

## **BATH AND NORTH EAST SOMERSET**

### **PENSION BOARD**

Thursday, 27th July, 2017

**Present:-** Howard Pearce (Chair), Steve Harman (Employer Representative), Tom Renhard (Member Representative) and David Yorath (Member Representative)

**Also in attendance:** Jeff Wring (Head of Audit West), Liz Woodyard (Investments Manager) and Geoff Cleak (Pensions Manager)

#### **22 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

#### **23 APOLOGIES FOR ABSENCE**

Apologies were received from Gaynor Fisher, Mark King and Tony Whitlock.

#### **24 DECLARATIONS OF INTEREST**

There were none.

#### **25 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **26 ITEMS FROM THE PUBLIC**

There were none.

#### **27 ITEMS FROM MEMBERS**

There were none.

#### **28 MINUTES OF 23RD MAY 2017**

These were approved as a correct record and signed by the Chair.

#### **Matters Arising**

Page 4 (Agenda page 8) proposed governance framework of Brunel Pension Partnership

**RESOLVED** that this item should be brought to the next meeting with a “wiring diagram” showing the governance relationships between the components (national SAB, BPP, APF Committee and the LPB) and the respective decision-making, consultation, reporting, and communication between each body.

Page 6 (Agenda page 10)

Third bullet point from bottom of page: contacts with other funds re reporting year-end breaches: the Pensions Manager replied that there had been an informal conversation with Cornwall Pension Fund. The Chair indicated the LPB should revisit this topic at the next meeting.

Last bullet point: recommendation that the 84% of employers who did not attend the 2017 Employers' Conference be asked the reason for non-attendance: the Pensions Manager replied that there was a low-level of engagement with the Fund by many employers.

**RESOLVED** that a letter should be sent to the employers who did not attend specifically asking them why they did not so, and the response level to this letter should be reported to the Board, so that further consideration could be given to how to engage with them especially if they were poor administration performers.

Page 8 (Agenda page 12)

Resolution that a workshop about the compliance report should be held at 12 noon before today's meeting: this had been postponed because of the number of apologies from Members. The workshop would be scheduled for 7 November before the Board Meeting of that date and all Members would be strongly encouraged to attend.

## **29 CHAIRMAN'S INTRODUCTION**

The Chair reported that he and David Yorath had attended the CIPFA LGPS Local Pensions Board Conference on 28 June. The conference was attended by representatives of 40-50 Local Pension Boards. Speakers included representatives of CPLG, TPR, the Pensions Ombudsman, the Chairman of the National Scheme Advisory Board and leading consultants and advisors. Overall there is a better understanding of the purpose and role of LPBs. There are, however, significant variations in the way LPBs are working. Some perform an oversight and scrutiny function, as the Avon LPB does. Some are carrying out project management functions; the appropriateness of this kind of involvement in operations was queried by most attendees. He said he thought that the Avon LPB had got the balance right. He had some PowerPoint slides which he could circulate to Members. There had been a particularly useful presentation by TPR explaining their key priorities: governance, data and record keeping (including GDPR), cybersecurity and internal controls (including the issue of recordable breaches v. reportable breaches) and member communications (in particular Annual Benefit Statements). TPR also outlined some future areas they would examine: GMP reconciliation, the LGPS Dashboard (focussing on comparative administrative performance), academies and asset pooling.

There were varying approaches to indemnity insurance for members by LPBs. Some had taken out specific insurance for members, others had not. Bob Holloway, a former DCLG employee who was now advising the LGA, had expressed the view that as Local Pension Boards are not Local Authority Committees it is unlikely that LPB members are covered by Local Authority indemnity insurance policies. This was contrary to the advice previously given to Bath and North East Somerset Council, and he had raised the issue with the Head of Audit West.

A Member suggested that the risk for Board Members was very low, since the Board did not take executive decisions or make policy. The Chair replied that he could see two possible scenarios where a Member could incur a financial penalty in respect of their membership of the Board. The first would be a fine by TPR for the failure of the Member to carry out their statutory duty. The second would be a class action by a group of scheme members against the Member. He was aware that the members of some Funds were active in monitoring the performance of their LPBs.

The Head of Audit West said the issue would be revisited, if Members so wished, and funds could be made available for the purchase of indemnity insurance for Members, if this appeared necessary. Members agreed that minimum cover should be sought for APF LPB Members as is being pursued for the Wiltshire Fund LPB.

The Chair of the National Scheme Advisory Board had exhorted LPB members to participate in the survey given on agenda pages 45-47. The NSAB Chair had also exhorted LPB members to support the NSAB's cost transparency code and to encourage their fund and asset managers to implement the code.

He reported that the Administering Authority of the Barnet Pension Fund had been fined £1,000 by TPR for failing to make an annual statutory return despite several reminders and attempts to engage with them. The Chair stated this was the start of the TPR taking a more proactive approach to enforcement in the LGPS.

### **30 AVON PENSION FUND COMMITTEE MINUTES**

**RESOLVED** to note the public and exempt minutes of the meeting of the Avon Pension Fund Committee of 23<sup>rd</sup> June 2017.

### **31 AVON PENSION FUND COMMITTEE INVESTMENT PANEL MINUTES**

**RESOLVED** to note the minutes of the meeting of the Avon Pension Fund Committee Investment Panel of 24th May 2017.

### **32 LGPS UPDATES AND DEVELOPMENTS**

The Pensions Manager presented the report.

The Investment Manager said that following a High Court judgement the Government had had to amend statutory guidance on the contents of LGPS funds statutory Investment Strategy Statements requiring LGPS funds not to make investments that conflicted with UK foreign and defence policy. The Government had stated it intended to appeal, however this process may take some time.

**RESOLVED** to recommend that the APF review the wording of its ISS to ensure it is compliant with the amended DCLG statutory guidance.

The Investment Manager drew attention to the information about the BPP response to the consultation on MIFID II on agenda page 19. BPP had suggested that the FCA should amend its rules to allow LGPS funds a swifter route to elective professional status. She also reported that a DCLG Minister had suggested the establishment of

an LGPS pensions pool forum for the sharing of information and best practice. There would be a consultation about this, and it was agreed that the link to the consultation paper should be circulated to Members.

### **33 PROJECT BRUNEL - VERBAL UPDATE**

The Investments Manager gave a verbal update.

The Brunel Pensions Partnership was formally established on 18 July. The Board had been appointed. Senior positions in the Company had been filled through external recruitment. All staff in the member Funds had been invited to submit applications for between 8 and 10 other posts. If these positions were not filled from internal candidates, they would also be recruited externally. Office accommodation had been found at 101 Victoria Street in Bristol. Wiltshire Council would provide HR, payroll, and LGPS pension services to the Company, which would be an admitted body in the Wiltshire Fund. There would be a commercial IT supplier with experience of working with small and medium-size companies.

Two member representatives had been appointed as observers to the Oversight Board; one was a member representative on the Environment Agency Pensions Committee and the other was a Unison representative from Devon. They had been appointed by election.

Tom Renhard said that he had received the election information, but he had been away and the ballot had closed before he had been able to vote. David Yorath said that he had voted, but some aspects of the process had been unclear.

In response to a question from the Chair the Investment Manager said that she was unsure about the term of appointment of the scheme member representatives, but thought it was in the region of 2-4 years. There had been 8 or 9 candidates nominated, and not all of them had been union representatives.

The Chair said that it seemed that this year's member representation nomination and election process had been a little messy and needed to be improved for the next election. The Investment Manager suggested that this could be discussed by the Oversight Board and APF Committee.

The Chair asked how the Oversight Board could communicate effectively with Committees and LPBs overseeing the BPP funds and how the scheme member representatives could do so with scheme members. The Investment Manager replied that the Oversight Board would communicate with committees via their nominees to the Board. A lot of the communication to scheme members would have to come from the individual funds.

The Chair said that it was important that a "wiring diagram" should be produced showing the new organisational structures, the decision making and reporting process, public rights of attendance at BPP and Oversight Board meetings, and the channels of communication between the various components including LPBs. The Board could consider this at the November workshop and meeting.

The Investment Manager informed Members that a number of engagement days for Committee and Board Members would be held between 6-20 November in Bristol, Exeter and Oxford which may answer some of these queries. The LPB welcomed this and would endeavour to attend.

#### **34 TRANSPARENCY CODE - VERBAL UPDATE**

The Investment Manager gave a verbal update. Information about the Transparency Code can be found at: <http://www.lgpsboard.org/index.php/structure-reform/cost-transparency>

She said that the Avon Fund had always been transparent about investment managers' fees. The Fund relied on the Custodian for information about transaction fees. There was now pressure on LGPS funds to encourage investment managers to be transparent about their full range of costs.

The Scheme Advisory Board and the Investment Association had devised a template for managers to supply information to funds annually. Managers who are compliant with the SAB Transparency Code will be able to display the Transparency 'tick' logo on their promotional material.

The APF had adopted the new SAB Code and its data collection template would be sent to all Avon Fund managers at the end of this financial year. Managers who do not return it will be asked why they did not. It is anticipated that some managers might have concerns about confidentiality. The template requires them to submit a great deal of data. Replying to a question from a Member she said that the information provided by managers might be included in a Committee report.

**RESOLVED** that the Board welcomes the APF adoption of the Code and hopes that the cost information might start to appear in the APF (and BPP) accounts from 2018.

#### **35 COMPLIANCE REPORT**

Introducing the item the Chair said that he thought the Board should give a high priority to improving employer performance. The report gave cause for concern as some matters, if material, could be reportable breaches. There was a judgement to be made as to whether they were material or not.

The Pensions Manager presented the report and responded to questions and comments from Members.

A Member asked why performance was so low in so many cases. The Pensions Manager replied that SLA targets were much tighter than the regulatory standards. As shown by the table at the top of agenda page 30, the vast majority of cases were dealt with within five days of the SLA target. He noted that the Chair had previously suggested that it might be desirable to reduce the SLA targets to statutory levels. In addition there was one staff vacancy.

A Member said that the performance report should give a balanced view, and that perhaps the more stringent standards failed to do this. The Chair said that it should

always be made clear whether a target was statutory or an internal one and whether there was a difference between the statutory target and the internal target.

Members were concerned about the poor performance of employers as indicated by the table at the top of agenda page 34. They noted the poor performance of Bath and North East Somerset, which ought, as the administering authority, to be a beacon of excellence.

The Chair said that there ought to be a hierarchy of measures for dealing with repeated poor performance by employers, which would include additional training, the imposition of administrative charges, or ultimately reporting them to TPR. It was important that the Fund and the Board understood whether or not there was a genuine reason for poor performance, such as staff shortage. If there was no genuine reason, that was a legitimate cause for concern.

The Chair said that in some cases it might be appropriate to invite an employer's HR manager or payroll provider to a meeting. The Board would have the opportunity at the next meeting to see whether the improvements anticipated by the Pensions Manager materialised. He requested the Pensions Manager to highlight in the next report any issues or employers that were causing him particular concern.

Members agreed with the suggestion of the Head of Audit West that the Section 151 Officer should be invited to the meeting so that she was aware how poor the performance of the administering authority has been.

The Chair noted that there were a number of APF fund delivery projects in the Pensions Administration Team workplan (agenda pages 41-42) and said that it was important for the Board to monitor these, so that it had a balanced view of the Administration Team/employer interface and did not just focus on poor performance on the employer side.

#### **RESOLVED :**

1. To note Membership data, Employer Performance and Avon Pension Fund Performance for the three months to 30 June 2017.
2. To note progress on the TPR Data Improvement Plan.
3. Future compliance reports should state the statutory and internal target and show performance against statutory as well as internal APF targets, and the LPB should focus on those employers with repeated poor performance
4. The Fund should develop and implement a hierarchy of measures for dealing with repeated poor performance by employers, which would include additional training, the imposition of administrative charges, or ultimately reporting them to TPR.

## **36 SAB LOCAL PENSION BOARD SURVEY**

The Chair introduced this item.

The Scheme Advisory Board would like to receive a completed survey form from each Local Pension Board and each Pension Committee. The survey could also be completed by individual Chairs and Members of Boards and Committees. His draft response on behalf of the Board was attached as an appendix to the report. The DCLG will analyse responses and produce a report in November. It was more likely that DCLG's approach to the results would be to consider issuing good practice advice or to modify Guidance rather than to amend the Regulations.

A Member commented that question 11 "is there a written constitution for the Board?" was odd, as it was not to be expected that the Board would have one, because it was not a Committee of the Council. The Chair agreed. He noted that the Board had Terms of Reference, which incorporated the requirements of the Regulations.

It was noted that the issue of Members' indemnity insurance (question 18) was under review.

The Chair asked whether the APF Committee would submit a response to the survey. The Pensions Manager replied that the survey had been forwarded to the Chair of the Committee.

**RESOLVED** to approve the submission of the draft Avon Local Pension Board response to the Scheme Advisory Board LPB survey.

### **37 RISK MANAGEMENT UPDATE**

The Pensions Manager presented the report and responded to questions and comments from Members. He said that the main changes since the last report related to staff changes and training and software changes.

The Investment Manager drew attention to risk 9 (R54) relating to the potential impact of the Brunel Pension Partnership on the Investment Team. Resources could be pulled back from BPP as an interim measure. Workload was high, but there were things that could be dropped.

The Chair suggested that, given the cumulative impact of the increasing number of employers in the Fund in terms of an increase in data and administration, the risks in this area might justify a higher rating and increased mitigation, which could include more staff, new technologies and increased pressure on employers to perform.

**RESOLVED** that the workload impact and resource consequences of rising number of employers joining the fund should be reviewed by the Administering Authority.

### **38 GDPR UPDATE (DATA PROTECTION) - VERBAL UPDATE**

[Steve Harman left the meeting at this point.]

The Head of Audit West gave a verbal update. He circulated a set of PowerPoint slides, which are attached as an appendix to these minutes.

The General Data Protection Regulation will have effect in the UK from 25 May 2018. The Regulation reflects the much greater role of electronic information than when the Data Protection Act 1998 was introduced. It also shifts the balance in favour of personal rights as against corporate rights. The Regulation has a wider view than previous legislation: it is not just about data protection, but takes a holistic approach to information management and governance. It is likely that the vast majority of organisations will not be fully compliant when the Regulation comes into force, because of the extensive changes it requires to information management.

At present ICO can fine organisations a maximum of £500k for a breach. In future the maximum will be 4% of turnover, which for B&NES could mean a fine of up to £14m. Under the present rules ICO can only carry out inspections and audits of organisations with their consent, but in future they will have the power to do so compulsorily under an audit and inspection regime.

There will be a requirement that when new information systems are introduced or procedures modified there must be a Privacy Impact Assessment to ensure that personal data is protected and secured. Because this has not been required before, there is a great deal of retrospective work to be done. This obviously has an impact on APF administration. Class actions will be available for privacy breaches. Data processors will have liability, not just data controllers as at present. So scheme employers will be liable for pensions data that they hold, as well as APF.

A Member asked whether there were many subject access requests from Fund members and whether a charge was made for a response. The Head of Audit West replied that he could not recall any. The Council had never charged for SAR responses and the new Regulation did not permit a charge to be made.

**RESOLVED** that an update on the implementation of GDPR requirements on the APF will be provided at the February 2018 meeting of the Board with an action plan for outstanding tasks.

## 39 ANNUAL REPORT

The Chair introduced the item, recalling that it had been discussed at the previous meeting. He had made some small changes, and the Head of Audit West had added some factual information.

Members suggested the following amendments:

Page 3, paragraph above the heading "Detail of the Local Pension Board Members": "compliment" should be "complement".

Page 6, section 8, line 2: "Employer's" should be "Employers'".

Page 7, 5<sup>th</sup> paragraph, second bullet point: "significant growth of new employers through the Government's academy agenda" would be better expressed by "significant growth of new employers, especially academies".

The Chair proposed that the following sentence should be added to the introduction on page 1: "The LPB reviewed Avon Pension Fund's draft new Investment Strategy Statement and its compliance with DCLG statutory Guidance and recommended a small number of amendments. These were accepted by the Committee and incorporated into the ISS."

It was agreed with the Investment Manager that "Review of Statutory Investment Strategy (in the Draft Forward Plan 2017/18 on page 9) should be postponed from the February meeting to the May meeting.

**RESOLVED** to approve the annual report subject to the amendments above.

It was noted that the Annual Report would be presented to the APF Committee in September.

#### **40 TRAINING AND WORK PLANS**

The Head of Audit West introduced the item. He reminded Members that this standard item was primarily for allow them to provide updates on training events they had attended and to request future agenda items.

A Member asked what actions he should take in respect of the conference he had attended. The Head of Audit West replied that he should update his training log and share any papers or slides with which he had been provided.

In response to question from a Member the Head of Audit West said that as far as he was aware no financial loss allowance was available in respect of attendance at conferences at training events, only travel and subsistence expenses, though he would check and confirm the rules that applied to Board Members.

The Chair said that the presentation on the GDPR should be added to Members' training logs as should the future Administration Workshop and briefings on the governance of BPP.

#### **41 CHAIRMAN'S REVIEW OF MEETING - VERBAL**

The Chair said that it had been a useful meeting and that he hoped all Members would be able to attend the workshop and meeting on 7 November.

#### **42 FORWARD LOOK**

The workplan had been reviewed and updated during the item on the Annual Report.

#### **43 DATE OF NEXT MEETING**

It was noted that the next meeting was to be held at 2pm on 7<sup>th</sup> November in the Guildhall in Bath. The meeting would be preceded by a workshop at 12 noon. All Members were strongly encouraged to attend.

The meeting ended at 4.18 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

# Audit West

## Information Governance Update –

### GDPR

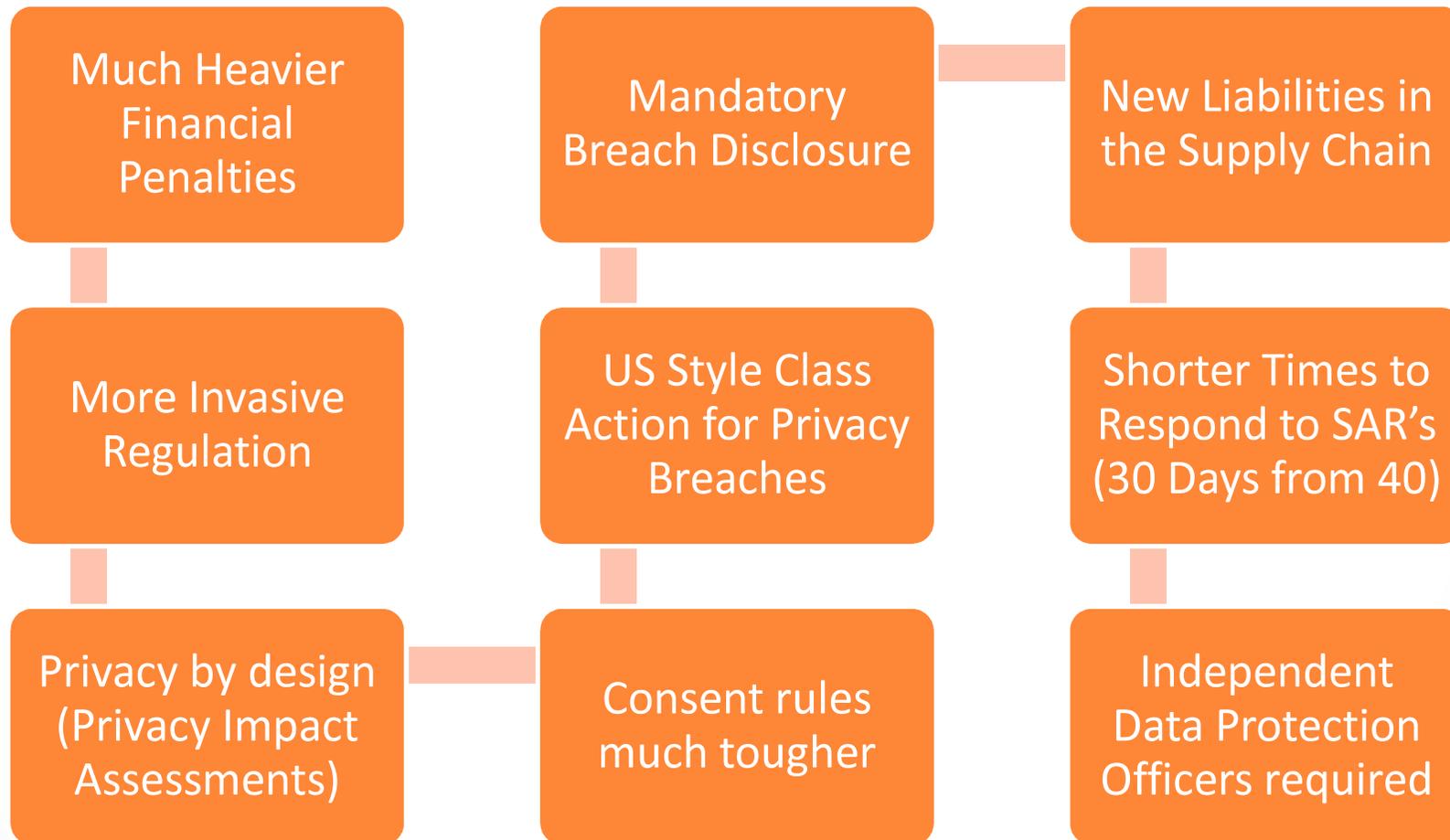
### (New General Data Protection Regulations)

Pension Board – 27<sup>th</sup> July 2017

# GDPR – What is it?

- Most significant shake-up of Data Protection Law in 20 years
- Affects any business where personal data is used/stored
- Created through EU, UK approved & implemented May 2018
- Minimal to almost certainly no impact from Brexit
- Changes to the regime are significant and not superficial
- Much wider than just personal data, all about governance
- ICO Focus on strategic accountability & operational adequacy
- ICO will oversee new Financial Penalty and Audit Regime
- Possible resource issues, unlikely to be compliant by May 2018
- Long-Term it will drive improvement and improved IM

# GDPR – Key Changes?



# Current Status – Where is Council now with ICO 12 Key Steps to Implementation

AWARENESS	Yellow	CONSENT	Red
INFORMATION YOU HOLD	Red	CHILDREN	Yellow
COMMUNICATING PRIVACY INFORMATION	Yellow	DATA BREACHES	Red
INDIVIDUAL'S RIGHTS	Red	DATA PROTECTION BY DESIGN	Red
SUBJECT ACCESS REQUESTS	Yellow	DATA PROTECTION OFFICERS	Yellow
LAWFUL BASIS FOR PROCESSING PERSONAL DATA	Yellow	INTERNATIONAL	Green

# Current Status – Where is APF now with ICO 12 Key Steps to Implementation

AWARENESS	Yellow	CONSENT	Yellow
INFORMATION YOU HOLD	Green	CHILDREN	Green
COMMUNICATING PRIVACY INFORMATION	Yellow	DATA BREACHES	Red
INDIVIDUAL'S RIGHTS	Yellow	DATA PROTECTION BY DESIGN	Red
SUBJECT ACCESS REQUESTS	Yellow	DATA PROTECTION OFFICERS	Yellow
LAWFUL BASIS FOR PROCESSING PERSONAL DATA	Green	INTERNATIONAL	Green

# GDPR – Proposals for Next Steps – Council (including APF)

- **Senior Management Briefings to run from June to August**
- **Project Board meeting by September (Board will also act as high level group to sign-off proposals/changes etc)**
- **Project Working Group to be set-up by October (Group will act as the catalyst for changes and completion of work, include APF)**
- **Gap Analysis underway – Directorate Focussed to help prioritise**
- **Outline Project & Communication Plan being developed**
- **Updates back to Pension Board in February 2018**