

**Report to:** Pension Board

**Date of meeting:** 10 February 2022

**By:** Chief Finance Officer

**Title:** Governance Report

**Purpose:** To provide an update on various governance workstreams completed and changes effecting the Local Government Pension Scheme (LGPS) and Fund

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## **RECOMMENDATIONS**

The Pension Board is recommended to:

- 1) **Note the change to normal minimum pension age and state pension age**
  - 2) **Note the possible additional requirement for dealing with transfer requests involving Additional Voluntary Contribution (AVC) benefits**
  - 3) **Note the change to audit deadlines**
  - 4) **Note the Government Actuary's Department (GAD) report on the 2019 Valuation across the LGPS**
  - 5) **Note the ongoing steps being taken to fill the Pension Board vacancy**
  - 6) **Consider a possible approach which may improve member representation in the ACCESS Pool**
  - 7) **Indicate if Board members would make use of Hymans Robertson's LGPS Learning Academy**
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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. Changes in Legislation and Regulation**

2.1 On 6 April 2028 the Normal Minimum Pension Age (NMPA) will increase from 55 to 57. This will mean members will not normally be able to access their benefits until later in life. This will not apply to Police, Armed Forces and Firefighter Schemes. The change to NMPA coincides with the increase of State Pension Age to 67.

2.2 It is of note that the LGPS normal pension age is tied to State Pension Age so the age members will be able to claim a full benefit from the Fund will increase.

2.3 For members that already had a right to claim a benefit at, or before, age 55 on 4 November 2021, protections will be put in place so they are not disadvantaged. The protections will stay in place even if the member transfers to another scheme, meaning we will need to be aware of potential protections in place on transfers in.

2.4 The Department for Work and Pensions (DWP) have announced a review into State Pension Age. Officers will monitor the outcome of the review and report to both Pension Board and Pension Committee as appropriate.

2.5 A Private Member's Bill dealing with Automatic Enrolment has been scheduled for a second reading on 25 February 2022. The purpose of the Bill is to extend automatic enrolment by extending it to jobholders from age 18 and removing the lower earnings threshold. This does not impact on the duties of the Fund but will impact on our employers who would be expected to enrol more people into the Fund should the Bill become law.

2.6 DWP has also published a response to the latest consultation on the so called "stronger nudge". Stronger nudge requires Trustees and Scheme Managers to offer to book a call with Moneyhelper where that member is seeking to access a Defined Contribution (DC) pot, with some exceptions. It is believed the intent behind the proposed legislation was for it to apply to DC Schemes only but it seems likely it will also affect the Fund where members have AVC benefits. Officers will continue to monitor the requirements ahead of the proposed legislation becoming law and taking effect, most likely in June 2022.

2.7 The Director General of the Department for Levelling Up, Housing and Communities has written to all s151 Officers about a change to audit dates. The 2021/22 audit deadline is now 30 November 2022 and it will then be 30 September each year until 2027/28. In spite of the change of dates, we are working with Grant Thornton to ensure that the audit of the accounts is completed by the end of September 2022

### **3. Section13 report by GAD**

3.1 On 16 December 2021 the Government Actuary's Department (GAD) issued a report under section 13 (s.13) Public Service Pensions Act 2013. This report relates to the 2019 Triennial Valuation.

3.2 GAD's report is based on 4 objectives which are to determine:

- If Fund Valuations are compliant with Scheme Regulations.
- Whether Fund Valuations are inconsistent with those of other Funds.
- If employer contributions are set at an appropriate level to ensure the solvency of the Pension Fund.
- Whether employer contributions are set at an appropriate level to ensure the long-term cost efficiency of the Scheme so far as it relates to the individual Fund.

3.3 In relation to consistency, GAD found that whilst some decision making across the cohort could be clearer the approaches taken to the 2019 Valuation by the various Funds and the 4 actuary firms they used were consistent with the Regulations.

3.4 GAD has identified some inconsistencies in approach across the cohort, setting a recommendation to the Scheme Advisory Board (SAB) in this area. All recommendations are detailed in paragraph 3.7 of this report. In addition to the formal recommendation, GAD has commented on the value of providing a greater level of explanation around information provided in Valuation reports to improve stakeholder understanding.

3.5 There was some concerns raised by GAD around Funds that had a deficit decreasing employer contributions at a time when recovery plans were being extended. ESPF was not named as having such a concern and was in surplus according to both the local measures and SAB standard model.

3.6 GAD identified 4 Funds where there is a concern relating to long term efficiency. ESPF is not named as one of the 4 Funds in question.

3.7 The report makes a number of recommendations for the Scheme Advisory Board and fund actuaries to take into account. These are:

- The Scheme Advisory Board should consider the impact of inconsistency on the funds, participating employers and other stakeholders. It should specifically consider whether a consistent approach needs to be adopted for conversions to academies, and for assessing the impact of emerging issues including McCloud.
- The Scheme Advisory Board should consider how all funds ensure that the deficit recovery plan can be demonstrated to be a continuation of the previous plan, after allowing for actual fund experience.
- Fund actuaries should provide additional information about total contributions, discount rates and reconciling deficit recovery plans in the dashboard prepared as part of the Valuation process.
- The Scheme Advisory Board should review asset transfer arrangements from local authorities to ensure that appropriate governance is in place around any such transfers to achieve long term cost efficiency.

3.8 There does appear to be a discrepancy between how funds are measuring funding levels against the SAB standard. GAD identified that it would expect the local funding level to be ranked broadly similarly to that using the SAB standardisation, but this is not the case. From an ESPF perspective, locally the Fund believed it was 107% funded (ranking at 8<sup>th</sup> out of the 88 funds in the LGPS) as opposed to being approximately 120% funded (ranked 17<sup>th</sup>) when using the SAB standardised model. However, from both perspectives ESPF is currently fully funded. There are advantages to taking a more prudent approach to Valuation as it improves the likelihood of being in a position to pay member benefits as they fall due.

3.9 There is also a discrepancy across the cohort in methodologies and assumptions adopted by the various Fund actuaries, although the range of results is reported as being narrower than in 2016 which suggests a greater consistency now exists.

3.10 GAD has not identified that ESPF has specific concerns around long term funding. There is a risk that the wider LGPS may become underfunded in the next 20 years but it is of note that each Fund is currently pursuing its own funding strategy.

3.11 In 2019 funds advised by Barnett Waddingham had higher levels of outperformance built into the discount rate. Hymans Robertson had some of the lowest levels of outperformance built into the discount rate. If this trend continues it is likely we would see a change in the approach to setting the Fund discount rate following the change of actuary advising the ESPF.

#### **4. Pension Board vacancy**

4.1 Following the decision of Diane Pogson to stand down from her position on the Pension Board and not seek a new term there is currently a vacancy for a member representative from our Pensioner members.

4.2 All Pensioner Members were contacted in October 2021 and asked to send in expressions of interest if they wanted to be considered for the vacant position. The Fund received 16 expressions of interest by the deadline.

4.3 The 16 nominees were invited to provide a CV and a 500 word statement explaining why they would be suitable for joining the Pension Board. We received 6 responses to this request and 3 people were invited to attend a meeting with the Pension Board Chair and Pensions Manager – Governance and Compliance. The meetings were scheduled for 27 and 28 January 2022.

4.4 Following the meetings a recommendation will be made to the East Sussex County Council Governance Committee regarding who should be appointed and the length of their term. The

Governance Committee is the body which has the authority to make appointments to the Pension Board. Its next meeting is on 1 March 2022.

4.5 Officers are aware that Diane Pogson was a vice-chair of the Pension Board. Once the full contingent of member representatives are in place they will be approached separately regarding becoming a vice-chair. Currently Stephen Osborne is the vice-chair amongst the employer representatives.

## **5 ACCESS Pool**

5.1 There have been reports in the media regarding governance failures at the Access Pool. These relate to a failure to implement a policy on member representation that was agreed in 2017 and criticism for this from the Scheme Advisory Board (SAB).

5.2 At present ACCESS is the only pool not to have implemented member representation and is being encouraged to do so by the SAB.

5.3 In March 2017 the SAB agreed that Investment Pools should involve member and employer representatives to improve transparency. It was noted that this should include the consideration of direct representation on oversight structures.

5.4 There will be a discussion at the ACCESS Joint Committee (JC) in March on this topic and it is anticipated a proposal will be put forward to consider a scheme for member representation.

5.5 The Pension Board is asked to consider how such representation could be achieved for the 11 Councils within the ACCESS pool, to support the establishment of a Fund view on this matter, so it can be represented to the Pool via its representative as part of Pool deliberation.

5.6 Other governance related work that is being undertaken by ACCESS has been taking place as a result of the review of the ACCESS Governance Manual. The Governance Manual is there to support the Inter Authority Agreement (IAA) which is the primary document governing the interaction between the ACCESS Authorities and the role of the Joint Committee and Section 151 officers. The IAA is the legal agreement between the 11 Authorities that sets out the statutory responsibilities of ACCESS. The Governance technical leads were asked to review the Governance Manual following agreement by the Section 151 Officer Group.

5.7 Following an initial review of the manual and conversations with all participating Authorities, the technical leads identified several themes both regarding the Governance Manual itself and wider governance of the Pool. As a result a project was launched to focus on areas of highest risk to the delivery of the ACCESS objectives and the governance, policies and procedures needed to achieve them. The key time critical tasks within the ACCESS Business Plan were considered to be:

- implementation of approach to alternative / non-listed assets;
- the development and implementation of Environmental, Social and Governance (ESG) / Responsible Investment (RI) guidance;
- consideration of the future arrangements for Operator Services to the ACCESS Pool; and
- determination of future sub-funds.

5.8 Once progress had been made in relation to these themes it was proposed, a third party is engaged to carry out an audit of ACCESS governance as recommended by the Governance Working Group.

5.9 The ESG/RI Guidelines are being reviewed due to the changing nature of this aspect of the investment governance. ACCESS is supported by Minerva in drafting the guidelines. The document is intended to be a reflection of the collective views of the partner funds to create a set of RI Guidelines for the Pool. Under the LGPS Regulations, each Administering Authority retains responsibility for complying with the Investment Regulations (which is the statutory source of the requirement to take ESG factors into account). Similarly, RI is an aspect of discharging fiduciary duties which are the remit of Administering Authorities, not the Pool.

5.10 Therefore, the ESG/RI Guidelines do not go beyond policies already in place or intended to be in place at each Council and do not supersede or replace the Investment Strategy Statement or policies of each Administering Authority. Instead, ESG/RI Guidelines are considered complementary to those documents. The draft guidelines have been considered by the Pension Committee at its meeting in November. Other ACCESS authorities are currently reviewing the document prior to the next JC meeting 7 March 2022 for the next stage of the approval process.

5.11 At the last meeting of the ACCESS JC in December 2021, agreement was reached on a set of criteria for future sub fund requests to be considered. This will enable ACCESS to provide a clear process around how a request for a new sub fund will be reviewed against and the criteria that needs to be satisfied. The guiding principles are:

1. Strategy - The strategy adds to, and does not unnecessarily duplicate, the existing sub-funds that ACCESS have already created.
2. Availability - The strategy must be open and capacity available for new investors.
3. Value for money - The new sub-fund will deliver cost savings to the requesting Authority(ies) and other ACCESS members.
4. Scale and commitment - Requesting Authority(ies) should align with the primary or the secondary guidelines on scale and commitment to be considered as “suitably meaningful”.
5. Investment manager relationships - This section facilitates a discussion regarding how a recommended Investment Manager enhances the Pool: for example, it may be the proposed sub-fund is managed by an Investment Manager already managing a sub-fund(s) within the Pool and will thereby further deepen the relationship with ACCESS and may lead to incremental fee savings.
6. Reasonableness test - To preserve the design of the ACS and ACCESS’s overall pooling model, to minimise cost and complexity, it should be the obligation of any requesting Authority that they satisfy themselves and the other ACCESS Authorities that their request is reasonable.

5.12 The current Operator Agreement will continue until its end date, 5 March 2025. The Joint Committee received a proposed timeline and rationale at its last meeting. A final recommendation will be made to the JC once the procurement lead authority is identified and has reviewed the proposals. The steps that have been proposed include:

1. **Procurement Lead Authority agreed**
2. **Inter Authority Agreement review**
3. **Preparation**
4. **Formal procurement**

and, in the event of change of Operator,

5. **Preparation for transition:**
6. **New contract commencement**
7. **Transition of services to new Operator**

5.13 Essex County Council are currently undertaking a Internal Audit of ACCESS as the Host Authority. The objective of this audit is to evaluate the control design and test the operating effectiveness of key controls in place over the ACCESS Support Unit (ASU). The audit will cover the period from as far as 12 months prior to the time of the audit. It was agreed as part of the 2020/21 Internal Audit review that the 2021/22 review will seek input from the administering authorities Internal Audit leads when drawing up the terms of reference.

## **6 Support for future meetings**

6.1 Hymans Robertson offers a suite of videos which can be used for training purposes. Access is via an agreed number of licences. Officers believe it is possible members of both the Board and Committee may find this resource useful as they will be able to view videos, and complete the connecting tests, which are related to agendas of future meetings to help understand the background to items being discussed.

6.2 Officers estimate that 15 licences would be required. This would come at a cost of £3,750 per year before VAT. The contract would be for a minimum period of 2 years.

6.3 Board members are asked to indicate if this is a facility to which they would like access. Committee members will be asked the same question.

## **7 Conclusion**

7.1 The Board is asked to note the changes to normal minimum pension age and state pension age, transfer requests and audit deadlines.

7.2 The Board is asked to note the contents of the report issued by GAD in relation to the 2019 Valuation.

7.3 The Board is also asked to note the progress being made in filling the vacancy for the pensioner representative amongst the member representatives on the Pension Board and indicate if members would make sure of the Learning Academy.

7.4 The Board is also asked to consider how the ACCESS pool could improve scheme member representation for the Fund to feed back through its representative when potential changes are being discussed.

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