

Report to: Pension Committee

Date of meeting: 22 February 2023

By: Chief Finance Officer

Title: Governance Report

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

RECOMMENDATIONS

The Pension Committee is recommended to:

1. Note the updates
 2. Approve the updated Administering Authority Discretions policy
 3. Approve the draft Pensions Administration Strategy for consultation with employers
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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 noting.

2 Governance updates

2.1 HM Revenue and Customs has run a consultation connected to the proposed McCloud remedy. This consultation covers the tax implications of changes to benefits because of the rectification. Broadly, with a few exceptions, additional payments are treated as authorised payments and as the same kind of payment as the original one. The Local Government Association has responded to this consultation. A copy of the response is included as **Appendix 1**.

2.2 HM Treasury has also released Directions covering what compensation will be permissible and how this would need to be calculated, included the provision for the payment of interest.

3 McCloud Working Group

3.1 Following Stephen Osborn standing down from the Pension Board, there is currently no employer representative sitting on this group. Pension Board members are asked to indicate if they would like to be invited to future meetings.

3.2 The group met on 5 January 2023 and discussed:

- 3.2.1 The proposed remedy that will be available to all members with active service as at 31 March 2012.
- 3.2.2 Some Teachers will have a back dated entitlement to benefits within the LGPS in relation to part time service where this is not pensionable service under the Teachers' Pension Scheme.
- 3.2.3 Officers have been working closely with our pensions software provider to test the quality of the data obtained during the collection exercise run in 2022 and develop guides and reports.
- 3.2.4 It was noted that not all employers had provided the information being sought and Lynda Walker agreed to provide assistance through her Trade Union in chasing responses.

3.2.5 The consultation by HMRC together with the ongoing legal case relating to who will cover the costs of implementing the remedy.

3.3 Further information on data collection is included in the Administration report.

4 Pension Board membership

4.1 Since Stephen Osborn announced he would be standing down from his role on the Pension Board, Officers have contacted all (with the exception of ESCC, BHCC and District & Borough Councils) employers notifying them of the forthcoming vacancy. Employers were asked to put forward the names of people they would like to nominate to become an Employer Representative of the Board.

4.2 Only one nomination was received following the initial request, so an extension was provided until 31 January 2023 to allow employers more time to nominate suitable people and provide greater choice and competition for the vacancy. No further nominations were received and an interview with the nominee was arranged for 17 February 2023.

4.3 The terms for both Lynda Walker and Nicoletta Palermo are due to come to an end in April 2023. Lynda Walker has expressed a desire to continue in the role and the Governance Committee on 24 January 2023 approved an extension to her term for 2 years to 31 March 2025.

4.4 Nicoletta Palermo has decided to step down from the role on the Pension Board when her current term expires. Officers are seeking nominations for a new representative to fill this vacancy from the GMB Union. This is the Trade Union which previously proposed Nicoletta Palermo's inclusion on the Pension Board and liaising with them will maintain the current balance.

4.5 The role of the Chair of the Pension Board is due for renewal in 2023. Officers have posted adverts in the media to seek applications, the end date for applications is 22 February 2023. Interviews will take place with shortlisted applicants in March.

5 Pension Committee Structure

5.1 The Pension Board requested on 27 May 2022 that the Governance Committee review the governance arrangements of the Pension Committee with regards representation, taking into account other examples. This paper was presented and considered on 24 January 2023. The Governance Committee following consideration of detailed legal advice and discussion, agreed to continue with the existing structure of the Pension Committee. The Committee also agreed to review the structure of the Committee if there is a change in the law or statutory guidance.

6 Administering Authority discretions

6.1 At the 15 November 2023 meeting, the Pension Board requested more information be included in the 'Existing Policy' section of **Appendix 2** to explain where there is no formal policy what actions would normally be taken. This document has been updated, changes to the previous version are highlighted in yellow.

6.2 As part of this exercise Officers will be proposing to Committee that a policy be developed to require a self-assessment medical questionnaire to be provided when a member applies to pay an Additional Pension Contribution or Shared Cost Annual Pension Contribution. If there is an indication of ill health, a satisfactory Occupational Health Review would then be required. This is to mitigate the risk to the Fund incurring significant increases to liabilities.

7 Pension Administration Strategy

7.1 The Pension Administration Strategy (PAS) is due for review and, if the Pension Board and Pension Committee agree with the proposed content, a consultation will be arranged with Employers.

7.2 The proposed layout of the PAS has changed significantly from the current document, although the content is similar. The reason for this is to comply with accessibility requirements. The draft document is included at **Appendix 3**.

7.3 The proposed changes to the content are:

- 7.3.1 The targets for the Pension Administration Team (PAT) section be amended to reflect the actual Key Performance Indicators (KPI's) that are in place and being reported quarterly to the Board and Committee. The previous table for administration targets remains in place which includes a wider range of tasks the PAT team complete on a daily basis, to support scheme employer and scheme members understanding expectations of when tasks might be completed. These targets have not been changed from the approved strategy in June 2020 and are to align with the Fund's expected customer services standards for single activities. A review will take place over the next year to ensure the targets are consistent with the processes that are followed by PAT and with any changes are incorporated resulting from the move towards data provision by employers through i-Connect where significant volumes of data is received in a single monthly upload. The PAS will be update if there is significant changes resulting from this review and changes due to the introduction of i-Connect.
- 7.3.2 PAT have been talking about a review of the actual target days for some KPI tasks. Recognising that targets need to be challenging but achievable and, where missed, explainable. The outcome of the review is a proposal to change only one KPI target. Following a significant change in process for transfer out settlement by the Pension Regulator which introduced much more stringent, time consuming, checks and tests including red and amber flags as well as possible referrals to Money and Pensions Service. **The PAT requests that the target for payments for transfers outs is extended from 90% achieved within 10 days, aggregation 25 days to 90% within 15 days, aggregation 25 days.**
- 7.3.3 **The introduction of a cost for processing multiple early retirement forms for the same member.** This is to mitigate the risk of the Administration Team being asked to provide variants on the same data an excessive number of times and taking resources from other workstreams.
- 7.3.4 **The introduction of a cost for dealing with employer's auditor queries.** In 2022 a small number of Employers external auditors started to raise questions of the Pension Fund in relation to the IAS19 accounting reports regarding the valuation of pension assets and liabilities to be shown in the employer's accounts. In these cases, the audit firms were threatening to qualify the employer's accounts if the Fund does not provide information. These requests are new and only relevant to a small subset of the employer base and take time and resources away from other workstreams that benefit all employers and members. In some instances, such questions could be answered by other sources by the auditors. A charge is therefore recommended to mitigate this risk and to compensate the Fund for the time spent dealing with queries and ensure there is no cross funding by employers where their external auditors are not trying to audit the Fund.
- 7.3.5 **The introduction of a specific charge for failing to provide data required in relation to i-Connect pension contributions, along with the failure to provide information sought in relation to projects being undertaken by Officers.** Employers not providing key information impacts the Fund's ability to correctly administer members pensions and the need to chase information can also take disproportionate levels of resourcing.
- 7.3.6 **A new section covering requirements relating to i-Connect has been introduced to ensure clarity.**

7.4 The Pension Committee should note that PAT KPIs are touched upon in the Administration report, where the KPI's are compared to a handful of LGPS funds where data has been shared.

8 Conclusion

8.1 The Committee is asked to note the updates in this report, approve the updated Administering Authority Discretions policy and approve the draft Pensions Administration Strategy for consultation with employers.

IAN GUTSELL
Chief Finance Officer

Contact Officer: Mike Burton, Pensions Manager Governance and Compliance
Email: Michael.Burton@eastsussex.gov.uk