PUBLIC

MINUTES of a meeting of the **PENSIONS AND INVESTMENTS COMMITTEE** held on 21 July 2020

<u>PRESENT</u>

Councillor J Perkins (in the Chair)

<u>Derbyshire County Council</u>

Councillors N Atkin, J Boult, P Makin, R Mihaly and B Ridgway

<u>Derby City Council</u>

Councillors L Care and M Carr

<u>Derbyshire County Unison</u>

Mr M Wilson

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

N Calvert, R Graham and K Gurney (Derbyshire Pension Board)

Apologies for absence were received on behalf of Councillors R Ashton and S Marshall-Clarke (Derbyshire County Council).

27/20 **<u>CHAIRMAN'S ANNOUNCMENTS</u>** The Chairman welcomed Councillor Lucy Care to her first meeting of the Committee following her recent appointment from Derby City Council.

The Chairman announced that Mrs Kay Riley, the Assistant Director of Legal Services and the Committee's adjudicator for applications at AADP was soon to retire. On behalf of the Committee, Councillor Perkins wished to thank Mrs Riley for all the help and support she had given to members and this committee over the years, and wished her all the very best for the future.

28/20 **<u>MINUTES</u> RESOLVED** that the minutes of the meeting held on 10 June 2020 be confirmed as a correct record.

29/20 **<u>PUBLIC QUESTION TO THE COMMITTEE</u>** The following question had been received from Divest Derbyshire and Derbyshire Pensioners Action Group following the provision of their survey of members:

What is the response of the Pension Committee to the results of the survey?

Dawn Kinley, Head of Pension Fund responded as follows:

Councillor Perkins has asked me to acknowledge receipt of the results of a survey carried out by Divest Derbyshire and Derbyshire Pensioners Action Group to gather the views of members of the Pension Fund on how the Fund is invested. The results cover the views of the 128 members of the Fund who responded to the survey.

As previously noted, the Fund is currently developing a climate strategy, and is reviewing its Investment Strategy Statement. These strategies will be considered by this Committee in September and then the Fund's stakeholders, including the members and employers, will be consulted on the strategies before final approval. The results of the survey will considered at that time alongside the responses to the official consultation.

We intend to write to all of our members and employers to highlight the consultation in order to improve our engagement with members and we have also committed to developing a forum for our members as part of the development of the member self-service system.

The development of a meaningful climate strategy is difficult in the context of a pension fund which is required to deliver returns, taking into account risk, and when the climate related information on which decisions are based is so variable. Climate related disclosures from companies continue to develop and providers of climate related data and analytics can interpret climate related scores in very different ways. This adds to the complexity of formulating an appropriate strategy but we are making good progress and look forward to presenting the proposed strategy to Committee for consideration in September.

30/20 **EXIT CREDITS POLICY** The Local Government Pension Scheme Regulations 2013 (the 2013 Regulations) had been amended in 2018 to allow exit credits to be paid for the first time. The changes came into effect on 14 May 2018 but were backdated to 1 April 2014. Where an employer ceased to be a participating employer in the Local Government Pension Scheme (LGPS), an exit credit became due if their pension liabilities had been overfunded at their date of exit. The amendment was introduced to give administering authorities more flexibility to manage liabilities when employers had left the LGPS and to allow pension risks to be shared more fairly.

In May 2019, the Secretary of State for Housing, Communities and Local Government had opened a consultation on a number of proposed changes to the 2013 Regulations, including a proposed further change to the rules on exit credits. MHCLG announced its intention to amend the 2013 Regulations so that administering authorities may determine, at their absolute discretion, the amount of any exit credit payment due, having regard to any relevant considerations. The 2020 Regulations came into force on 20 March 2020, but had effect from 14 May 2018, and details of the Regulations were presented.

The new responsibility placed on the administering authority for determining the level of any exit credit and the discretion available made it essential that the Fund adopted a fair and reasonable exit credits policy. The Fund's Exit Credits Policy (the Policy) would be incorporated into the Fund's Admission, Cessation and Bulk Transfer Policy which had been approved on 22 January 2020.

Given the potential impact on participating employers of the Fund's exercise of its discretion in relation to exit credits, the Fund would consult with scheme employers, the local pension board and other stakeholders on the proposed policy. The consultation period would run until 16 August 2020 and the results of the consultation will be reported to Committee in September 2020.

Members raised concerns that the costs associated with the determination of an exit credit could be significant and it was suggested that these costs be deducted from any exit credit payment at the Fund's discretion. This would be considered by officers when finalising the Policy.

Approval was sought for the Director of Finance & ICT, in conjunction with the Chairman of the Committee to consider the results of the consultation in the meantime, and to determine if any revisions to the proposed Policy were necessary following the consultation, to enable the Policy to be adopted as soon as possible. Members requested that the findings from the consultation be brought to the Committee for information.

RESOLVED to (1) approve the proposed Exit Credits Policy attached as Appendix 1 to the report, subject to the outcome of the consultation with the Fund's stakeholders; and

(2) delegate the consideration of the results of the consultation, and the determination of whether any revisions to the proposed Exit Credits Policy were necessary following the consultation, to the Director of Finance & ICT in conjunction with the Chairman of the Committee.

31/20 **<u>DERBYSHIRE PENSION FUND RISK REGISTER</u>** It was reported that the Fund's Business Continuity Plan had worked well and all of the Fund's critical activities had been maintained throughout the period of business disruption.

As a result of the current pandemic the Risk Register had been reviewed through a different lens, which had resulted in the addition of two new risks, one related to the governance framework (Risk No.1) and one related to internal and external suppliers (Risk No.17). Further details of these risks were provided. The narratives attached to Risk No.2 (staffing risk) and Risk No.23 (employer covenants) had been strengthened due to the current situation, however the risk scores had not changed. The Risk Register has the following five High Risk items:

(1) Fund assets insufficient to meet liabilities (Risk No.19)
(2) Failure to consider the potential impact of climate change (Risk No.22)
(3) LGPS Central related underperformance of investment returns (Risk No.29)
(4) Impact of McCloud judgement on funding (Risk No.36)
(5) Impact of McCloud judgement on administration (Risk No.43)

An update relating to the McCloud judgement was provided. It was reported that MHCLG had recently issued a consultation on its proposed remedy for LGPS to extend the transitional protection ‘underpin’ to all active members between April 2014 and March 2022. This would create a huge administration task and a McCloud Project Team had been established to formalise the governance of this major impending project. It was anticipated that the first meeting of the Project Team would be held shortly. It was proposed that a response to the consultation would be brought to this Committee for approval in September, prior to submission to MHCLG.

In addition to the risk related to climate change, three other new risks had been added to the Risk Register and two risks related to the recruitment and retention of staff had been combined into one risk (Risk No.2).

(Risk No.1): The risk of failing to provide effective leadership, direction, control and oversight of the Pension Fund was particularly considered during the recent period of business disruption. This risk had been attributed an impact score of 5 (very high) and a probability score of 2 (unlikely). Robust governance arrangements were in place for the Pension Fund and the arrangements for maintaining the critical activities of the Fund during a period of business disruption had worked well.

(Risk No. 17): The risk of the internal providers of services (including treasury management, payments, pensioner payroll and legal advice) and the external providers of the pension administration system, actuarial services and fund management activities, being unable to provide their services to the Fund during a period of business disruption, had also been particularly considered in recent months. The business continuity arrangements of these providers had been received and continuity arrangements had worked well during the period of business disruption related to the Covid 19 pandemic.

(Risk No. 18): Exit credit payments had been introduced into the LGPS in April 2018. Amending legislation came into force in March 2020 allowing administering authorities of LGPS funds to exercise their discretion in determining the amount of any exit credit due, having regard to certain listed factors plus ‘any other relevant factors.’ This discretion was open to wide interpretation and potential challenge from employers. This risk had been attributed an impact score of 3 (medium) and a probability score of 3 (possible). Legal and actuarial advice had sought in the formulation of the Exit Credits Policy presented to the Committee and the Fund would seek further external advice on a case by case basis if required.

The total risk score of employer contributions not being received and accounted for on time (Risk No. 25) had been increased from a 3 (low risk) to a 9 (medium risk) in recognition of the financial pressures on employers related to the Covid 19 pandemic. The Fund had reminded employers of their responsibility to provide information and to pay contributions by relevant deadlines.

The total risk score related to the risk of the new pension administration system failing to meet service requirements (Risk No. 38) had been reduced from a 9 to a 6 as the Altair system had now achieved business as usual status.

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

32/20 <u>APPOINTMENT OF ADJUDICATOR FOR AADP STAGE 1 APPLICATIONS AND ESTABLISHMENT OF AN APPEALS SUB-COMMITTEE FOR AADP STAGE 2 APPLICATIONS</u> The current adjudicator for applications at AADP Stage 1 against decisions made by the administering authority, was Mrs Kay Riley, Assistant Director of Legal Services, Derbyshire County Council. Due to the impending retirement of Mrs Riley, it was necessary for the Fund to appoint a new adjudicator.

In order to maintain continuity of the role within the Legal Services Department of the County Council, it was proposed that Mrs Riley’s successor in post as Assistant Director of Legal Services be appointed to the role of administering authority adjudicator for the consideration of applications at AADP Stage 1.The recruitment process was currently underway and it was proposed that the successful candidate would be announced to the committee in September.

To date, the Committee’s cycle of 8 meetings per year had enabled AADP Stage 2 applications to be considered within the 2 months’ statutory timeframe allowed. However, that may not always be possible in the adjusted future cycle of 6 meetings per year. In order to reduce the likelihood of an application being considered outside the 2 months’ timeframe, Committee was asked to establish an Appeals Sub-committee.

The sub-committee's terms of reference would be to solely consider AADP Stage 2 applications which could not be determined within the 2 months limit by the revised meetings cycle of the main Committee. The sub-committee would be comprised of three members of the main Committee and would be chaired by the Chairman of the main Committee. A summary of all cases determined by the Committee and sub-committee would be reported to Committee after each year ending on 31 March.

Following discussions between the Members it was felt that rather than form a sub-committee to hear the Stage 2 applications, an extra virtual meeting of the full committee could be arranged at relatively short notice when these instances arose.

RESOLVED (1) to note that Mrs Riley's successor in post as Assistant Director of Legal Services will be appointed as the adjudicator for AADP Stage 1 appeals where scheme members disagreed with a decision of the Pension Fund; and

(2) that the establishment of an Appeals Sub-committee to consider cases outside of the 2 months' timeframe allowed, was not required.

33/20 **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 receive declarations of interest (if any)

2. To confirm the exempt minutes of the meeting held on 10 June 2020 (contains exempt information)

3. To consider the exempt report of the Director of Finance and ICT on LGPS Investment Pooling (contains information relating to the financial or business affairs of any particular person (including the Authority holding that information))