PUBLIC

MINUTES of a meeting of the **PENSIONS AND INVESTMENT COMMITTEE** held at County Hall, Matlock on 22 October 2019

PRESENT

Councillor J Perkins (in the Chair)

Derbyshire County Council

Councillors R Ashton, N Atkin, J Boult, P Makin, S Marshall-Clarke, R Mihaly and B Ridgway

Derby City Council

Councillors M Carr and L Eldret

Derbyshire County Unison

Mr M Wilson

Also in attendance – N Dowey, D Kinley, P Peat and N Smith.

R Graham and K Gurney (Pension Board members)

60/19 **MINUTES** **RESOLVED** that the minutes of the meeting held on 4 September 2019 be confirmed as a correct record and signed by the Chairman.

61/19 **DERBYSHIRE PENSION FUND ANNUAL REPORT** In accordance with the Local Government Pension Scheme Regulations 2013, the Administering Authority must prepare and publish an Annual Report for the pension fund on or before 1 December following the year end. The full Annual Report had been circulated to Members.

The Fund's Statement of Accounts also formed part of the County Council's Accounts which had already been considered and approved by the County Council's Audit Committee. Members requested that, in future, any comments received from the Audit Committee on the Pension Fund's financial statements be fed back to this Committee.

The external auditor's opinion, which confirmed that the information contained within the Annual Report was consistent with the Fund's Statement of Accounts for 2018-2019, was included in the Report. It also confirmed that the statements had been properly prepared in accordance with accounting standards and gave a fair view of the Fund's transactions during the year and its assets and liabilities at the year end.

This year, the Investment section of the Report contained a greater amount of detail with respect to LGPS Central Limited, the investment pooling company jointly owned by Derbyshire County Council and seven other Councils, and with respect to investment assets managed by the pooling company on behalf of the Pension Fund, in line with new CIPFA guidance on preparing the Annual Report.

RESOLVED (1) to approve the publication of the Pension Fund Annual Report as required by the Regulations; and

(2) that in future, any comments from the Audit Committee on the Pension Fund's financial statements are reported to the Pensions and Investment Committee.

62/19 **QUARTERLY PENSION ADMINISTRATION PERFORMANCE REPORT 1 JULY 2019 TO 30 SEPTEMBER 2019** A report from the Director of Finance & ICT was presented on performance levels achieved by the pensions administration team of Derbyshire Pension Fund and other activity undertaken in the second quarter of 2019-20 (Q2).

The new pension administration system, Altair, had provided the opportunity to measure membership records more accurately and transparently. There was now the facility to report on 'Work in Progress' cases separately. Under the previous system, the number of active member records was inflated by cases that were no longer active but had yet to be processed. The number of deferred member records was also inflated in a similar manner. The figures presented in Table 1 to the report, were a much clearer reflection of the membership position than it was previously possible to provide. The 'Work in Progress' figure included backlog as well as current work and, as part of the backlog management work referred to in the report, would help to support progress towards getting all administration work up to date. The facility to report in more detail on membership movements each quarter had also been developed. This would enable the accurate analysis of trends going forward.

There is a statutory requirement for employers to remit contributions by the 19th of the month following deduction from payroll. Employer performance in this area for the three months to the end of August was presented. A late contribution return represents a statutory breach and each case is recorded. It was reported that an employing authority had now been charged and the outcome was awaited.

Fifteen new academies had joined the Fund as scheme employers during Q2 and one new admission body had joined the Fund in Q2.

There had been one Application for Adjudication of Disputes Procedure (AADP) case presented to the Committee for consideration during Q2, and two appeals against the administering authority that were resolved at Stage 1.

The Committee was informed that an improved version of the Pension Calculator had been released on the Fund's website in September 2019. The calculator assists Fund members with their retirement planning and, consequently, reduces the number of benefit estimates requested.

Every LGPS Pension Fund employer is statutorily required to agree and publish its LGPS Discretions Policy. Changes to the LGPS Regulations in May 2018 required all employers to review and re-publish their Discretions Policies. The Team had supported employers to achieve this by developing and sharing a comprehensive guidance document and a template form, backed up by a significant communications effort. The result had been that, by the end of Q2, 284 (91.3%) of the Fund's 311 employing authorities were compliant. This compared very favourably with other LGPS Funds. Of the remainder, 12 had an outdated policy and 15 had no policy at all. Non-compliance represented a statutory breach, therefore work would continue to incentivise employers to comply, and Committee would be updated on progress. Members congratulated the Team on achieving this figure.

Annual Benefit Statements (ABSs) were produced this year from the new pension administration system, Altair. While this improved the bulk processing times, enabling all accurate ABSs to be generated by the statutory deadline of 31 August 2019, the project was let down by significant issues with printing, packing and posting.

In total, 86% of Active ABSs and 87% of the Deferred ABSs (excluding suppressions) were produced by the deadline. A further 668 Actives and 566 Deferreds were sent in September bringing the percentages up to 88% and 89% respectively. There were a further 1405 Actives and 236 Deferreds that should be ready to go to members in the next few weeks.

There were a number of reasons why ABS were suppressed, thereby preventing the Team from producing 100% by the deadline. The majority of the issues with Active ABSs related to pay queries that were yet to be resolved with employing authorities, and the main issue with Deferred ABSs was maintaining up to date addresses. There were also a further 6,251 records on the system that were under review, and it was likely that as those issues were resolved, some of these records would result in the production of a late ABS.

Members requested further details of the problems relating to the printing, packing and posting of the ABSs and the resulting data breaches. It was reported that the Derbyshire Pension Board was due to receive a report on the problems encountered during the production and despatch of the ABSs and on the Fund's subsequent actions to resolve the issues and avoid a recurrence. The Chair of the Pension Board agreed to report back to the members of the Committee, with the findings of the Board following its consideration of the report.

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

63/19 **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 four High Risk items:-

(1) Fluctuations in assets and liabilities (Risk No.15)
(2) LGPS Central related underperformance of investment returns (Risk No.25)
(3) Impact of McCloud judgement on funding (Risk No.32)
(4) Impact of McCloud judgement on administration (Risk No.40)

There was an inevitable risk for any pension fund that assets may be insufficient to meet liabilities and funding levels 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. For the March 2019 valuation, the Fund's actuary had indicated that assumed investment returns over the next 20 years and the likelihood of those returns being achieved will be considered when determining the discount rate to value the liabilities for the funding level. This risk based approach, rather than relating the discount rate to bond yields on a particular day, would be in line with the approach taken by the actuary to set employer contribution rates. The Pension Fund's Funding Strategy Statement was currently under discussion with the Fund's actuary and a separate report, on the agenda for this meeting of Committee, provided further information on the Actuarial Valuation and the Funding Strategy Statement.

The Fund was expected to transition the management of the majority of its investment assets to LGPS Central Limited (LGPSC), the operating company of the LGPS Central Pool (the Pool), over the next few years. Ultimately, the Fund was expected to invest via LGPSC's pooled investment vehicles. In the shorter term, the Fund had a discretionary management agreement with the company with respect to the Fund's UK equity portfolio, and advisory management agreements with respect to Japanese and Asia Pacific equities.

LGPSC was a newly formed company which had launched its first investment products in April 2018. There was a risk that the investment returns delivered by the company would not meet the investment return targets against the specified benchmarks.

The Fund had continued to take a meaningful role in the development of LGPSC, and had input into the design and development of the company's product offering to ensure that it would allow the Fund to implement its investment strategy. The company's manager selection process was scrutinized by the Partner Funds and the Fund would initially continue to carry out its own due diligence on selected managers as confidence was built in the company's manager selection skills. The performance of LGPSC investment vehicles was monitored and reviewed jointly by the Partner Funds. A separate Local Government Pension Scheme Investment Pooling Report provided further information on the Fund's expected transition plan and on the discretionary UK equity mandate.

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. On 27 June 19, the Supreme Court denied the Government permission to appeal the judgement in the case. The Chief Secretary to the Treasury subsequently announced on 15 July 2019 that the Government respected the Court's decision and would fully engage with the Employment Tribunal to agree how the discrimination would be remedied; she also announced that remedies relating to the McCloud judgement would need to be made in relation to all public service schemes. It was anticipated that any remedy would be backdated to the commencement of transitional protection (April 2014 in the case of LGPS).

Following the judgement in the McCloud case, and confirmation that remedies relating to that judgement would need to be made to all public service schemes, LGPS benefits accrued from 2014 may need to be enhanced so that all members, regardless of age, would benefit from the 'underpin'. Alternatively, restitution may be achieved in a different way, for example by paying compensation. Quantifying the impact of the judgement at this stage was very difficult because it would depend on the compensation awarded, members' future salary increases, length of service and retirement age, and whether (and when) members withdrew from active service. The Government Actuary's Department (GAD) had estimated that the impact for the LGPS as a whole could be to increase active member liabilities by 3.2%, based on a given set of actuarial assumptions.

The Fund's actuary had adjusted GAD's estimate to better reflect Derbyshire Pension Fund's local assumptions. The revised estimate as it applied to the Fund was that total liabilities (i.e. the increase in active members' liabilities expressed in terms of the employer's total membership) could be around 0.4% higher as at 31 March 2019, an increase of approximately £26.7m. These numbers were high level estimates and depended on several key assumptions. The impact on employers' funding arrangements was expected be damped by the funding arrangements they had in place, however it was likely that there would be unavoidable upward pressure on contributions in future years.

For cost cap changes, the Government had stated its intention to apply these from April 2019. The LGPS Scheme Advisory Board (SAB) had announced a pause in the cost cap management process pending the outcome of the case. The SAB said it may resubmit the existing proposals or review the package, taking into account the cost of any remedy resulting from the McCloud case and the impact of backdating.

The uncertainty caused by the McCloud judgement was reflected on the Risk Register under two separate risks for clarity, one under Funding and Investments and one under Administration, although the two risks were closely linked.

The funding risk related to the risk of there being insufficient assets within the Fund to meet the increased liabilities. The administration risk related to the enormous challenge that would be faced by administering authorities and employers in potentially backdating scheme changes over such a significant period; this risk had been recognised by SAB. The Fund would continue to keep up to date with news related to this issue from the Scheme Advisory Board, the Local Government Association, the Government Actuary's Department and the Fund's actuary.

No new items had been added to the Risk Register and no items had been removed from the Risk Register. However, the current score for Risk No. 37 Delayed Annual Benefit Statements (ABS) and/or Pensions Savings Statements (PSS) which covered the risk of fines/sanctions/reputational damage due to the late issuance of annual ABSs and/or PSSs had been increased from 6 to 9 as the probability score had increased from 2 to 3 following recent delays in issuing statements. The current score for Risk No. 38 Failure to recruit and retain suitable pension administration staff/Over reliance on key staff, a risk which could lead to a deterioration in service levels with the same possible consequences of Risk No.37 above, had also been increased from 6 to 9 as the impact score had been increased from 2 to 3 due to an increased recognition of the impact that staff departures were having on the administration of an increasingly complex scheme.

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

64/19 DERBYSHIRE PENSION FUND 2019 ACTUARIAL VALUATION

Members were updated on the progress towards the completion of Derbyshire Pension Fund's 2019 Actuarial Valuation.

The Actuarial Valuation was a planning exercise for the Fund to determine:

- The expected cost of providing the benefits built up by members at the valuation date in today's terms (the liabilities) compared to the funds held by the Pension Fund (the assets).
- The contributions needed to cover the cost of the benefits that active members would build up in the future (the Primary Contribution Rate).
- An appropriate plan for making up the shortfall if the Fund had less assets than liabilities. This plan would cover the amounts which would need to be paid (the Secondary Contribution Rate) and the timeframe over which they will be paid (the Recovery Period).

The Fund's actuary, Hymans Robertson, determined the information above for individual employers, or pools of employers, as well as for the Pension Fund as a whole in order to determine the appropriate contribution rates and any deficit recovery plans for each employer, or pool of employers.

The Valuation was calculated as at 31 March 2019 and would set the contribution rates and any deficit recovery plans from 1 April 2020 to 31 March 2023, which would be detailed in the Rates and Adjustments Certificate appended to the Valuation.

As part of the valuation process, the Fund reviewed the funding strategy to ensure that an appropriate contribution plan and investment strategy was in place. The funding strategy was set out in the Funding Strategy Statement (FSS) which was the Fund's key governance document in relation to the actuarial valuation.

If an employer was unable to meet its pension liabilities and there was no cover provided by either a guarantor or other body, these pension liabilities would become the responsibility of the Fund as a whole which meant that they would need to be covered by the other Fund employers. The impact of this was linked to the size of the relevant deficit of the reneging employer. The Fund's actuary had carried out a funding risk profiling exercise which gave a broad measure (a funding risk score) of the urgency of funding for each of the Fund's employers taking into consideration a range of metrics, including: funding levels; maturity of the membership; and net cashflows.

The extent of an employer's legal obligation and financial ability to support the scheme, the employer covenant, was also an important consideration in funding decisions. The Fund had issued Employer Health Check Questionnaires to all of the Fund's Tier 3 employers (those scheduled and admitted bodies that did not benefit from local or national tax payer backing or did not have a full guarantee or other pass-through arrangement with a body with such backing). The information received as part of the covenant review was currently being assessed and would be taken into consideration alongside the funding risk scores in the categorisation of Fund employers within the FSS. Any penalties incurred for not engaging would be reported to this Committee.

The Fund's actuary was preparing a paper on the areas that would be impacted by the McCloud judgement to assist with the Fund's decision on how to manage the risk and uncertainty caused by the outcome of the case in funding strategies until a remedy was confirmed.

A Valuation Timetable had been prepared and was presented for Members' information.

RESOLVED to note the progress towards the completion of the Fund's 2019 Actuarial Valuation as set out in the report.

65/19 <u>THE ROLE OF THE ADJUDICATOR IN THE 'APPLICATION FOR ADJUDICATION OF DISAGREEMENTS PROCEDURE' (AADP)</u>

Members were informed of a change to the role of Stage 1 and Stage 2 adjudicators in respect of appeals against decisions made by Derbyshire Pension Fund Scheme employers or by Derbyshire County Council as the administering authority of the Pension Fund.

Until now, when a Stage 1 adjudicator, or the Committee at Stage 2, had upheld an appeal by a Fund member, the Local Government Pension Scheme Regulations (LGPSR) had been interpreted as limiting the adjudicator's powers, when considering appeals, to referring cases back to the original decision-maker to reconsider their decision. However, recent determinations made by The Pensions Ombudsman in cases escalated by LGPS members had highlighted that adjudicators also had the power to impose a decision on an employing authority or the administering authority.

Going forward, at both stages of the process, there was now the option for the adjudicator to implement a 'replacement decision'. In many ill-health cases, the adjudicator would continue to ask the employer to reconsider a case about which they had concerns. But, in some cases, where the employer's decision appeared not to have properly considered the medical information, a replacement decision, for example Tier 1 ill-health benefits rather than Tier 2, could be imposed at either Stage 1 or Stage 2.

This revised approach was expected to result in fewer cases reaching Stage 2. Where cases did reach Stage 2, they would be investigated and a report would be presented to Committee which would set out the range of options available

RESOLVED to note the change to the role of Stage 1 and Stage 2 adjudicators in respect of appeals against decisions made by Derbyshire Pension Fund employing authorities or against Derbyshire County as the administering authority of the Pension Fund.

66/19 **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 consider the exempt reports of the Director of Finance and ICT on:-

   a) Local Government Pension Scheme Investment Pooling
   (contains information relating to the financial or business affairs of any particular person (including the Authority holding that information))

   b) Proposed transfer of Equitable Life Assurance Society's Additional Voluntary Contributions (AVC) Business to Utmost Life and Pensions
   (contains information relating to the financial or business affairs of any particular person (including the Authority holding that information))