

**Report to:** Pension Committee

**Date of meeting:** 28 September 2021

**By:** Chief Finance Officer

**Title:** Governance Report

**Purpose:** To provide an update on various governance workstreams completed and changes effecting Local Government Pension Schemes and the East Sussex Pension Fund

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## **RECOMMENDATIONS**

The Pension Committee is recommended to:

- 1) Note the latest changes in the regulatory environment
  - 2) Note the change in membership of the Pension Board and Committee
  - 3) Note the update on the work of the McCloud Working Group
  - 4) Approve the changes to the conflict of interest policy (Appendix 1)
  - 5) Note the changes to the abatement policy (Appendix 2)
  - 6) Approve the changes in relation to General Data Protection Regulation (GDPR) on the Fund's Privacy notices (Appendices 3 & 4)
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### **1. Background**

1.1 This report is brought to the Pension Committee to provide an update on the steps being taken to adopt good practice and ensure compliance with regulatory requirements for the East Sussex Pension Fund (the Fund or ESPF).

1.2 This report outlines changes to Pension Fund policy for comment and approval.

### **2. Regulatory change**

2.1 In July 2021 the Department for Work and Pensions launched a consultation on proposed regulations connected to the Financial Guidance and Claims Act 2018. The new regulations are intended to require Trustees and Scheme Managers to point members towards appropriate guidance when seeking to exercise their pension freedoms.

2.2 The so-called "stronger nudge" would apply to members aged 50 and over seeking to transfer out of the Fund. The consultation ended in September 2021 is available on the gov.uk website. Officers will update the Board and Committee with any changes to regulation resulting from this consultation when available.

### **3. Change to the Pension Board and Committee**

3.1 Following the Local Elections in May 2021 a member of the Pension Board, Cllr. Collier, was elected to the East Sussex County Council. Cllr. Collier was the Borough and District Councils Employer Representative on the Pension Board.

3.2 Cllr. Collier resigned his position on the Pension Board following his change of role and the various Borough and District Councils were asked to nominate a replacement. Three such nominations were received.

3.3 One of the people nominated withdrew from the process and the remaining nominees were invited to meet virtually with the Chair of the Pension Board and the Pensions Manager – Governance and Compliance to discuss the nature of the role and their suitability for the position.

3.4 The Governance Committee, which is responsible for the appointment of new members to the Pension Board, met in July 2021 and determined that Cllr. Illingworth of Wealden District Council should be appointed. He has met with the Head of Pensions, Pensions Manager – Governance and Compliance and the Pensions Training Co-ordinator to discuss his training needs to help meet legislative requirements.

3.5 In addition to the changes to Pension Board, there is a change in membership to the Pension Committee. Cllr Adeniji requested to step down from the Pension Committee in July 2021 and has been replaced with Cllr Hollidge from the same political group to comply with the legislative requirement for political balance on local authority committees.

#### **4. Conflicts of Interest Policy**

4.1 The existing conflicts of interest policy approved in November 2020 has been reviewed and amended to note the risk associated with a perceived conflict of interest; in addition to actual and potential conflicts of interest. Additionally, references to officers having responsibilities to the Orbis partnership have been removed as the Fund is no longer party to that arrangement. The revised policy is included in **Appendix 1**.

#### **5. Abatement policy**

5.1 At the June 2021 meeting, the Pension Committee determined that the Administering Authority should no longer abate the pensions of members who re-enter the workplace after retiring. The decision was taken that abatement would cease as of the start of the 2021/22 financial year.

5.2 Officers have amended the Abatement Policy to action the Pension Committee's decision. The amended document is included as **Appendix 2**. The document still refers to members informing the Administering Authority if they are an ill health tier 3 member.

5.3 Implementing the new abatement strategy, a notification was placed on the Fund website advising of the policy change inviting anyone effected to contact the team. In addition, the Pension Administration Team (PAT) have reviewed any case where a suspension is in place and contacted the individuals advising their pension would be reinstated from April 2021 and their backdated and pension payments were included in the August payroll. There were 20 cases of suspended pensions from Abatement, now in payment.

#### **6. McCloud Working Group**

6.1 This Group has not met since April 2021. The Government announced in May 2021 an intention to consult on its proposals. Further information will be required before the most appropriate response for the Administering Authority can be determined. Information has been requested from employers to support this with a response deadline of October 2021.

6.2 An update email was sent to all members of the working group on 1 June 2021 as the Local Government Minister made a [Written Ministerial Statement on McCloud and the LGPS](#). The

statement confirmed the key changes to scheme regulations that will be made to remove age discrimination from the LGPS. The Statement confirms

- The age requirement for underpin protection will be removed
- A member will not need to leave with an immediate entitlement to benefits to qualify for underpin protection
- The remedy period will end on 31 March 2022
- The underpin calculation will be based on final pay at the underpin date, even if this is after 31 March 2022
- There will be two stages to the underpin calculation: the first on the underpin date which is the date of leaving or age 65, if earlier, the second when the benefits are paid
- The regulations will be retrospective to 1 April 2014

A degree of uncertainty remains for some elements where the Statement is silent, however, it is expected that Ministry of Housing Communities and Local Government (MHCLG) will issue a full response to the consultation and to publish draft regulations later this year. Further details will be shared with the working group, Board and Committee as it becomes relevant.

## **7. Communicating with Pension Board Representatives**

7.1 One of the recommendations from the internal audit on Governance in 2020/21 was that despite the Pension Board being the stakeholder representatives for Fund members and Fund employers there were no details published on how those stakeholders could contact their representative should they wish to, reducing the ability to represent those stakeholders.

7.2 Providing contact details for individual Pension Board members is not a legal requirement and as Pension Board members are not employed by the Council or Pension Fund, they do not have official inboxes to receive communication. The Fund was fully compliant with the regulations without these contact details, however agreed that in the best interest of stakeholders, and the ability for Board members to be truly representative, a solution should be considered.

7.3 The Communications Working Group discussed the most suitable way to enable more direct communications and established that a mailbox monitored by officers to forward onto the Chair of the Board or a named Board member as relevant, would be the most effective manner to allow easy communication without disclosing personal email addresses. Details of this mailbox will be included in the Fund's new website for transparency to stakeholders.

## **8. Privacy Statements and Data Retention**

8.1 As part of the internal audits discussed at the June 2021 Board and Committee meetings, it was determined that both a full and summary privacy notice should be published on the Council's website, whereas previously only a full version was available.

8.2 The new summary privacy notice has been created and will be published when the Fund's new website is launched, and the full privacy notice has been updated to reflect the current data arrangements within the Fund. A copy of the privacy statements can be found in **Appendix 3 and 4.**

8.3 As part of the review of the privacy statements changes were also made to the retention period for member data. Previously it was stated that data would be held for 15 years after a benefit ceased to be payable. This has been shown not to be fit for purpose. For example, the legal case known as “Lloyds 3”, which resulted in the review of Guaranteed Minimum Pension, required records up to around 30 years old to be amended.

8.4 Going forward the Administering Authority will retain member data until such a time that is it satisfied that no claim can be made upon it. A request has been made to East Sussex County Council to amend the retention policy in line with this change. Due to Council timeframes and the relevant committee meeting bi-annually, this change is expected to be made in January 2022.

## **9. Conclusion**

9.1 The Pension Committee is recommended to approve the amended policies as outlined in this report to ensure the Fund operates effectively; note the proposed legislative change and the work of the McCloud Working Group.

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