no urgent items.

25 PENSION BOARD - UPDATES

25.1. The Board considered a verbal update on Pension Board activities.

25.2. The Chair congratulated the Board members on all having completed the Training Needs Assessment.

25.3. Ian Colvin (IC) confirmed that the Board achieved an impressive overall score of 67.7% with the Chair scoring 87.2%. He said the score could be benchmarked against other pension boards once more results were in.

25.4. Diana Pogson (DP) said she had found the assessment challenging and suggested, that whilst knowledge was important, it was equally important that Board members knew where to find important information about pensions, rather than be expected to be able to remember some of this information.

26 PENSION COMMITTEE AGENDA

26.1 The Board considered a report containing the draft agenda of the Pension Committee meeting for 21st September 2020.

26.2 The Board RESOLVED to note the report.

27 GOOD GOVERNANCE REVIEW - SECOND TRANCHE

27.1. The Board considered a report on the second tranche of the Good Governance review.

27.2. The Chair explained to the Board he had been involved in the development of the revised strategies presented in the report and assured the Board a lot of time and effort had been put into them. He extended his thanks to all officers involved in producing the documents.

27.3. The Chair asked whether penalties had ever been applied to employers, as set out in the East Sussex Pension Fund (ESPF) Pensions Administration Strategy 2020.

27.4. Ian Gutsell (IG) explained that penalties have not previously been applied to any employer. The purpose of the new strategy is to ensure there would be a degree of engagement with an employer first before a decision to levy costs is made.

27.5. The Chair explained that appendix B contained the legal timescales for which a list of processes must be met relating to the administration of the Fund. The plan in the future is to create realistic key performance indicators (KPIs) for the Pension Administration team (PAT) based on these timescales. The KPIs will require the PAT to achieve the majority of these tasks within a shorter amount of time than the legal deadline and overdue cases will be classed as those that fall between the KPI and the legal deadline, meaning they miss the KPI but are not in breach of regulations.

27.6. The Chair explained setting out a scheme employer's responsibilities in appendix C was important as it ensured they are aware of the requirements placed on them and therefore the potential to be charged for additional costs if they fail to uphold the responsibilities.

27.7. Stephen Osborn (SO), as an employer representative, said he was comfortable with the list of responsibilities.

27.8. IG explained that the Administering Authority would begin consulting with employers about the new Administration Strategy at the Employer Forum in November.

28 RESPONSE TO THE MCCLOUD CONSULTATION

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29 PENSION ADMINISTRATION REPORT

29.1. The Board considered an update on matters relating to Pension Administration Team (PAT) activities.

29.2. Nick Weaver (NW) verbally updated the Board on the Annual Benefit Statement (ABS) process. He explained that the PAT had used ITM to trace the 7,500 deferred ESPF members that the PAT had lost contact with. He confirmed that 6,500 had been tracked down with 990 still outstanding, which is in line with the numbers missing in other Orbis administered pension funds.

29.3. The Chair congratulated the PAT on the low error rate of the statements, given most errors were due to “gone away (supressed)”, and the high number of ABS produced compared to the number of active members. He noted the number of breaches outside of casual workers and four employers who had not provided end of year returns amounted to only 0.4%.

29.4. NW explained that a huge amount of work undertaken by the Data Improvement Programme (DIP) had improved the quality of data held by the Fund. He added that a few employers still needed to improve their performance as they had not provided details of all their employees by the end of the year, despite repeated chasing. He added a very small number of new employers had been missed and it was clear a policy was needed to deal with the 130 people who are on casual contracts and who did not have pensionable service in the Fund during 2019/20.

29.5. SO said performance this year felt like a big step change and he congratulated all involved. He noted some ABS had still not been sent out and asked if that meant the Fund was in breach of the regulations and would need to report itself to the Pensions Regulator (tPR).

29.6. MK confirmed that tPR would be notified next week of the breach, but the letter will emphasise that in the view of Officers it does not constitute a material breach and will set out the work undertaken to improve performance including the DIP, address chasing of deferred members, and liaising with employers. It will also appear in the Fund’s breaches log but with a proposed RAG rating of green.

29.7. The Chair asked whether mortality screening and address chasing would happen every year.

29.8. NW said that it doesn’t, but recommended the practice is kept up on an annual basis, as people leave all the time and often deferred members stop contacting the administering authority as soon as they leave. He added that the mortality screening was not undertaken on the known membership, only those listed as deferred and missing, and suggested it should be undertaken intermittently on the whole ESPF membership. MK confirmed that the work by ITM was a one off and future work would need to be commissioned if it was to happen again.

29.9. The Chair asked whether there were any mitigating factors, such as the Covid-19 pandemic, that might explain why any of the four employers failed to provide full End of Year returns.

29.10. MK explained that one employer had gone through a number of mergers in recent years resulting in some records of employees being lost. This would require a referral to tPR due to the number of lost records and inability to reconstruct them. There had been issues receiving returns from another employer in previous years too, so performance this year could not be explained by Covid-19. The other two employers were small and this year was the first occurrence. NW added that all employers had been made aware of the 30 April deadline for end of year returns and had been chased by the PAT. IG said that employers had also been offered assistance by the PAT.

29.11. IC clarified that the Fund can recharge an employer to recover the excess costs incurred by the Fund as a result of an employer’s actions, but that it could not levy a fine. MK added that the Fund is undertaking work on employers who are at risk financially due to Covid-19 and would recommend not applying a recharge to any of them at this stage, however, reporting to tPR would be appropriate.

29.12. The Chair asked the Board for its views on what course of action should be taken in relation to the four employers who failed to provide full end of year returns to the Fund.

29.13. The Board RESOLVED to:

1) note the report;

2) recommend that the four employers who failed to provide full end of year returns for the ABS are reported to the Pensions Regulator;

3) recommend that the four employers are written to informing them that they have been reported for not fulfilling their legal obligations in relation to the Fund; explain that the Administering Authority has the power to recharge them for costs incurred; and say that they may be recharged in future if they fail to provide full end of year returns; and

4) request confirmation by email the reason why the KPI: *Employer estimates provided* was only 49% during July 2020.

30 EAST SUSSEX PENSION FUND: 2020/21 BUDGET, BUSINESS PLAN AND WORK PROGRAMME

30.1. The Board considered a Quarter 1 report on the ESPF 2020/21 Business Plan that included an appendix by the Fund's actuary on managing ill-health early retirement risk.

30.2. Russell Wood (RW) clarified that the table 1 sub-total for Pension Fund Oversight and Governance should be £979k and the 2020/21 forecast outturn should by £3.702m.

30.3. The Chair asked whether the £687k estimate for the new Pension Fund Team was for a whole year and that the forecast outturn of £385k represented a proportion of that total as the new team had not been fully recruited yet.

30.4. RW confirmed that the £385k represented a proportion of the total based on the new team being established in-year. The £687k was also an estimate, as the current team was in a consultation period and the full costs of new appointments was not yet known. The bringing in-house of the PAT would also need to be represented in future in the outturn forecast but that figure was not yet known.

30.5. The Board then discussed the paper on Ill-health management. The Chair asked whether ill health insurance could be made mandatory for employers under a certain size and the option to opt in or opt out for medium and large employers, respectively. MK confirmed this approach was being looked at.

30.6. SO asked what the current cost to employers was for the ill health retirement arrangements in place.

30.7. Robert McInroy (RM) said that employers currently put aside 0.4%-2% of their pensionable salary roll, depending on membership profile, towards covering their own employee's ill health retirement costs. The average is around 0.9%. Any new ill health insurance would attempt to be cost neutral and so any insurance premiums should not be higher than around 1% of each employers' pensionable salary roll. The insurance premium would be paid to the insurer, rather than put in a reserve, and the insurer would pay the full cost of any ill health retirement.

30.8. The Chair asked whether a payout of ill health insurance for a small employer could lead to significantly increased premiums for them.

30.9. RM said that the cost of premiums would be spread over a number of employers (as each would pay 1% of their own contributions and not a flat rate) and any increase would be from a starting point of around 1% per annum of employer contributions rate. The cost of ill health retirement can be at least £100k per person and so can have a significant impact for small or medium employers. Larger employers may feel the impact much less.

30.10. SO asked whether smaller employers' exposure to ill health retirement payments would be so large relative to income that their contribution rates to an insurer would always be less than their exposure, resulting in them being subsidised by larger employers.

30.11. RM said this would be the case but Legal & General advised that medium size employers that are admitted bodies to the fund could incur liabilities of over £1m on their payroll from ill health retirement and so could stand to benefit from the protection of insurance too.

30.12. DP asked whether all contribution rates to insurance would be the same for all employers and whether increases in premiums would be cross-subsidised.

30.13. RM confirmed that the rate for all employers would be around 1% of their contribution rate to the Fund. He said that premiums would be increased across the board if there was poor claims experience, meaning there was a cross subsidy between employers. However, Legal & General insure 20 Funds currently and report there is relatively little volatility in premiums year on year. He added the policy would be renewed annually so if there was a large increase in premiums the Fund could review which insurer it opts to use.

30.14. DP asked whether it is worth it for employers with contribution rates currently less than 1% to sign up for the insurance.

30.15. The Chair said an insurer would pay out in full the cost of ill health retirement if needed, but the costs to the employer would be spread out over a number of years. On the other hand, if ill health retirement happened without their self-insurance being able to cover the cost, they would find themselves in deficit.

30.16. The Chair asked whether stop loss insurance is an option, i.e., payments made for ill health retirements where the number of cases in a year exceeds a certain amount.

30.17. RM said this is not something discussed with Legal & General but would be raised with larger employers who may be more interested in this approach.

30.18. SO observed ill health insurance would reduce the risk to the Fund of those employers who may be in financial difficulty now and could become insolvent as a result of ill health liabilities. He recommended any insurance should be mandatory for them.

30.19. The Board RESOLVED to:

1) note the report;

2) recommend that ill health retirement insurance should be made compulsory for smaller organisations, medium sized organisations should have the option to opt out, and larger employers should be given the choice to opt in; and

3) The definition of smaller, medium and larger in this context should be determined by officers and

4) request a further report on the ill health management policy following the outcome of consultation with employers.

31 DISCRETIONS: DEATH PAYMENTS

31.1. The Board considered a report on the annual review of the Discretionary Policy for Death Payments.

31.2. The Chair asked whether this policy is similar to those of other Local Government Pension Scheme (LGPS).

31.3. IC confirmed that it was in line with other policies and in some places went further in formalising practices that are undertaken ad hoc elsewhere. He suggested it was close to a best practice approach.

31.4. The Board RESOLVED to endorse the Discretionary Policy for Death Payments.

32 ANNUAL TRAINING PLAN 2020/21

32.1. The Board considered a report on the Annual Training Plan & Training Strategy for the ESPF.

32.2. IC advised that the training strategy and plan would be made available once training needs assessments had been completed by all Pension Committee members. This would ensure the plan best represents the needs of the Board and Committee members.

32.3. The Board RESOLVED to:

1) note the report

2) request a report on the training strategy and plan at the next meeting; and

3) recommend to the Pension Committee members that they complete the training needs assessment at their earliest convenience.

33 PENSION FUND RISK REGISTER

33.1. The Board considered the ESPF Risk Register.

33.2. The Chair asked what the consequence was of the breach on the pensioner payroll payment to HMRC.

33.3. MK explained it had been added to the breaches log as a late payment. There is a possibility of fines from HMRC and IG is keen to avoid further breaches so has made the most recent payment without seeing underlying information on the Heywoods system. The next payment is due on 20th September and the PAT is confident the new interface on the Heywoods system will be in place by then and can pick up any errors on time.

33.4. The Board RESOLVED to note the report.

34 EXCLUSION OF THE PUBLIC AND PRESS

34.1 The Board RESOLVED to exclude the public and press from the meeting for the remaining agenda item on the grounds that if the public and press were present there would be disclosure to them of exempt information as specified in paragraph 3 of Part 1 of the Local Government Act 1972 (as amended), namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

35 ACCESS RISK REGISTER

35.1 The Board considered the risk register for the ACCESS Pooled Fund.

35.2 The Board RESOLVED to note the report.

36 PENSION FUND BREACHES LOG

36.1 The Board considered the ESPF Breaches Log.

36.2 A summary of the discussion is set out in an exempt minute.

36.3 The Board RESOLVED to note the breaches log.

37 PENSION FUND RESTRUCTURE - UPDATE

37.1 The Board considered a report on the ongoing restructure of the ESPF team.

37.2 A summary of the discussion is set out in an exempt minute.

37.3 The Board RESOLVED to agree actions which are set out in an exempt minute.

38 EMPLOYER ADMISSIONS AND CESSATIONS REPORT

38.1 The Board considered a report providing an update on the latest admissions and cessations of employers within the Fund.

38.2 A summary of the discussion is set out in an exempt minute.

38.3 The Board RESOLVED to agree the recommendations as set out in the report.

The meeting ended at 1.05 pm.

Ray Martin (Chair)

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

Appendix 1

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