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<tr><td>MEETING:</td><td colspan="2">AVON PENSION FUND COMMITTEE</td></tr>
<tr><td>MEETING DATE:</td><td>21 June 2013</td><td>AGENDA ITEM NUMBER 11</td></tr>
<tr><td>TITLE:</td><td colspan="2">ADMISSION BODIES & ACADEMIES</td></tr>
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1 THE ISSUE

1.1 There are a significant number of “admitted” bodies including Transferee Admission Bodies and Community Admission Bodies in the Fund. In addition, since 2010 a significant number of academies have joined the scheme as scheduled bodies.

1.2 Given the significant pressure on their financial position, the admitted bodies, though small in number and in monetary terms, pose a risk to the Fund in terms of recovering the pension liabilities. This report updates the Committee on the admitted bodies and the Fund’s policy to managing the risk and recovering outstanding debts in respect of these bodies.

1.3 The Fund now has c. 79 academies, which are scheduled bodies within the scheme. When new employers join the Fund the costs incurred on entering the scheme are charged to the new employer. The report explains the basis of the fees charged to new employers (with specific reference to academies) on joining the scheme.

2 RECOMMENDATION

That the Committee:-

2.1 Agrees the policy for recovering outstanding liabilities and on-going assessment of employer covenants

2.2 Agrees to retain the current charging structure for new bodies when joining the scheme.

3 FINANCIAL IMPLICATIONS

3.1 The last actuarial valuation of the Fund as at 31 March 2010 disclosed a funding deficit of £552m. The next actuarial valuation is due as at 31 March 2013 and the funding position will have deteriorated since the 2012 valuation. There is a significant risk that a few of the CABs may not be able to meet their full liability especially as many of these bodies are primarily funded by local authorities and central government. Where a scheme employer cannot meet their full liability the Regulations allow for the outstanding sum to be recovered from the other bodies in the Fund.

3.2 To put this into perspective, the aggregate deficit of the CABs at the 2010 actuarial valuation was £23m or 4.1% of the total deficit. Nearly half of this (£11.2m) related to one relatively secure entity and a number of the larger CABs have relatively secure income streams underpinning the deficit.

3.3 The pension liabilities of the TABs are guaranteed by the outsourcing scheme employer (normally local councils) so pose no direct risk to the Fund.

3.4 Academies are scheduled bodies and do not have an explicit guarantee from the government. To date the government has supported failing academies.

4 BACKGROUND

4.1 There are various employers in the scheme: scheduled bodies such as local authorities and education bodies including academies (staff have a right to join the scheme); designating bodies such as town and parish councils (the body can pass a resolution to allow staff to join the scheme); and admitted bodies (where the admission agreement between the Fund and admitted body will determine the employees permitted to join the scheme).

4.2 There are presently 25 Community Admission Bodies ("CABs") in the Fund. In general terms, a CAB is a body "which provides a public service in the United Kingdom otherwise than for the purposes of gain" or a body to the funds of which a Scheme Employer contributes. These bodies can take various forms, as will be seen from Exempt Appendix 1, but one common feature is that their funding generally comes from the public sector. The security of the funding sources varies, which means that, in terms of being able to meet their pension liabilities, some bodies pose a greater risk to the Fund than others. All CAB admissions to the Fund must be approved by the Committee.

4.3 **Since December 2005 the Fund's policy is to only admit a body seeking admission to the Fund as a CAB if it is guaranteed by a Scheme Employer or a bond is put in place to protect the Fund.** Before the Local Government Act 2000 ("LGA 2000") there was uncertainty as to whether local authorities could provide guarantees to such bodies and as many of the CABs were admitted to the Fund some years ago they represent a legacy issue when Scheme Employer guarantees were not permitted.

4.4 The actuarial position of the CABs is affected in the same way as the other scheme employers. However, the reduction in funding from public sector bodies has exacerbated the financial situation for many of these bodies, making it more difficult for them to increase contributions to the Fund. The policy towards ensuring the sustainability and solvency of these bodies within the Fund will be addressed in the Funding Strategy for the 2013 valuation.

4.5 There are 39 Transferee Admission Bodies ("TABs") in the scheme whose pension liabilities are guaranteed by the outsourcing scheme employer. TABs are usually private sector companies where there is a commercial contract in place between them and the outsourcing employer. Some TABs have a bond in place and the Fund encourages outsourcing employers to obtain a bond or parent company guarantee to protect the outsourcing employer in the event of insolvency of the TAB.

4.6 Exempt Appendices 1 & 2 summarises key financial and actuarial data of each admitted body showing the actuarial position at the 2010 valuation.

5 FUND POLICY FOR RECOVERING OUTSTANDING LIABILITIES & ON-GOING ASSESSMENT OF EMPLOYER COVENANTS

5.1 To manage the Fund equitably, the Administering Authority will seek to recover a shortfall in assets from the employing body to which it is attributable. Any shortfall that is not met by the employer, the employer's guarantor or bond will be charged to the Fund as a whole. The Administering Authority's funding objective aims to protect the financial interests of all employing bodies in the Fund and therefore, ultimately, the tax payer.

5.2 When a Transferee Admission Agreement or a Community Admission Agreement (with a guarantee) is terminated, the assets and liabilities of the admission body will, in accordance with the Funding Strategy Statement, normally transfer to the scheme employer's guarantor. The only exception will be where, in respect of Admission Agreements pre-dating 16 March 2012, the Scheme Employer elects to leave the assets and liabilities with Fund. In this case, discussions between the Scheme Employer and the Fund will need to take place to determine the mechanism by which any net liability is to be discharged.

5.3 The LGPS Regulations are clear in the responsibility of the Administering Authority to recover outstanding liabilities when an employing body exits the Fund. They provide for the Administering Authority to obtain an actuarial valuation and revised rates and adjustments certificate for the outgoing body. Where for any reason it is not possible to obtain the revised contributions from the outgoing body, or from an insurer or body providing an indemnity or bond on behalf of that body, the Administering Authority may obtain a further revision of any rates and adjustments certificate for the fund, showing

(i) in the case of a TAB, contributions due from the body which is the Scheme employer in relation to that admission body; and

(ii) in the case of a CAB with a guarantee, the contributions from the scheme employer guaranteeing the CAB

(iii) in any other case, the revised contributions due from each employing authority which contributes to the fund.

5.4 Unless the cost of doing so is deemed to outweigh the likely recovery to the Fund, the Administering Authority will pursue an outgoing body (including liquidator, receiver, administrator or successor body if appropriate) for any deficit. The Administering Authority will also pursue any bond or indemnity provider or guarantor, for payment where there is one in place. However, each situation is dealt with on a case-by-case basis given the different financial situation and funding issues applying in each case and also the legal complexity and costs of pursuit of any claim.

5.5 As indicated in paragraph 5.1, any outstanding liability that is not recovered from an employing body that does not have a guarantee is met by the other employing bodies in the Fund. In the event that a body fails and the recovery of liabilities is not economic or possible to pursue, under the LGPS Regulations, the Section 151 Officer will instruct the actuary to revise the contribution rates payable by the other employing bodies in the Fund as necessary and notify the Committee of such action.

5.6 There is an on-going assessment of the employers' covenants to ensure that the risks to the Fund are identified, quantified and action taken where possible to mitigate them as early as possible. The aim of the assessment is to:

(1) provide information to enable the Fund to proactively engage with scheme employers regarding the financial planning of their pension liabilities

(2) enable the Fund to alter the funding plan if there are changes to the employer's funding profile or income streams to protect the solvency of the Fund

(3) provide a consistent framework for use within the actuarial valuation process to agree individual employer's contribution rates and deficit funding plans.

5.7 Given the number of employers within the Fund it is not feasible or a good use of limited resources to assess each individual body. The Fund's approach is to group employers by similar characteristics e.g. by funding streams, tax-raising powers, provision of service, and initially assess each group, in order that priority is given to those employers that pose, or could pose, more risk to the Fund or are less able to meet their future payments.

6 ACADEMIES

6.1 The Fund now has c. 79 academies (listed with relevant financial information in Exempt Appendix 3). As scheduled bodies these employers have the right to join the scheme. Despite attempts by the Fund (and other LGPS funds) the Department of Education has not provided adequate assurance or clarity as to the treatment of the pension liabilities in the event that an academy fails. To date, failing academies have been taken over by another. Therefore the Fund's position is to assume that failing academies will be "supported" by central or local government and therefore on joining the scheme they are treated in same way as the authority from which it has left. This policy will change in response to government support not materialising should such an event occur.

6.2 At subsequent valuations the treatment in terms of actuarial assumptions and recovery periods will depend on how the Fund assesses on-going the risk at that point in time. With the number of these bodies increasing, the aggregate risk to the Fund of these non-tax raising scheduled bodies is increasing. As a result, the Committee may decide that, in the 2013 valuation, the treatment of academies in terms of the actuarial assumptions and deficit recovery plans should differ from the local authorities if the covenant risk is deemed higher. This issue will be considered by the Committee when drafting the Funding Strategy Statement (at the Valuation workshop on 21 June 2013).

6.3 The Committee has asked the officers to consider charging the academies a flat fee to cover the costs of entering the scheme including:

i. the cost of setting the contribution rate by the actuary

ii. setting up the new employer in the administration system

iii. training the staff of the new employer

The actuary's fee (i) is a fixed costs plus a charge per member (charge per member on a sliding scale). The cost charged to each body to cover the Fund's costs is a percentage of the actuary's fees.

6.4 Having analysed the charges over the last 24 months, officers do not intend to alter the charging structure as the current system ensures there is no cross subsidy between new employers or the Fund and new employers. All prospective employers are given an estimate of these charges when they contact the Fund to discuss joining. At the same time they are informed of the actuarial fees for the annual pension liabilities disclosure in their Statement of Accounts (IAS19).

7 RISK MANAGEMENT

7.1 A key risk to the Fund is the inability of an individual employer to meet its liabilities, especially when it ceases to be an employing body within the Fund. Assessing the strength of an employing body's covenant is a crucial component in managing the potential risk of default to the Fund. Accordingly, a formal covenant assessment process has been prepared. Within the Investments Team there are officers with responsibility for monitoring the employers' financial position and to support the Investments Manager in managing the financial and liability risk.

7.2 The overriding concern of the Fund is that these organisations maintain their financial sustainability in order to contribute to their pension obligations over the long term. To support this, the Fund explores a number of options in consultation with the individual bodies to obtain greater security for the liabilities e.g. through a charge on any assets the organisation may have. The aim is to maximise the employer contributions having taken into account the employer's financial situation and at the same time, not unnecessarily increase the financial risk to the organisation represented by the pension liabilities. However, each body is treated on a case-by-case basis as their particular circumstances vary significantly, the relationship with their main funder (usually a local authority or government agency) being a major factor.

In recognition of the risk posed by the liabilities to the Fund, the officers have increased the on-going dialogue with all employers about the risk posed to their operations by the pension deficit.

8 EQUALITIES

8.1 An equalities impact assessment is not necessary.

9 CONSULTATION

9.1 N/a

10 ISSUES TO CONSIDER IN REACHING THE DECISION

10.1 Are contained in the report.

11 ADVICE SOUGHT

11.1 The Council's Monitoring Officer and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

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Background papers	
Please contact the report author if you need to access this report in an alternative format	