

PUBLIC

MINUTES of a meeting of the **PENSIONS AND INVESTMENT COMMITTEE** held at County Hall, Matlock on 8 May 2019

PRESENT

Councillor N Atkin (in the Chair)

Derbyshire County Council

Councillors R Ashton, J Boulton, P Makin, S Marshall-Clarke, R Mihaly, B Ridgway and G Wharmby (substitute Member)

Derby City Council

Councillor M Carr

Derbyshire County Unison

Mr M Wilson

Also in attendance – P Buckley, N Dowey, D Kinley, K Riley, N Smith and S Webster

Apologies for absence were received on behalf of Councillor J Perkins

19/19 **PENSION BOARD MEMBER** The Chairman welcomed Mr Oliver Fishburn to the meeting. Mr Fishburn's proposed appointment to the Derbyshire Pension Board was due to be presented to the meeting of full Council on 15 May 2019.

20/19 **MINUTES RESOLVED** that the minutes of the meeting held on 12 March 2019 be confirmed as a correct record and signed by the Chairman.

21/19 **DERBYSHIRE PENSION FUND SERVICE PLAN** The Derbyshire Pension Fund Service Plan set out how the Pension Fund Team, which was made up of Investments staff and Pensions Administration staff, would contribute to the priorities of Derbyshire Pension Fund in 2019-20. The Service Plan, which was attached at Appendix 1 to the report, also described how these priorities would be delivered and how success would be measured.

The Plan also reported on progress against the objectives set out in the Fund's 2018-19 Service Plan and provided details of the services that were expected to be procured by the Fund up to 31 March 2021.

Members considered the Plan and asked that the planned development of a Climate Change Risk Strategy be included within the Plan.

RESOLVED that subject to the addition of the reference to development of the Climate Change Risk Strategy, the 2019-20 Service Plan be approved.

22/19 RESPONSE TO THE 'LGPS FAIR DEAL – STRENGTHENING PENSION PROTECTION' POLICY CONSULTATION At the meeting on 12 March 2019, the Committee were informed of the Ministry of Housing, Communities and Local Government (MHCLG) consultation on proposals to amend the Local Government Pension Scheme (LGPS) regulations to provide greater pension protection for employees of LGPS employers who were compulsorily transferred to service providers.

Approval was granted at that meeting for a response to the consultation to be collated, and approval was delegated to the Director of Finance and ICT, in conjunction with the Chairman of the Committee. The Fund's response was submitted by the closing date of 4 April 2019 and was attached at Appendix 2 to the report.

Councillor Marshall-Clarke welcomed the report and thanked the Chairman of the Committee and the team of officers for the response.

RESOLVED that the Committee notes the Fund's response to the 'LGPS Fair Deal – Strengthening Pension Protection' policy consultation document issued by the Ministry of Housing, Communities and Local Government.

23/19 REVIEW OF THE ADMINISTERING AUTHORITY DISCRETIONS POLICIES LOCAL GOVERNMENT PENSION SCHEME (LGPS) Under the LGPS Regulations, there were a number of areas where administering authorities and employers were permitted a level of discretion in the way they applied the rules locally for their employees and ex-employees who are/were members of the LGPS. Each LGPS administering authority and employer was required to agree and publish its policies around how these discretions would be applied. Additionally, the administering authority was required to exercise specific discretions relating to scheme members who were former employees of defunct employers.

Derbyshire Pension Fund's (the Fund) Administering Authority Discretions Policies were approved by the Committee at its meeting on 19 May 2014. The policies approved at that time related only to the mandatory policies which the Administering Authority were required by law to prepare and publish. Following changes to the LGPS introduced in The Local Government Pension Scheme (Amendment) Regulations 2018, a full review of the Fund's discretion policies had been undertaken.

Requirements when formulating policies and areas of discretion for administering authorities, were highlighted.

Where a member's employer or former employer had become defunct and ceased to be a Scheme employer (for example, it had gone into liquidation) Derbyshire County Council, as the administering authority, acted as the employer or former employer with respect to making decisions which the defunct employer would have been required to make, and as such, was required to publish its mandatory discretions.

To date, the Fund had applied Derbyshire County Council's employer discretions policies in the circumstance of a ceased/defunct employer. However it was recognised that this was no longer appropriate as the funding position of an active scheme employer such as the County Council was different to that of an employer which had ceased to be a scheme employer and no longer participated in the scheme. The revised discretions policies recognised this difference.

The Local Government Pension Scheme (Amendment) Regulations 2018, which came into force on 14 May 2018, required the Local Government Pensions Committee (LGPC) to review the guidance it had previously issued in respect of discretions policies. Following its review, revised guidance had been published by the Local Government Pensions Committee (LGPC) in July 2018 and February 2019, relating to discretions for both administering authorities and employers. All participating scheme employers in Derbyshire Pension Fund had been asked to review their LGPS Employer Discretions Policies and submit their reviewed set of policies to the Pension Fund by 14 May 2019.

In order to assist employers, officers from the Fund included a discretions training session during the latest employer event held on 13 March 2019 which was attended by 41 employer representatives. Additionally, a guide to employer discretions, along with an example template of a set of policies, were published on the Fund's website in January. All employers were notified about these resources in a newsletter issued on 4 February 2019.

In order to comply with the revised LGPC guidance, a full review of the administering authority discretions in place for the Fund had been undertaken which included discretions which applied to the administering authority's role as employer where a member's employer or former employer had become defunct. The proposed revised policies, which included all administering authority discretions, were included in the Statement of Policy on Administering Authority LGPS Discretions attached as Appendix 1 to the report. The policies would be reviewed upon a change in regulations or three years after their adoption, whichever was sooner.

A full list of administering authority and employer discretions was available on the LGPS Regulations and Guidance website managed by the LGA or from Derbyshire Pension Fund.

RESOLVED that the Committee, in its role as the administering authority of Derbyshire Pension Fund, approves the discretions policies set out in Statement of Policy on Administering Authority LGPS Discretions attached as Appendix 1 to the report.

24/19 TO PROVIDE DETAILS OF THE EMPLOYER DISCRETIONS IN THE LOCAL GOVERNMENT PENSION SCHEME (LGPS) REGULATIONS

2013 Mr Peter Buckley from the Human Resources Division attended the meeting to present the report. Following the introduction of the LGPS (Amended) Regulations 2018 which came into force on 14 May 2018 there were several employer discretions that required employers to publish their policy.

Employers were required to prepare, publish and keep under review a policy statement in relation to a number of mandatory scheme discretions. The Council's discretion policy statement was available on the Derbyshire County Council's website, however it must be reviewed and updated and be re-published by 14 May 2019. The report outlined changes to the currently published discretions policy.

The proposed LGPS discretions policy document had been updated to reflect the new and amended pension discretions and was attached at appendix 1 to the report. A summary of the changes were outlined and summary table attached at appendix 2 to the report, which highlighted the proposed changes.

The R85 was a complex protection for employees (and ex-employees) who were in the LGPS before 1 October 2006, and was the point when their age plus the time of their LGPS membership (in whole years) totalled 85. For most scheme members R85 only protected their pension benefits in respect of their membership before 1 April 2008 (i.e. 80ths under the final salary arrangements), and was automatically applied at age 60 if the member met R85 before then. Where a member had met R85 and was retiring and drawing their pension after age 60, R85 applied in full.

However, where a member had met the rule of 85 and was retiring and drawing their pension between age 55 and 60, the employer could 'switch on' the R85 at a cost.

The R85 could be 'switched on' by the employer for:

- Current employees retiring
- Ex-employees with deferred benefits, retiring

- Ex-employees who had been awarded a tier ill health pension that was subsequently suspended.

The Council had previously published a discretion (reference No 5) in relation to R85 for a member voluntarily drawing benefits on or after age 55 and before age 60 for current contributing employees and leavers after 31/03/2014. As 'switching on' the R85 would incur a cost, the Council's policy was not to 'switch on' the R85.

Under the amended regulations the Council was now required to publish its policy for deferred members and suspended tier 3 members voluntarily drawing benefits on or after age 55 and before age 60 for leavers. As 'switching on' the R85 would also incur a cost to the Council it was proposed that the Council's policy was not to "switch on" the R85.

HMRC rules relating to the earliest that someone could voluntarily retire and receive their pension changed in April 2010 from being age 50 to age 55, however some regulations in place before the change were still in force.

Due to this, the Council could grant a member aged over 50 and under 55 access to their pension, but it would be classed as an "unauthorised payment" for HMRC purposes and as such the individual would be subject to penal unauthorised payment charges of up to 55% but there was no cost to the Council for exercising this discretion.

RESOLVED to (1) approve the relevant changes to Derbyshire County Council's discretions; and

(2) note that Councillors S Marshall-Clarke, R Mihaly and B Ridgway voted against this item.

25/19 **DERBYSHIRE PENSION FUND COMMUNICATIONS POLICY STATEMENT** Approval was sought for the draft Communications Policy Statement attached as Appendix 1 to the report.

Regulation 61 of the Local Government Pension Scheme Regulations 2013 required each Local Government Pension Scheme administering authority to produce and publish a policy statement describing how it communicated with its stakeholders. Derbyshire Pension Fund's (the Fund) previous policy statement was published in 2015 and had been reviewed to reflect the developments since then in the Fund's approach to communicating with its stakeholders. It was intended that the statement would be reviewed annually. It was agreed that a reference to local taxpayers and to the trade unions, as key stakeholders, would be included in the Communications Policy Statement.

RESOLVED that subject to the inclusion of a reference to local taxpayers and to the trade unions, the Communications Policy Statement be approved.

26/19 **QUARTERLY PENSION ADMINISTRATION PERFORMANCE REPORT 1 JANUARY 2019 TO 31 MARCH 2019** A report was presented from the Director of Finance & ICT on performance levels achieved by the pensions administration team of Derbyshire Pension Fund and other activity undertaken in the fourth quarter of 2018-19 (Q4).

Included in the report were details of performance data, including membership movements, backlog management, achievement against performance standards, employing authority performance, monthly contribution returns, new academies and admission bodies, and Application for Adjudication of Disputes Procedures cases; communications; governance; development, including procurement of replacement pensions administration system, and projects; and collaboration.

The statutory timescales against which performance was currently measured were set by The Occupational Pension Schemes Regulations 1996. Table 3 in the report captured performance against these targets in each quarter of 2018-19 so far.

The figures against 'Notification of Deferred Benefits' continued to reflect the low priority level attached to this work relative to work areas that resulted in immediate payments to Fund members. The dip in the figures for 'Transfers out paid' and 'Transfer out quotes' were the result of resource being allocated from that area to assist with the accurate migration of data from the UPM system to the Altair system ahead of implementation. Performance against the statutory timescales could not be measured during March 2019 due to the switch from UPM to Altair. Once the Altair system was fully established, it was intended to review the current approach to performance reporting and to adopt a more demanding set of targets.

There was a statutory requirement for employers to remit contributions by the 19th of the month following deduction from payroll. Employer performance in this area during Q4 was detailed in Table 4 to the report.

Due to the collation of responses a month after contributions were due, this report could only include a full set of figures from the first two months of Q4 2018/19. A late contribution return represented a statutory breach and each case was being recorded. Where remedial efforts, including charging, were not successful in improving employer performance, this evidence would be used in support of the submission of a report to The Pension Regulator.

It was reported that fourteen new academies had joined the Fund as scheme employers during Q4 2018-19 and five new admission bodies had also joined the Fund in Q4.

There had been three Application for Adjudication of Disputes Procedure cases presented to Pensions and Investment Committee for consideration during Q4.

An employer training event had been held at The Whitworth in Darley Dale on 13 March 2019 and the sessions focussed on two key areas, the valuation and employer discretions policies. The event was well attended and generally well received. Focussing in more detail on specific aspects of LGPS administration, rather than taking a generalist approach, was agreed to have been effective and may represent the way forward as the team developed its output.

Two Newsletters were issued to employing authorities in February 2019. The first included information on the 2018-2019 year end and fund valuation, the employer discretions policy, the Fund's Annual Report, new fair deal and ill health retirement. The second included an invitation to the employer training event on 13 March 2019, as well as information about a Pension Board vacancy, the year-end return and the LGPS employee contributions bands for 2019/2020.

The Pensions calculator service provided for Fund members on the Fund's website has proved very popular during 2018/19 with a total of 36,755 calculations carried out during the year. There had been a significant spike during the period that deferred and live Fund members received their Annual Benefit Statements.

During the period from 18 March 2019 to 15 April 2019, so overlapping into Q1 of 2019/20, a total of 607 calls had been received and the issues raised resolved by the team.

The Altair system successfully went live on 4 March 2019. As with all major new systems, there had been a number of initial issues to work through. The system supplier, Heywood, and the staff in the Pensions Team had worked well together in preparation for the implementation, and, since Go Live, had been resolving outstanding aspects of functionality. The Team had also been catching up with the backlogs of work created over the Go Live period. Members were provided with an update

RESOLVED to note the workloads and performance levels outlined in the report.

27/19 THE RECORDING AND REPORTING OF STATUTORY BREACHES OF THE LOCAL GOVERNMENT PENSION SCHEME (LGPS) AND RELATED REGULATIONS

In compliance with the Pension Regulator's (TPR) Code of Practice 14 (CoP14), the Fund had had in place since 2015 an approved procedure for identifying, determining the material significance of, and

reporting statutory breaches to TPR. (Appendix 1). Such breaches could be committed by the Fund, its employing authorities, or any of its stakeholders.

CoP14 also required public sector schemes to have in place a system to record breaches, even if they were not reported to TPR. Further to an exercise carried out with input from members of Derbyshire Pension Board, the Derbyshire Pension Fund Breaches Log (the Log) had been devised and implemented to cover all the aspects of managing statutory breaches. The Log had been devised to be a live, working document, in the manner of the Risk Register, in order to support continued transparency and consistency. An anonymised Log was attached as Appendix 2 to the report and the user guidance document was attached as Appendix 3.

It was intended that the Log would also support internal reporting on statutory breaches. Any additions or updates to the Log would be reported to the Pensions Office Management Team's monthly meeting, to the Derbyshire Pension Board's quarterly meeting, and in the Pensions Administration Performance report presented to Pensions and Investments Committee each quarter. This would ensure that all parties were fully informed of statutory breaches and should assist in reducing their recurrence.

RESOLVED to note the processes being used by Derbyshire Pension Fund to identify, record and report statutory breaches of the LGPS and related Regulations.

28/19 **DERBYSHIRE PENSION FUND RISK REGISTER** The Risk Register was kept under constant review by the risk owners, with quarterly review by the Director of Finance & ICT. A copy of both the Summary and Main Risk Registers were presented. Changes from the previous quarter were highlighted. The Risk Register had the following three High Risk items:-

- (1) Fluctuations in assets and liabilities (Risk No.15)
- (2) LGPS Central – performance deterioration/lost cost savings or duplicated costs caused by LGPS Central transition delays (Risk No.30); and
- (3) Impact of McCloud judgement (Risk No.39)

There was an inevitable risk for any pension fund that assets may be insufficient to meet liabilities and fluctuate from one valuation to the next, principally reflecting external risks around both market returns and the discount rate used to value the Fund's liabilities. Whilst the Fund had a significant proportion of its assets in growth assets, the newly agreed Strategic Asset Allocation Benchmark introduced a lower exposure to growth assets with the aim of protecting the improvement in the Fund's funding level following strong market gains since the triennial valuation in March 2016. The very strong performance of the UK bond market at the end of March 2019, on concerns surrounding Brexit, would have had a negative effect on the Fund's liabilities at the 31 March 2019 valuation date.

The transition of the Fund's assets into the products offered by LGPS Central Ltd. (LGPSC) was likely to take several years and there was a risk of performance deterioration and/or lost costs savings or duplicated management costs caused by transition delays. The Fund continued to take a meaningful role in the development of LGPSC, and had input into the design of the potential product offering to ensure that it would allow the Fund to implement its investment strategy. A Product Development Protocol was being developed jointly by the Partner Funds and LGPSC to ensure that all parties were involved at every stage of the product development lifecycle.

The transition into the Global Equity sub-fund by other Partner Funds was now complete and the transition process and costs were currently being analysed to see what lessons could be learnt from the first multi-Partner Fund transition.

Investment performance would be monitored closely by Fund officers and would be reported to the Pensions and Investment Committee and to the LGPS Central Joint Committee.

The McCloud case related to transitional protections given to scheme members in the judges and firefighters schemes which were found to be unlawful by the Court of Appeal on the grounds of age discrimination. The Government had applied to the Supreme Court for permission to appeal. It was anticipated that the outcome of the case could be accepted as applying to all public service schemes. The Government Actuary's Department was currently undertaking an initial review to assess the overall impact of the McCloud judgement on the public sector pension schemes. Fund officers would continue to follow closely the developments in the McCloud case and the implications for the LGPS, taking into consideration updates from the Scheme Advisory Board, the Local Government Association, the Government's Actuary's Department and the Fund's Actuary.

Risk No. 39, the impact of the McCloud judgement, was a new addition to the Risk Register. The risk relating to the implement of the replacement pensions administration system had been removed from the Risk Register following 'Go Live' on 4 March 2019. The residual risks relating to the implementation, primarily concerned with the additional backlogs caused by the migration, had been included in Risk No. 33 (Failure of pensions administration systems to meet service requirements/information not provided to stakeholders as required).

RESOLVED to note the risk items identified in the Risk Register.

29/19 **TREASURY MANAGEMENT STRATEGY** Derbyshire Pension Fund (the Fund) traditionally adopted the same Treasury Management Strategy

as the County Council which placed security of capital and liquidity ahead of investment return. Council approved the Treasury Management Strategy attached at Appendix 1 to the report on 6 February 2019. For operational purposes, the Fund predominantly used the same list of counterparties as the County Council and had agreed a joint limit with the Council for each counterparty. Due to the Fund's differing liquidity requirements, it did not invest in Pooled Funds (other than Money Market Funds) for treasury management purposes.

The Fund's current benchmark allocation to cash was 2% (about £100m at current asset values). The Fund generally needed to retain a higher level of instant access funds than the County Council. A major buying opportunity in the market could require immediate access to significant sums of cash for investment. Equally, it may be desirable to hold a higher defensive cash allocation because market valuations had become stretched or cash was held in order to meet future commitment drawdowns. The Fund's actual cash allocation at 31 March 2019 was 7.9%, equating to £389.6m. Future commitments at 31 March 2019 totalled some £450m, of which £85m was drawn-down immediately following the period end. The recommended Treasury Management Strategy requirements for 2019/20 were highlighted.

RESOLVED that the Treasury Management Strategy be approved.

30/19 **EXCLUSION OF THE PUBLIC** **RESOLVED** that the public be excluded from the meeting during the Committee's consideration of the remaining items on the agenda to avoid the disclosure of the kind of information detailed in the following summary of proceedings:-

SUMMARY OF PROCEEDINGS CONDUCTED AFTER THE PUBLIC HAD BEEN EXCLUDED FROM THE MEETING

1. To confirm the exempt minutes of the meeting held on 12 March 2019 (contains exempt information)
2. To consider the exempt reports of the Director of Finance and ICT on:-
 - (a) Summary of Appeals and Ombudsman Escalations during 2018-19 (contains information relating to any individual)
 - (b) Determination by the Pension Ombudsman (contains information relating to any individual)
 - (c) Global Sustainable Equities (contains information relating to the financial or business affairs of any particular person (including the Authority holding that information))

(d) US Equities
(contains information relating to the financial or business affairs of any particular person (including the Authority holding that information))