

BATH AND NORTH EAST SOMERSET

PENSION BOARD

Friday, 13th November, 2020

Present:- Nick Weaver (Chair), Helen Ball (Member Representative), Steve Harman (Employer Representative), Mark King (Member Representative), and Tony Whitlock (Employer Representative)

Also in attendance: Tony Bartlett (Head of Business, Finance and Pensions), Jeff Wring (Service Director - One West), Geoff Cleak (Pensions Manager), Carolyn Morgan (Governance and Risk Advisor) and Kathryn Shore (Technical and Compliance Advisor)

Chair, Avon Pension Fund Committee: Councillor Bruce Shearn

1 WELCOME & INTRODUCTIONS

The Chair, members of the Board and officers introduced themselves.

2 APOLOGIES FOR ABSENCE

Pete Sloman (Employer Representative) and David Yorath (Member Representative) had sent their apologies to the Board.

3 DECLARATIONS OF INTEREST

There were none.

4 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

5 ITEMS FROM THE PUBLIC

There were none.

6 ITEMS FROM MEMBERS

There were none.

7 MINUTES OF PREVIOUS MEETING - 28TH NOVEMBER 2019

The Board approved the minutes of the meeting held on 28th November 2019 as a correct record.

8 LGPS REGULATORY UPDATE

The Technical & Compliance Advisor introduced this report to the Board, a summary is set out below.

HMT Public Sector Exit Payments Cap / MHCLG Consultation on Further Reform to Exit Payments

The government first consulted on plans to cap exit payments in the public sector in 2015 and subsequently launched a further consultation in April 2019.

- A maximum exit payment of £95,000 which was to apply to a wide range of public sector employers, however, excluding some LGPS employers such as Universities and Colleges.
- The cap was to include the value of any early retirement strain costs payable as a result of the exit.

In July 2020, the Government published its response to this consultation, confirming their intention to proceed with the implementation of the cap which remained set at £95,000 with no intention for this amount to be index linked going forward.

On 7 September 2020, MHCLG launch their own consultation on the changes required to the LGPS regulations to accommodate the cap, but also proposals for further reforms to exit payments for the LGPS only, which are:-

- The actual pay used in severance calculations will be limited to £80,000;
- The maximum severance (including statutory redundancy pay) will be limited to 3 weeks' pay per year of service or 15 months' pay, whichever is the lower
- The amount available for any strain cost will be reduced by the statutory redundancy payment in all cases

On 15 October 2020, the regulations to implement the £95k cap, across the whole of the public sector, were signed and came into force on 4 November 2020. However, the LGPS amendment regulations required to implement the £95k cap are not likely to be implemented before 2021.

This leaves us in a position of legal uncertainty from the 4 November 2020 until such time as the LGPS amendment regulations come into force. This is due to the discrepancy between the obligations on scheme employers under the £95k Cap Regulations to limit exit payments, including pension strain, to £95,000 and the requirement for administering authorities to pay a fully unreduced pension to a scheme member who is made redundant over the age of 55 under existing LGPS regulations.

In Oct 2020, a letter was sent from Luke Hall, the Local Government minister, to all LGPS administering authorities recommending a course of action to take in the interim period. The Scheme Advisory Board also published its legal advice together with a commentary for LGPS administering authorities and scheme employers. APF are currently obtaining legal advice on the best course of action to take in the interim

period and we have also been in talks with the Actuary regarding strain cost factors and await their formal recommendation on any changes required to the factors used to calculate pension strain.

The Chair asked if there were any governance issues for the Board to consider.

The Head of Business Finance & Pensions replied that each employer would have to set their own policies to take account of these changes and therefore the Fund would have to act on their interpretation. He added that he expected some claims to come forward and that the legal advice the Fund receives would be very important.

McCloud and Sargeant Court Case

This case concerns the transitional protections provided to older members of the judges and firefighter pension schemes following their reform in 2015 as part of the public sector pension scheme changes.

In July 2019, the Chief Secretary to the Treasury announced in a written statement that 'the government believed that the difference in treatment will need to be remedied across all public sector schemes, including the LGPS'. This is likely to have a significant impact on the administration team.

In July 2020, MHCLG launched a consultation on amendments to the statutory underpin which are designed to remove age discrimination from the LGPS. APF submitted a response to this consultation, which closed on 8 October 2020, and we await their response which is expected in early 2021.

In the meantime, APF will be looking to carry out a data collection exercise with their employers to ensure any additional hour change and service break data is available for members that will be covered by the changes, as this data will be required to apply the remedy once it has been decided.

LGPS SAB Cost Management Process

In September 2018 HM Treasury announced that as a result of scheme valuations all public service pension schemes, including the LGPS had breached the 2% cost cap floor which would lead to member benefits improvements. However, the SAB has its own cost management which allowed any changes to benefits to be taken into account before the HM Treasury process begins.

In January, the Government announced a pause in the cost cap process due to uncertainty caused by the McCloud and Sargeant court ruling on elements of the 2014/15 scheme reforms and subsequently the SAB confirmed that they would also be pausing their own cost management process until the effects of the outcome of this case is clear.

Therefore, scheme changes were not put in place for 1 April 2019 and the LGPS SAB Cost Management Process continues to be paused until the effects of the outcome of the McCloud and Sargeant Judgement is clear. When this process resumes, if changes are still required, this will have a significant impact on the administration team.

On 16 July 2020, the Government announced that the cost control mechanism pause would now be lifted, for the unfunded public sector schemes, and the process restarted taking into account the costs of the McCloud remedy. The SAB further agreed that the LGPS cost cap arrangement should also be un-paused but no action would be taken until the HMT direction, on how McCloud costs are to be considered, is published and the outcome of the LGPS McCloud consultation is known in early 2021.

The Chair asked how things were progressing with the provision of any new software regarding the proposed changes.

The Pensions Manager replied that they were in discussion with their software provider on this matter and that developments were moving in the right direction. He added that APF also administer the Fire Service Pension on behalf of Avon Fire & Rescue Service, with just under 1,000 members, and that this was likely to be a more complex exercise.

The Board **RESOLVED** to;

- i) Note the current position regarding the developments that could affect the administration of the fund
- ii) Note the response sent to the MHCLG consultation on 'Removing Age Discrimination'.

9 FUND & EMPLOYER PERFORMANCE

The Pensions Manager introduced this report to the Board, a summary is set out below.

With the UK lockdown in place from 23rd March, the initial response from the Fund was focussed on communications, ensuring all staff officers had capability to undertake business operations remotely from home.

Direct engagement with all key employers was established and is ongoing to review and monitor business as usual capability. All other employers have been surveyed to establish BAU capabilities with no significant issues being reported.

Fund Performance against SLA – KPI's

Targets were being met in the main on the following three categories: Retirement (from Active), Retirement (from Deferred) and Deaths.

The Chair commented that he thought that the target of 10 days for Transfers In / Out was quite demanding. He asked for any comments on this matter.

The Pensions Manager replied that some cases can be complex and can take time to review. The timely progress of transfer cases can be adversely impacted where information is required from an external third party.

Helen Ball asked what percentage of people use the self-service model for enquiries.

The Pensions Manager replied that he believed it was around 30% and that they were looking to increase usage where possible.

APF Completed Cases - Performance against Statutory Legal Deadline

Figures in this respect were really good on the whole. Only Transfers In / Out were not flagged Green and this was partly due to the delay in printing and posting requirements as officers had to arrange to go into the office to complete this.

The Chair asked how recruitment into the service was going.

The Pensions Manager replied that a three phase recruitment plan was ongoing and that this would help as the Administration Team were currently down by 11 posts.

The Head of Business Finance & Pensions added that there was a difficulty in finding and retaining staff and that he felt whilst working under current restrictions a drag on performance would remain.

Steve Harman asked if a general view of how staff are feeling about working at home could be given.

The Pensions Manager replied that he felt that it had affected performance but was pleased to report that overall sickness had not increased. He added that he felt the longevity of the situation was taking its toll on staff mental health and wellbeing.

Steve Harman asked for the Board's appreciation of their work to be fed back to staff.

The Board **RESOLVED** to note the Fund and Employer performance for the three months to 30th September 2020.

10 STATUTORY ANNUAL REQUIREMENTS

The Pensions Manager introduced this report to the Board, a summary is set out below.

The introduction of the Pensions Act 2013 extended the powers of the Pensions Regulator (TPR) to public sector schemes from 1 April 2014. The Pension Regulator introduced the Code of Practice 14 for the administration of public sector schemes in 2015. This, amongst other things, addressed the issue of annual benefit statements to members.

In preparation the Fund must undertake an annual exercise to reconcile member data supplied by employers at each 31st March year end. There are 432 active employers of which 269 provide member data digitally to the Fund on a monthly basis. The remaining 163 employers continue to provide data annually.

For the purpose of data accuracy, the digital monthly employer returns undergo a reconciliation process on a continuous basis. Where the employer annually

submits a data return it invariably will require further scrutiny and employer engagement to reconcile. The Fund is aiming to digitalise all employer returns as part of its published Administration Strategy.

Officers completed work to reconcile data returns ahead of the statutory Annual Benefit Statements (ABS) exercise. Summarily, 94% of 36,189 active member statements were issued ahead of the 31st August deadline.

The Board **RESOLVED** to note the report.

11 **BREACHES LOG**

The Governance & Risk Advisor introduced this report to the Board, a summary is set out below.

Regulatory breaches are breaches of the regulations or standards as set out in the Administration Strategy and if Material need to be reported to the Pensions Regulator (TPR) as set out in the Breaches Policy. In addition to the requirement to report Material breaches to TPR, the Pensions Manager will formally report all breaches to the Avon Pension Fund Committee and the Pension Board on a quarterly basis.

5 Year Refund Cases

The 2013 LGPS regulations require schemes to pay a refund of contributions within 5 years. Failure to complete payment is classified as a regulatory breach and is required to be reported to the pensions committee and local pension board. The National Technical Group has previously made a recommendation to the Scheme Advisory Board (SAB) to remove the requirements to pay a refund of contributions within five years under the 2013 regulations. The SAB have agreed to proceed with this regulatory change and are in the process of making recommendations to MHCLG.

A notifiable breach must be reported to the Information Commissioner's Office (ICO) within 72 hours after becoming aware of it. If it takes longer than this, reasons for the delay must be provided.

All breaches must be reported to Banes Data Protection Officer (DPO) within 24 hours of the incident using the incident reporting template. The DPO will advise if the incident meets the criteria for reporting to the ICO and also makes recommendations on future preventative actions.

Procedures are in place for staff to follow and regular training takes place to ensure that everyone has a full understanding of data protection and the reporting procedure for breaches.

Steve Harman commented that from looking at the Breaches Log it was hard to tell if these figures were good in comparison to other years or other Funds. He asked if in a future report this information could be included.

The Governance & Risk Advisor replied that the figures had been consistent across the last two years. She added that she would look to add the information requested into future reports.

The Chair asked if she could expand on the data breaches that occurred and the subsequent measures taken.

The Governance & Risk Advisor replied that only one incident had been reported to the Information Commissioner's Office (ICO) in 2019 and that this had related to IConnect. She added that an employer had uploaded an extract and in doing so the first line of the address of 71 members had become incorrect.

She said that this incident led the Fund to set up the IConnect Team and the implementation of further controls.

She informed the Board that four incidents had been reported to Information Governance in 2019. She explained that twice data was sent to an incorrect employer (Globalscape) and that twice data was sent to an incorrect member.

She said that a checking step had been added to the Globalscape procedure and that more training had been given to staff.

She informed the Board that three incidents had been reported to Information Governance in 2020. She stated that 2 pensioner payslips were sent to the incorrect person via the Toplink – Print Service, 1 data set was sent via Secure Share to the wrong recipient and 1 member data set was sent to an old address.

She explained that a review of Toplink's procedures has been carried out and that the machine that malfunctioned has been decommissioned. She added that training & education of staff members has been carried regarding the other two incidents.

The Chair commented that this was something the Board could look at when discussing the Digital Strategy in the early part of 2021.

The Board **RESOLVED** to note the report.

12 RISK MANAGEMENT

The Governance & Risk Advisor introduced this report to the Board, a summary is set out below.

The risk management process has been reviewed and updated in line with CIPFA guidance, with the introduction of a more robust process for identifying & managing risks. All risks have been reviewed and re-evaluated using a risk evaluation form. Each risk has been allocated a risk owner to monitor the risk and implement mitigation measures. The scoring system used is in line with the B&NES corporate guidelines.

The Risk Register is reviewed every quarter by the pension management team. All risks with a review date are re-evaluated using the evaluation form and updates agreed and made to the risk register. Any new risks identified or

changes to any other risks are also considered and the necessary amendments made.

She confirmed that both the introduction of the exit payment cap (R53) and Brexit (R55) were on the Risk Register.

The Board **RESOLVED** to note the report.

13 PENSION BOARD - WORKPLAN & TRAINING PLAN

The Governance & Risk Advisor introduced this report to the Board, a summary is set out below.

In developing a training plan Board Members should reflect on their own statutory requirements as set out in previous reports. In summary, Board Members should have a breadth of knowledge and understanding that is sufficient to allow them to understand fully any professional advice the Board is given. They should also be able to challenge any information or advice they are given and understand how that information or advice impacts on any decision relating to the Board's duty to assist the Avon Pension Fund.

In developing a work plan the Board should reflect the need to maintain a balance between building the knowledge and understanding of Board Members along with delivery of the statutory obligations of the Board.

Helen Ball commented that she had attended a number of courses / forums throughout the year and that a lot of information had been gained through good questioning at these sessions. She added that the informal Board sessions had also been useful.

The Board **RESOLVED** to note the report and recommends high level training needs through 2020/21.

The meeting ended at 4.00 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services