

PENSION BOARD

MINUTES of a meeting of the Pension Board held at County Hall, Lewes on 11 November 2019.

PRESENT Ray Martin (Chair) Stephen Osborn, Diana Pogson,
Niki Palermo and Lynda Walker

ALSO PRESENT Cllr Gerard Fox, Chair of the Pension Committee
Kevin Foster, Chief Operating Officer
Ian Gutsell, Chief Finance Officer
Michelle King, Interim Head of Pensions
Andrew Marson, Interim Lead Pensions Manager
Russell Wood, Principal Pensions Officer
Harvey Winder, Democratic Services Officer

17 MINUTES

17.1. The Board considered the minutes of its 17 June meeting and the summary of discussion between Board members and officers on 9 September. An update on the status of previous pension board actions was also considered.

17.2. In relation to the note of thanks extended to the previous Head of Pensions (under 1.4 of the summary of discussion of 9 September meeting), the Chair asked for an update on the progress with recruiting for a new permanent Head of Pensions.

17.3. Ian Gutsell (IG) explained that the Interim Head of Pensions was undertaking a review of the current team structure, taking into consideration the fact that the considerable work into setting up ACCESS was now receding but there was a clear need to focus more on employer engagement in the future. The new role of Head of Pensions and the team structure would need to reflect these changes and could include the requirement for additional resources. Kevin Foster (KF) added that the purpose of this review was to create an accurate job specification that could be correctly graded in order to attract the most suitable candidate, which would be a difficult task given the competitive job market. He added that it was standard practice to include a description of the team structure in the job role for the head of service who would be managing the team, which was why the team's roles were also being reviewed.

17.4. The Chair of the Pension Committee, Cllr Gerard Fox, said that officers should take on board the view that the pensions team must have a designated Head of Pensions embedded in East Sussex County Council and with clear sight of accountability to the Pension Committee, managing a possibly expanded team, and with a greater focus on employer engagement.

17.5. Lynda Walker (LW), added that if the review concluded that more staff were needed, she believed the East Sussex Pension Fund (ESPF) was healthy enough to be able to recruit them. LW added that it was important that the review was completed in a timely manner and that existing staff were supported throughout the process.

17.6. The Board RESOLVED to:

1) agree the minutes of the 17 June meeting;

2) note the summary of discussion between members of the Pension Board and officers on 9 September; and

3) request that an update on the status of outstanding requests made by the Board since 2017 is circulated to the Board by email. The outstanding requests included

- i) a request for the Breaches Log to be available at each Board meeting
- ii) a schedule of late payments by employers of contributions is provided for each Board meeting
- iii) a copy of all Internal Audit reports and any changes to the Audit strategy are presented to the following Board Meeting

4) request that in future the Breaches Log is presented to the Board at each future meeting

5) request that a schedule of late payments of contributions by employers is presented to the Board with the administration report

6) note that all Internal Audit reports have been presented to the Board since the request was made in February 2018

18 APOLOGIES FOR ABSENCE

18.1 Apologies for absence were received from Cllr Carmen Appich. It was also noted that Cllr Doug Oliver had resigned and that a new employer representative was being sought from either Eastbourne Borough Council or Lewes District Council.

19 DISCLOSURE OF INTERESTS

19.1 There were no declarations of interest.

20 URGENT ITEMS

20.1 The Board RESOLVED to raise an urgent exempt item to discuss the Fund's breaches log.

21 PENSION BOARD - UPDATES

21.1. The Board discussed training events recently attended by Members.

21.2. Diana Pogson (DP) explained she had attended a training event in London also attended by LW and mentioned at the last meeting. The Chair, Russell Wood (RW) and Chair of the Pension Committee had all attended an event held by ACCESS in London in October.

21.3. The Board RESOLVED to note the report.

22 PENSION COMMITTEE AGENDA

22.1. The Board considered the draft agenda for the Pension Committee meeting due to be held on 25 November.

22.2. The Chair commented in regards to item 10 – Appointments of Advisers to the Pension Fund – that given the current issues around the quality of data, difficulties in achieving the Annual Benefit Statement deadline in spite of the hard work put in by the Pensions Administration Team (PAT), and the planned re-procurement of the pension administration system that it would be worth maintaining some consistency amongst the Fund’s advisers (the Fund employs an investment consultant, Hymans Robertson; actuary, also Hymans Robertson; and an independent adviser, William Bourne). The Chair of the Pension Committee added that he understood appointments such as these periodically have to go to tender, but there was a risk associated with changing all at once. He also said that the Fund was getting good value for money from the independent advisor.

22.3. The Board RESOLVED to note the report.

23 ENVIRONMENTAL SOCIAL AND GOVERNANCE UPDATE

23.1. The Board considered a report on Environmental, Social and Governance (ESG) matters.

23.2. The Chair asked when the specification for an investment consultant’s advice on ESG investments would be put out to tender.

23.3. Michelle King (MK) explained that the specification would need to be agreed by the Pension Committee first and would go out to tender after it had been agreed. It was clear that this specialist advice would be needed to produce a quality report, but it was not clear what companies were available on the market and there was no one company who officers had in mind to take on the role.

23.4. DP agreed that it was a good idea to seek the advice of a consultant and it sent a clear message that the Fund was taking the matter seriously. She suggested the service specification could include a requirement to advise the Fund how best to communicate its approach to ESG matters.

23.5. The Chair of the Pension Committee explained that he had recently met with Divest East Sussex to provide them with an update on what the Fund was doing in relation to ESG matters. He spoke about the difficulties inherent with ensuring the Fund is performing well in relation to ESG matters, including that there is inconsistent and varying quality of data held by investment managers, or available from companies in which they invest; and the definition of what constituted ‘good’ in relation to ESG standards continues to change. ESG considerations would also need to be balanced against the fiduciary duty of the Fund to make a sustainable return on investment. He said that the Fund’s statement of investment beliefs in relation to ESG should not be too prescriptive, to avoid needing to be amended regularly, but clear to investment managers with regards to how the Fund expects its assets to be invested.

23.6. LW welcomed the Pension Committee Chair’s presentation at the Full Council on 15 October – in response to a debate on fossil fuel disinvestment triggered by a petition of over 5,000 signatures – as a helpful and concise way of setting out how the Fund is one of the leading LGPS in terms of its action on climate change. She said ESG was an important and emotive subject that was increasingly attracting the interest of scheme members, their unions, and local councillors. It is therefore important that information is made available to scheme members so that they can both recognise the importance of ESG issues, but also the fact that the Fund is investing money in order to provide for their pensions and needs to be kept in a healthy and sustainable state.

23.7. The Chair of the Pension Committee thanked IG and MK for their assistance in drafting the speech he made at Full Council.

23.8. Stephen Osborn (SO) asked whether the 5,000+ signatures were from ESPF members.

23.9. LW explained that they were collected from the wider public. The Chair of the Pension Committee added that pressure to change ESG policy appeared to be coming more from the general public than scheme members specifically. He added that the petition had been a helpful exercise that enabled the Fund to reflect on whether it was doing the right thing with regards to its approach towards ESG. The Fund had also been discussing with Local Authority Pension Fund Forum (LAPFF) about the possibility of instructing investment managers to vote as shareholders of companies to require that 15% of executive pay is determined by the ESG activities of the company.

23.10. SO asked how scheme members could be best informed about what the Fund was doing with regards to ESG.

23.11. The Chair suggested that the annual report to members would be a good place to include such information. MK said the purpose of the draft report attached as appendix 2 was to explicitly set out the effectiveness of the Fund's approach to climate change. This would be published online once agreed by the Committee and had already been shared with ACCESS members. IG added that the Committee Chair's speech attached as appendix 1 set out clearly a list of actions to date by the Fund and that this could be used more widely.

23.12. The Board RESOLVED to note the report.

24 DATA IMPROVEMENT PROGRAMME AND ANNUAL BENEFIT STATEMENT WORKING GROUP

24.1. The Board considered a report and a presentation by Hymans Robertson on the Data Improvement Programme and the Annual Benefit Statement (ABS) Working Group established to oversee it. Ian Colvin, Pete Riedel and Susan McKenzie attended from Hymans Robertson.

24.2. MK explained that that it is proposed that the Working Group will be made up of Officers, Pension Board members, if the Board agree, and Hymans Robertson representatives. The Pension Committee is being recommended to agree to establish it based on its terms of reference and cost. She was looking for the Board to nominate its members to join the Working Group.

24.3. LW asked whether the data improvement programme would be a one off. MK explained that the outcome of the working group would be reported to the Pension Committee in June and that the quality of data would be reviewed from time to time after then and reported to the Committee.

24.4. The Chair asked whether the requirements of the Data Improvement Programme to have employers provide monthly data on their employees to the administering authority would be asking too much of small employers.

24.5. MK said that the plan was for a consistent process across all employers but that individual circumstances would be taken on board.

24.6. The Chair asked what percentage of Local Government Pension Scheme (LGPS) have had problems with their ABS as a result of data issues.

24.7. Ian Colvin (IC) said that during the first year after the introduction of the career average earnings pension there were a number of breaches of the ABS deadline, due to the increased complexity of the new system. Internal processes have improved since then, but it is still an issue for many LGPS.

24.8. The Chair asked whether there were a wide variety of payroll systems used by ESPFs' employers.

24.9. IC said most larger employers used the big payroll systems such as SAPP or Oracle, but some smaller employers may only use an Excel spreadsheet. There was a wider issue that many employers outsource their payroll to an external company but do not include pension administration within the contract, and many payroll providers do not have the ability to undertake pension administration even when asked.

24.10. The Chair asked whether the Fund should work with employers and payroll providers in that case.

24.11. IC said Hymans Robertson is working nationally with payroll providers to encourage their understanding of LGPS pensions management, but employers are the responsible organisations the Fund should deal with. MK added it would be advisable to liaise with both.

24.12. The Chair of the Pension Committee said it was likely that most employers' payroll errors would be caused by failing to update an employee's pay, meaning their pension contribution rates would be too low. He asked whether this meant there was a risk that the actuary was overestimating the funding level during the valuation of the Fund and that when the data was cleansed there would need to be an increase in employer contributions to make up the shortfall.

24.13. IC explained that the actuary takes a prudent approach to valuating the Fund and this would be reflected in any assumptions made about the accuracy of the data and reflected in the proposed contribution rates of employers. MK added that correcting the data held by employers could also lead to lower employer contributions due to the prudent valuations.

24.14. DP said there was a risk that the HR Managers did not generally understand the requirements of their employers with regards to pensionable pay and that this would mean the issue of employer data was caused by institutional shortcomings, rather than just common errors associated with data entry. She suggested the Fund ought to be providing employers with straightforward guidance on pensions.

24.15. The Chair observed the risk that leaving employees as "Status 2" (undecided leaver) within the Heywoods pension administration system, where it is not clear from an employer's data whether they have left or not, could result in them being left in limbo and lead to errors in the data held by the administering authority. MK agreed that this was creating unforced errors leading to breaches of the regulations and was a problem for a lot of funds. The Board discussed the benefits of turning off this status in the system.

24.16. The Chair observed that matching data held by the administering authority and employers could involve matching up several data points to ensure it is accurate, e.g., date of birth, National Insurance number, pension scheme number, etc. and that this could create a large amount of work for employers and it should be reviewed under the Data Improvement Programme whether all of this identification data is needed in the annual returns, or whether fewer items would be more efficient in matching records.

24.17. LW asked why the software currently in place does not flag up the differences in data help by employers with that of the Fund already.

24.18. Pete Riedel (PR) explained that the systems are not linked together so data held on an employee can appear to be 'correct' on both systems and it is only when employers provide the data on an annual basis that errors become apparent. The data improvement programme and subsequent monthly returns via iConnect will help resolve this issue by ensuring the software programmes regularly 'talk' to each other. Andrew Marson (AM) added that the administering authority needs to be able to liaise regularly with the employers as they hold the correct payroll data on their employees from which their pensions benefits can be correctly calculated by Orbis PAT. PR said it is possible for an employer to be paying the pension contributions towards its employees but that their details have not been passed on to the administering authority meaning their pension benefits they are entitled would not be calculated correctly.

24.19. LW suggested that employers should be made more liable for errors in the data they provide.

24.20. AM agreed but the administering authority also needed a greater understanding of employers' issues and capacity with regard to managing their pension obligations.

24.21. The Board discussed the proposed structure of the working group and officer membership. The Chair recommended the addition of a 'Steering Group' comprising himself, IG (as Scheme Manager) and the Chair of the Pension Committee that would sign off on the milestones of the working group.

24.22. It was agreed to discuss the proposals further outside the meeting for approval at the Pensions Committee.

24.23. The Board RESOLVED to:

1) note the report;

2) agree to nominate Diane Pogson and Stephen Osborn to join the Working Group.

25 PENSION ADMINISTRATION UPDATES

25.1. The Board considered an update on matters relating to pension administration.

25.2. The Chair asked whether officers were confident that the discrepancy between the figures of 22,901 active members as of 31 March 2019 and the 21,316 ABS issued on 31 August was not evidence of a further breach.

25.3. AM said he was confident that this discrepancy was due to the number of active members joining, leaving or retiring, and the fact that the number of active members will always include a certain number of new employees who are not entitled to an ABS until more than one year's service. He also said that people who leave after 31 March are not sent both a leavers' statement and ABS, even though they technically are entitled to an ABS, as this would be confusing. This was recognised practice by the Pensions Regulator. AM explained that the Working Group would be developing the ABS process so that in future years the Pensions Administration Team would be able to produce a breakdown of the discrepancy between the two figures.

25.4. AM explained that the liabilities to the ESPF as a result of Guaranteed Minimum Pension (GMP) Reconciliation programme would be known in the next few weeks, subject to confirmation from HM Revenue & Customs (HMRC). The next stage would be the reconciliation phase involving engagement with members and employers to deal with instances of arrears and overpayments. This would require informing employers about the process as employees are likely to contact them in the first instance.

25.5. SO asked how large the liabilities are likely to be and who would need to plug any shortfall.

25.6. The Chair of the Pension Committee said that Hymans Robertson estimated an average of 1% of the value across the LGPS funds, which they had not considered a material difference. The Chair explained that if pensioners had been overpaid then they will need to fund the shortfall in contributions.

25.7. LW suggested that a lot of communications work would be needed if pensioners find out they are going to be receiving less income. Employers and the Fund are going to need to be clear about the advice and information they give to scheme members. AM agreed that member engagement was crucial as there is a risk of reputational damage.

25.8. The Board RESOLVED to:

1) note the report; and

2) request that future administration reports include the number of members listed as unconfirmed leavers in "Status 2", including the number who have come on and off of this status and, if possible, a breakdown by employers, and by how long the members have been in this status

26 PENSION FUND RISK REGISTER

26.1. The Board considered the Fund's risk register.

26.2. It was pointed out it had not been changed since the previous version seen by the Board.

26.3. The Board RESOLVED to note the report.

27 WORK PROGRAMME

27.1. The Board considered its work programme.

27.2. The Board RESOLVED to:

1) note the report; and

2) noted that the Communications Strategy is due to be considered at the next meeting of the Board. The Chair asked for the latest draft version to be circulated so that members of the Board could comment before a final draft is presented to the next meeting.

28 EXCLUSION OF THE PUBLIC AND PRESS

28.1 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 1 and 3 of Part 1 of the Local Government Act 1972 (as amended), namely information relating to an individual and the financial or business affairs of any particular person (including the authority holding that information).

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

29.1. The Board considered an update on the activities undertaken by the ACCESS Pool.

29.2. IG explained that the establishment of ACCESS had taken considerable officer time from the involved administering authorities but that it was expected to reduce in future. The Chair of the Pension Committee suggested there would still be a role of administering authority officers in advising Link on the investment managers likely to be preferred by the local pension committees, even though the process of choosing investment managers had been delegated to Link.

29.3. The Board RESOLVED to note the report.

30 ANY OTHER EXEMPT ITEMS PREVIOUSLY NOTIFIED UNDER AGENDA ITEM 4

30.1. The Board considered an exempt urgent item on the Fund's Breaches Log.

30.2. The Chair said that breaches are categorised as red, amber or green. Red breaches must be reported to the regulator whereas amber breaches may be reported. The Board discussed the pros and cons of reporting all outstanding breaches to the Pensions Regulator on the breaches log in the interests of openness and transparency.

30.3. The Chair commented that as the Board had not seen the log before the categorisation in the log was not necessarily as the Board might allocate the breaches. In general a number were marked as red which the Board might consider as Amber.

30.4. The Chair said that the breaches on the log fell into three categories.

- i) Breaches relating to data issues, which he planned to write to the Regulator about jointly with the Scheme Manager explaining the Fund's approach to improving the quality of data within the Fund's records through the proposed Working Group
- ii) Breaches that related to individuals, or small groups of individuals, that were one-off and could be considered immaterial
- iii) A long-standing, since 2015, significant single breach that required the Scheme Manager and the Pensions Committee to resolve and decide on whether and to whom it should be reported.

30.5. IG said that the Pensions Regulator would expect any breach report to include an action plan for improvement and is likely to be reassured if it appears that the causes of the breach are being proactively addressed by the Fund. IG said that the breaches log is currently being audited and the status of some of the breaches was not accurate. He said that future versions would be reported to the Board.

30.6. The Board RESOLVED to request that the breaches log is considered as a standing item of future Board meetings.

The meeting ended at 1.20 pm.

Ray Martin (Chair)