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<tr><th colspan="3">Bath & North East Somerset Council</th></tr>
<tr><td>MEETING:</td><td colspan="2">AVON PENSION FUND COMMITTEE</td></tr>
<tr><td>MEETING DATE:</td><td>9 DECEMBER 2011</td><td>AGENDA ITEM NUMBER</td></tr>
<tr><td>TITLE:</td><td colspan="2">COMMUNITY ADMISSION BODIES</td></tr>
<tr><td>WARD:</td><td colspan="2">ALL</td></tr>
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Exempt Appendix 1 – Community Admission Bodies</td></tr>
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1 THE ISSUE

1.1 The Fund has a significant number of smaller employers including Transferee Bodies and Community Admission Bodies (CAB). This report deals with the CABs, most of which are not guaranteed by other scheme employers. It should be noted that the majority of CABs were admitted to the Fund some years ago and therefore represent a legacy issue. Since December 2005 the Fund's policy is that any body seeking admission to the Fund as a CAB will only be admitted if a guarantee by a scheme employer is put in place.

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

2 RECOMMENDATION

That the Committee:-

2.1 Notes the information set out in the report.

3 FINANCIAL IMPLICATIONS

3.1 The Fund currently has a deficit that was calculated at £552m at the 2010 valuation. There is a significant risk that some employers may not be able to meet their full liability especially given many of these bodies are funded by local authorities and central government. Where employers cannot meet their full liability the regulations allow for the outstanding sum to be recovered from the other bodies in the Fund.

3.2 The aggregate deficit of the CABs at the 2010 valuation was £23m or 4.1% of the total deficit (2% of the 4.1% relates to one relatively secure entity). Many of the CABs have relatively secure income streams underpinning the deficit.

4 BACKGROUND

4.1 The Fund has 22 CABs in the Fund. A CAB is generally one "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 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.

4.2 Only those bodies more recently admitted to the Fund have their pension liabilities guaranteed by a scheme employer or have a bond 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. The "well-being powers" in the LGA 2000 can be utilised to enable such guarantees to be provided in most instances. In addition, the Regulations now require a guarantee to be put in place in respect of bodies to the funds of which a Scheme employer contributes 50% or less of the total amount received by the body. In such cases the Scheme employer(s) must guarantee the liability of the CAB to pay all amounts due from it under the Regulations. Historically, there was a belief that any deficits which might arise would be both temporary and manageable. In recent years, with liabilities increasing because of increased longevity and lower interest rates and assets failing to perform satisfactorily, the situation has become fundamentally different. This has now been exacerbated by the reduction in funding available from the public sector.

4.3 Exempt Appendix 1 summarises key financial and actuarial data of each CAB.

5 FUND POLICY FOR RECOVERING OUTSTANDING LIABILITIES

5.1 The LGPS regulations are clear in the responsibility of the Fund to recover outstanding liabilities when an employing body exits the Fund. They provide as follows:-

> "Where an admission agreement ceases to have effect, the administering authority which made it must obtain—
>
> (a) an actuarial valuation as at the date it ceases of the liabilities of the fund in respect of current and former employees of the admission body which is a party to that agreement ("the outgoing admission body"); and

(b) a revision of any rates and adjustments certificate for any fund which is affected, showing the revised contributions due from that body.

Where, for any reason, it is not possible to obtain revised contributions from the outgoing admission body, or from an insurer or any person 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—

(c) in a case where that body is a transferee admission body contributions due from the body which is the Scheme employer in relation to that admission body; and

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

5.2 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 appropriate. It is important to stress that 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.

5.3 As indicated in paragraph 5.1, any outstanding liability that is not recovered from a CAB that does not have a guarantee is met by the other employing bodies in the Fund.

5.4 In the event that a body fails and the recovery of liabilities is not economic or possible to pursue, under the regulations stated in 5.1(b), the Section 151 Officer will instruct the actuary to revise the contribution rates as necessary and notify the Committee of such action.

5.5 In notifying the Committee of the decision to instruct the actuary in 5.4, the statutory officer will take account of the policy as described in 5.2.

6 RISK MANAGEMENT

6.1 A key risk to the Fund is the inability of an individual employer to meet their liabilities, especially when it ceases to be an employing body within the Fund. 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.

6.2 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 takes a number of actions in consultation with the individual bodies to obtain a form of guarantee 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.

6.3 In recognition of the risk posed by the liabilities to the Fund, the officers have increased the ongoing dialogue with CABs about the risk posed to their operations by the pension deficit. Meetings are held periodically with all the CABs.

7 EQUALITIES

7.1 This report is for information only.

8 CONSULTATION

8.1 N/a

9 ISSUES TO CONSIDER IN REACHING THE DECISION

9.1 N/a

10 ADVICE SOUGHT

10.1 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	