

PENSION BOARD

MINUTES of a meeting of the Pension Board held at County Hall, Lewes on 10 September 2018.

PRESENT Richard Harbord (Chair) Councillor Kevin Allen,
Angie Embury, Sue McHugh, Diana Pogson and
Councillor Brian Redman

ALSO PRESENT Councillor David Elkin, Lead Member for Resources
Councillor Richard Stogdon, Chair of the Pension Committee
Ian Gutsell, Chief Finance Officer
Ola Owolabi, Head of Pensions
Brian Smith, Head of Business Operations
Wendy Neller, Pensions Strategy and Governance Manager
Richard Warden, Fund Actuary
Danny Simpson, Principal Auditor
Russell Wood, Principal Pensions Officer

1 MINUTES

1.1 The Board agreed the minutes as a correct record of the meeting held on 8 May 2018.

2 APOLOGIES FOR ABSENCE

2.1 Apologies for absence were received from Rezia Amin.

3 DISCLOSURE OF INTERESTS

3.1 There were no disclosures of interest.

4 URGENT ITEMS

4.1 There were no urgent items.

5 PENSION COMMITTEE AGENDA

5.1 The Board considered the draft agenda of the Pension Committee's next meeting.

5.2 Ola Owolabi (OO), Head of Pensions, informed the Board that the Pension Committee reports not yet available for the Board's meeting would be circulated by email to Board members ahead of the Pension Committee meeting on 24 September. The Chair, Richard Harbord, encouraged the Board members to comment on these reports.

5.3 The Board RESOLVED to note the report.

6 HYMANS ROBERTSON EMPLOYER ASSET TRACKER

6.1. The Board considered a presentation by Richard Warden (RW), the Fund's Actuary, about an employer asset tracker programme called HEAT.

6.2. Angie Embury (AE) asked whether HEAT was a reliable piece of software. RW confirmed that it was well developed and reliable and has been used successfully by Local Government Pension Schemes (LGPS) in Manchester, Lothian and Cheshire for several years. OO added that four of the administering authorities in the ACCESS pool including East Sussex – were considering purchasing it.

6.3. Councillor Brian Redman (BR) asked whether the ability of HEAT to create bespoke employer investment strategies and monthly employer asset reports would be used for all 140 employers in the East Sussex Pension Fund (ESPF) and whether this would be difficult to manage. OO said that HEAT would help to map out a bespoke investment strategy for an employer known to be financially risky to the Fund and that the monthly reports would then help to manage the performance of that employer, which would be very difficult to do without the up-to-date account information HEAT provides. This approach, however, would not need to be applied to all 140 employers and most would adopt the Fund's main investment strategy and receive asset reports at most quarterly. RW added that most funds have no more than three investment strategies for employers. These include the main fund; a sub-fund for cash flow negative employers that contains more income generating assets; and a sub-fund for more financially insecure employers that emphasises protective assets such as bonds.

6.4. Sue McHugh (SM) asked whether the employer asset reports could help map out an employer's potential future contribution rates to the ESPF. RW confirmed that HEAT would help to provide this information. Wendy Neller (WN), Pensions Strategy and Governance Manager, added that HEAT can assist in the provision of information for employers, with free and timely funding reports that provide valuations of assets, liabilities etc. that previously could only be provided by costly actuarial reports.

6.5. AE asked whether HEAT will help to identify employers that are making late monthly contributions. WN explained that there is already a policy in place where if an employer does not pay its contributions on the 19th of the following month ESPF will write to the employer reminding it of the need to pay and the risk of fines if it does not, but HEAT will complement this process.

6.6. Diana Pogson (DP) asked whether significant changes will need to be made to the pension administration teams or the data they collect to implement HEAT. WN confirmed that this would not be the case. OO added that the presentation would not have been brought to the Board for consideration if officers did not feel assured that the system could be implemented.

6.7. BR asked whether it was feasible to manage difficult employers if they are entitled to be in the fund regardless. RW agreed that – in the main – scheduled bodies cannot be removed from the ESPF but would hopefully see the benefit of a bespoke investment strategy; on the other hand the fund has significantly more control over admitted bodies.

6.8. The Chair asked whether employers with an alternate investment strategy had ring-fenced assets. RW confirmed that HEAT can either notionally ring-fence ESPF assets to particular sub-funds or can specifically allocate assets to particular employers. DP observed that it would depend on the risk the employer posed to the Fund whether it was worth physically separating its assets.

6.9. The Board agreed that the fee of £15 per employer per month for HEAT was not insignificant (amounting to around £25,000 per year) so recommended that officers were first of all clear how the system would be implemented, and clear of the benefits the system would bring to themselves and to employers.

6.10. The Board RESOLVED to note the report.

7 REVIEW OF MANAGERS FEE ARRANGEMENTS

7.1. The Board considered a report on the current fee levels paid by East Sussex Pension Fund (ESPF) to investment managers.

7.2. AE asked why the ESPF increased in value by 21% in 16/17 but only 1% in 17/18. OO explained that this was a reflection of the exceptional performance of the equities markets during that year.

7.3. The Chair welcomed the reduction of £0.1m in investment manager fees from 16/17 to 17/18 but said it was a relatively small amount. He suggested that the only time fees can be lowered significantly is when investment managers are first appointed. SM added that more success reducing fees could be had if officers were more candid about proposing to review arrangements with investment managers. OO said that the Fund also considers the long term returns that investment managers are able to provide, not just their investment fees, and had gotten rid of ineffective managers such as Lazard's despite offers to reduce fees.

7.4. The Board RESOLVED to note the report.

8 INTERNAL AUDIT REPORT - ACCESS POOL

8.1. The Board considered a report on the outcome of Internal Audit's ACCESS Pool Governance and Structure review.

8.2. BR asked whether Internal Audit was concerned about the apparent lack of clarity of the role of pension boards in the ACCESS governance arrangements. Danny Simpson (DS), Principal Auditor, said that the role of pension boards was not yet wholly clear but is being monitored by Internal Audit. Ian Gutsell (IG), Chief Finance Officer, explained that the ACCESS Section 151 officer group and the ACCESS officer working group were aware of and were developing ways to ensure there was board representation within ACCESS.

8.3. The Chair said that the Board expects regular reports about ACCESS in order to maintain its role of assisting the Pension Committee in managing ESPF assets that have been pooled into ACCESS sub-funds. He said he expected Internal Audit reports on ACCESS would form part of this regular stream of information.

8.4. The Board RESOLVED to note the report.

9 2018 ANNUAL BENEFIT STATEMENT REPORT

9.1. The Board considered a report about the outcome of the Annual Benefit Statement exercise following the statutory deadline for completion of 31 August 2018.

9.2. Brian Smith (BS), Head of Operations, said that Gildredge House Free School had now provided its end of year return allowing for the processing of its employees' annual benefit statements.

9.3. The Chair said that it was regrettable that a breach that effects the administering authority's compliance with regulations had occurred. He was surprised that it seemed sufficient pressure at all levels was not applied to the school to get it to comply, particularly as the school's belated compliance in the last 10 days showed it did have the ability to do so. He expressed disappointment that this incident meant that the ESPF had not achieved 100% compliance with the statutory deadline despite additional effort this year.

9.4. Councillor Richard Stogdon (RS), Chair of the Pension Committee, asked what penalties could be applied to employers that fail to meet the deadline for end of year returns. RW explained that the powers of administering authorities are limited at the moment but the Pensions Regulator is lobbying Government to introduce legislation that would enable administering authorities to penalise employers.

9.5. WN and RW explained that it was clear in legislation that it was the Administering Authorities' responsibility not the employers' responsibility to make sure Annual Benefit Statements are sent out in time. In previous years, with regard to the specific issue with Gildredge House, the Fund has mitigated against the risk of breaching the annual benefit statement deadline by agreeing with the employer before the statutory deadline to issue a joint cover letter to their employees with the reasons as to why the statement has been issued with last year's data, and that an updated statement would be sent once the end of year data had been received and processed. This meant that the Fund did not breach the deadline by failing to send out Annual Benefits Statements to the particular employer who failed to send in an end of year return. BS confirmed that the Gildredge House Free School employees had been contacted prior to the deadline informing them that they could view their previous year's statement online.

9.6. BS explained that since the publication of the Board's report it was discovered that an administrative error had occurred resulting in 2,500 active members not receiving their annual benefit statements. The Business Operations team is now investigating why this error occurred and has reported the breach to the Section 151 officer and Monitoring Officer who will decide whether to report it to the Pensions Regulator. BS added that the issue was being rectified and the employees will receive their annual benefit statements by the end of September.

9.7. The Board members agreed that they were all very disappointed to hear that an admin error had occurred resulting in a failure to meet the statutory deadline despite regular assurance throughout the year that everything had been on course to meet the deadline. The Chair observed that this meant the deadline had now been missed for the fourth year in a row.

9.8. The Chair asked how this error had not been picked up. BS said that Business Operations was analysing why the failure occurred but it appeared to be a new error that has not previously occurred. Business Operations is now putting actions in place to prevent its recurrence and will do its utmost to make sure it does not happen next year.

9.9. RS asked about the identity of other administering authorities that had responded to the request for information about the percentage of their deferred members that have had their records suppressed. BS explained that they had all asked to remain anonymous but he confirmed that they were all county councils and that one is managed by Orbis.

9.10. RS asked why there was such a range in the percentage of suppressed records from 3-34% amongst these administering authorities, and why ESPF was towards the upper end of the

scale (with 25%). BS said that one authority that responded had undertaken a major piece of work to tackle the issue resulting in the reduction of suppressed records to 3%. This was the exception however and the majority had around 15% suppressed records.

9.11. The Chair said that it was surprising that 240 deferred members who were entitled to their pensions had the status of 'gone away' and were not in receipt of it. He asked whether all of the Gone Away deferred members could be identified through data sharing with HM Revenue and Customs (HMRC) which was now possible following recent changes in legislation. BS explained that there was a cost of £6 and a response time of 4 weeks for any data request to HMRC, so it was only being used for gone away members who are approaching retirement age. DP suggested that many of the 240 deferred pensioners not receiving their pension were unlikely to be entitled to significant sums as people were unlikely to forget about significant lengths of service.

9.12. AE asked whether the Pensions Regulator will fine the ESPF for this breach and who would be required to pay the fine. RW confirmed that the administering authority, East Sussex County Council, would be responsible for the fine but would recoup the money from the ESPF administration fund. The Chair observed that whilst the Regulator may be reluctant to use its powers it had fined London Borough of Barnet £1,000 for a breach and would be more inclined to fine East Sussex County Council if it continued to breach its statutory requirements. OO said that the Regulator would consider mitigating factors before issuing a fine such as what the administering authority was doing to prevent future breaches and its transparency in reporting the breach.

9.13. The Board RESOLVED to:

- 1) note the report;
- 2) express regret that the statutory deadline for Annual Benefits Statements had been breached; and
- 3) request a report at the next meeting on the outcome of reporting the breach to the Pensions Regulator.

10 OFFICERS' REPORT - BUSINESS OPERATIONS

10.1. The Board considered a report providing an update on the services provided to the Fund by Orbis Business Operations

10.2. BR expressed concern that the GMP reconciliation process has been ongoing for three years and that elements such as the suitable tolerance levels and the overall liability to the Fund were still unknown to the Board. The Chair said that failure to meet the statutory deadline for GMP reconciliation with HMRC would not be acceptable. BS assured the Board that JLT is well aware of the approaching deadline and is confident it will be met.

10.3. The Chair said that the Heywoods data analysis is necessary to mitigate against the risk of performing poorly on the Pensions Regulator's Administration and Governance survey and is relatively low cost.

10.4. RS asked why the data cleanse ahead of the triennial valuation will not commence until November if the triennial valuation is due to begin in early 2019. BS explained that it cannot commence earlier because it needs to begin after the issuing of the annual benefit statements and the annual allowances, which will not be until November. BS advised that he would send on details to the Governance team of what Business Operations proposed data cleanse will

entail, which is planned to happen during November 2018 to January 2019 for the liaison with the Fund actuary. BS advised that the data cleanse will be undertaken in conjunction with the Governance Team and actuary to ensure that it is done to a standard that is of benefit to the triennial valuation.

10.5. The Board RESOLVED to:

- 1) note the report;
- 2) recommend that the Pension Committee approve the approach and expenditure relating to data reporting to the Pensions Regulator; and
- 3) request that the JLT report on GMP reconciliation is circulated to Board members for comment,

11 OFFICERS' REPORT - GENERAL UPDATE

11.1. The Board considered a general update on matters related to the Board's activity.

11.2. BR asked whether there is a risk that the new right of employers leaving the Fund with assets in excess of liabilities to receive a payment – as brought in by the Local Government Pension Scheme (LGPS) (Amendment) Regulations 2018 – could tempt employers to leave and receive a tax free payment. OO said that this could be a potential risk and officers need to consider with the actuary whether a leaving employer would be paid in cash or assets.

11.3. The Board RESOLVED to note the report.

12 WORK PROGRAMME

12.1 The Board considered its work programme

12.2 The Board RESOLVED to note the report.

13 EXCLUSION OF THE PRESS AND PUBLIC

13.1 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).

14 LOCAL GOVERNMENT PENSION SCHEME (LGPS) POOLING - ACCESS UPDATE

14.1 The Board considered a report providing an update on the activities undertaken by the ACCESS pool group.

14.2 The Board RESOLVED to note the report

The meeting ended at 12.35 pm.

Richard Harbord
Chair

