

Report to: Pension Board

Date of meeting: 5 November 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

RECOMMENDATIONS

The Pension Board is recommended to:

- 1) Note the change to the central government department with oversight of Local Government;
 - 2) Note The Pensions Regulator has requested the annual Scheme Return with work on this being in progress;
 - 3) Agree the draft terms of reference of the Communications working group (Appendix 1);
 - 4) Endorse the draft terms of reference of the Administration working group; and
 - 5) Discuss membership of the Administration working group
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1. Background

1.1 This report is brought to the Pension Board 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 noting.

2. Ministerial change

2.1 There have been changes made to the distribution of ministerial responsibilities in central government.

2.2 Guy Opperman MP has retained his position as Pensions Minister and Thérèse Coffey MP remains as the Secretary of State for Work and Pensions.

2.3 The Ministry of Housing, Communities and Local Government has been renamed as the Department for Levelling Up, Housing and Communities, with Michael Gove MP replacing Robert Jenrick MP as Secretary of State.

3. Changes in Legislation and Regulation

3.1 The Pensions Regulator (TPR) launched a consultation in September 2021 on how it will exercise the new powers introduced by the Pension Schemes Act 2021. The consultation ends on 22 December 2021 and can be found at <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/new-powers-consultation-document.ashx>. The final policy is expected to be produced in 2022.

3.2 The consultation covers overlapping regulatory and criminal powers, the new ability to apply high fines and the expanded information gathering powers. TPR has said it will not pursue both criminal and regulatory penalties for the same act.

3.3 Where there is a breach of legislation, excluding employer related investments for private occupational schemes, TPR would initially seek to rectify the situation using an Improvement Notice unless there are aggravating factors. This is consistent with the current approach but TPR does now have a wider range of sanctions available to it.

3.4 High fines can relate to a number of issues. For the purposes of the Fund these would be limited to the failure to provide information about a Notifiable Event or misleading TPR. It is of note the new fines are significantly higher than those which could be previously levied.

3.5 When TPR seeks information from a scheme it would typically do so on a voluntary basis unless there is good reason not to, for example wishing to interview a person suspected of fraud under caution. The consultation outlines the circumstances its formal powers apply and how it would approach any failure to comply with formal use of powers.

4. Scheme Return

4.1 TPR has sent a request for this year's scheme return to be completed by 10 November 2021. The return includes:-

- Updated member statistics
- Member data quality scores
- Details of all employers
- Details of the Fund's insurers and auditors.

4.2 Completing the Scheme Return is a legal obligation. Failure to do so can result in a fine being applied by TPR. To date only one Public Service Pension Scheme has received such a fine. The Fund submitted the return on 20 October 2021.

5. Working Group Terms of Reference

5.1 The Fund has a number of working groups; these groups have agreed terms of reference setting out the objectives and membership of the working group. The Fund has recently set up a Communication working group at the request of the Board. The draft terms of reference are included in **Appendix 1** and, as it is a Board-led working group, are recommended for approval by the Board.

5.2 The Funds Annual Benefit Statement (ABS) and Data Improvement (DIP) working group was set up in 2019, this working group has now reached the end of its original purpose as outlined in the terms of reference approved in November 2019. In its place officers and the working group recommend this working group is replaced with an Administration working group. The Administration Working Group is an officer-led working group. The draft terms of reference are included in **Appendix 2** for endorsement by the Board, and by the Pension Committee on 25th November.

5.3 Board and Committee members are invited to be members of the Administration Working Group. Board members are asked to come forward if they wish to join the administration working group.

6 Conclusion

6.1 The Board is recommended to note the changes made by central government which impacts the people and departments connected to pensions and Local Government.

6.2 The Board is recommended to note the completion of TPR scheme return to meet the Fund's duties.

6.3 The Board is recommended to agree the draft terms of reference of the Communications Working Group, endorse the terms of reference of the Administration Working Group, and consider board representation on the Administration working group.

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