

**MINUTES** of a meeting of the **PENSIONS AND INVESTMENT COMMITTEE**  
held at County Hall, Matlock on 3 August 2016

**PRESENT**

Councillor D J Wilcox (in the Chair)

**Derbyshire County Council**

Councillors S Brittain, R Davison, S J Ellis, S Freeborn, J Innes, and S Marshall-Clarke

**Derby City Council**

Councillors M Carr and P Hezelgrave

An apology for absence was received from M Wilson

**49/16**      **MINUTES RESOLVED** that the minutes of the meeting held on 1 and 22 June 2016 be confirmed as a correct record and signed by the Chair.

**50/16**      **DERBYSHIRE PENSION FUND RISK REGISTER** The latest Risk Register was presented to the Committee. Two risk items had been removed from the Risk Register since January 2016 – the potential risk of failing to constitute a Pensions Board, and failing to appoint a new external advisor. The Pensions Board had now met and the Fund had appointed a new external advisor in April 2016.

Three new risk items had been added to the Risk Register since January 2016 – the potential risk of delay in the issuing of annual pension statements, the potential risk of the Fund being left with insufficient investment skills and experience post LGPS Investment Pooling; and the potential impact of Brexit.

The Risk Register had identified two high risk items – funding and fluctuations in assets and liabilities. It was an inevitable risk for any pension fund that assets could be insufficient to meet liabilities and could fluctuate from one valuation to the next, principally reflecting external risks around both market returns and the discount rate used to value the Fund's liabilities. The Fund was currently only 82% funded, and the long term target was to eliminate the deficit by 2032. The Fund constantly monitored its Asset Allocation and had a significant proportion of its assets in growth assets, whilst proactively managing investment risk. An update was provided on the position of the markets as a result of Brexit..

It was reported that the Risk Register would be presented to the Committee on a quarterly basis. Members felt that, if there was a red item on the Register, an update on its position should be provided to every meeting.

**RESOLVED** to note the current Risk Register.

**51/16      DELEGATION OF RESPONSIBILITIES IN RELATION TO THE LOCAL GOVERNMENT PENSION SCHEME** Approval had previously been given to the delegation of certain decisions relating to individual members of the Derbyshire Pension Fund to the Director of Finance. The types of decisions included recovery of a pension overpayment, determination of the recipient of a death grant, decision to put a deferred benefit into payment on compassionate grounds, and other very occasional decisions, such as determining co-habitation, and the extension of time limits for decisions to be made by scheme members. Activity in each of these over the past twelve months was reported.

All pensions overpayments recovered in the past twelve months had been either routine cases, as a result of a delay in notification of a death being received, or ongoing recoveries relating to abatement which had been approved by the Committee prior to the delegation of this responsibility.

There had been fourteen cases of determining the recipient of a death grant in the past year, and these had been determined by the Director of Finance following discussion with the Chair of the Committee. The decision to put a deferred benefit into payment on compassionate grounds had been delegated by the Committee in its role as employing authority. Each application was decided by the former employing department on behalf of the County Council. Over the last twelve months, 20 applications had been dealt with – 15 had related to ill health, and five had been approved, eleven refused, and four were ongoing. Five applications had been on compassionate grounds – one had been approved and four were ongoing.

There was some concern that there could be some inconsistency in decisions made by different employing departments. Officers would look at making the decision making process more consistent, and any proposal would be reported.

No very occasional decisions had been required during the past twelve months. There was a further category of decision – when there was a request for deferred benefits being brought into payment, but the employing authority was no longer 'live' in the Pension Fund, the request was referred to the administering authority for consideration. These cases were rare, but such a case was being considered by the Committee at this meeting. These cases were similar to those where there had been a decision to put a deferred benefit into payment on compassionate grounds, although a central record

could be kept and reported on. It was proposed, therefore, that these cases could also be delegated to the Director of Finance, in consultation with the Chair of the Committee.

**RESOLVED** to (1) note the delegated activity that has been undertaken by the Director of Finance over the last twelve months; and

(2) approve the proposal to delegate decisions in respect of requests for deferred payments to be brought into payment to the Director of Finance, in consultation with the Chair of the Committee, where the previous employing authority no longer exists in that capacity.

**52/16      ANNUAL REVIEW OF THE DERBYSHIRE PENSION FUND PENSIONS ADMINISTRATION STRATEGY** The aim of the Pensions Administration Strategy was to ensure that both the administering authority and the employing authorities were fully aware of their responsibilities under the Scheme regulations and to identify acceptable levels of performance. It was not a regulatory requirement to publish a Pensions Administration Strategy, but it did represent best practice. The LGPS Regulations required that where a Pensions Administration Strategy was in place, it was reviewed annually.

The 2016/17 review had been carried out and the changes proposed were stated. There had been updates to reflect the increases to the numbers of member records held and the number of employing authorities in the Fund; and there had been an update to one of the employer performance targets described in the paragraph relating to benefits administration for leavers with immediate entitlement to benefits. The change was in response to feedback from employers who found that it was more efficient to wait for a leaver's gross monthly pay in their final month to be determined before submitting a final pay figure, in cases where pay tended to vary. Employers would continue to endeavour to provide full leaver information 15 days in advance of a leaver's last day of service, where the gross monthly pay was regular and predictable.

**RESOLVED** to approve the proposed updates to the Derbyshire Pension Fund Pensions Administration Strategy.

**53/16      CONSULTATION ON LGPS REGULATIONS – FAIR DEAL** In May, the Government had issued a consultation seeking to amend LGPS regulations with two main elements – to provide clarifications requested by practitioners and improve the operation of the regulations; and to introduce the 'Fair Deal for Staff Pensions' for staff in the LGPS who were compulsorily transferred to another service provider.

The current Best Value Staff Transfer (Pensions Direction) 2007 covered the situation where local authority services were contracted out and staff transferred under TUPE to an independent provider. The Pensions Direction ensured that those staff had the right to acquire pension benefits that were the same as, or broadly comparable to, those under LGPS. Within the Derbyshire Fund, in practice all providers had complied with this direction by seeking admitted body status, allowing staff to remain members of the LGPS. This had led to a large increase in the number of employers within the Derbyshire Fund, many of whom had a very small number of employees within the LGPS.

The consultation proposed that all transferring employees would be permitted to remain in the scheme. The proposal did not apply to higher and further education institutions which were classified as private sector bodies, and although Police and Crime Commissioners could adopt Fair Deal, they were not required to. A new category of scheme employer, a 'protected transferred employer', would be created for those employees who were transferred. Independent service providers would be obliged to enter into an admission agreement and the costs of providing LGPS to transferring staff should be clearly set out in tender documentation. If a contract was retendered, employees would carry their protection to the new employer who would also have to provide LGPS.

The introduction of the proposals would make little change in practice to the administration within the Derbyshire Fund as all outsourced bodies had sought admitted body status. However, there was an increasing number of such bodies within the Fund, many of whom had a small number of employees. The administration effort in admitting such bodies was recharged, but became an oncost on the cost of the contract. The subsequent administration cost was not proportionate to the number of employees and became an overhead on the whole fund, reflected in employer rates. Whilst welcoming the proposal, which simplified the current arrangements and reflected what happened in practice, it was felt opportune to remind government that the creation of admitted bodies with a small number of LGPS employees, which was likely to increase with increasing academisation, did not provide good value for money.

A number of other changes had been proposed:-

**Assumed Pensionable Pay** – the current regulations provided for the amount of ill health pension payable to a member, or death grant payable to their survivor, to be based on pay received in the 12 weeks prior to their death or illness. In some cases, the benefits due would be inappropriately high or low, and the proposal was to allow the employer to use its discretion to use a pensionable pay figure that more closely reflected the normal pay of the member over a longer period of time, resulting in a more equitable rate of ill

health pension/death grant. The County Council had recently introduced a similar discretion in relation to the calculation of redundancy pay, and this change for pension purposes was felt to be sensible.

**Auto Aggregation (Pension Accounts)** – Currently, when a member with a deferred pension account became an active member again, the two accounts were automatically aggregated, and the member had 12 months to opt to separate the former deferred account from the new active account. This had been complex to administer and to allocate earned pension into the correct tax year as the 12 month option period could mean that decisions were made outside specific tax years. It was proposed that Regulation 22(8) was amended to give the member the option to aggregate their deferred and active pension accounts within 12 months of becoming an active member, and this would prevent situations where automatically aggregated pensions accounts had to be disaggregated. This was a very welcome proposal that would help to improve administrative efficiency.

**Retirement Benefits – Deferred and Active** – Currently, where a member aged over 55 had employment terminated due to redundancy or business efficiency, they were required to take pension, but if they did so it included both active and any deferred pensions with LGPS relating to the same employment. A change was proposed to allow the member to take only pensions benefits relating to the employment being terminated if they chose. This provided more choice for the individual without impacting on the Fund.

**Special Circumstances where Revised Actuarial Valuations and Certificates must be Obtained** – If an employer no longer had active members and left the fund, any surplus accrued remained with the Fund. An example had arisen where one organisation had two employers within the fund, one for each outsourced contract it had. One ‘employer’ had left the fund in surplus but the current regulations did not permit this to be used to offset the deficit on the other employer. The proposed amendment provided flexibility for administering authorities to be more equitable.

**Transfers** – This related to the underpin arising from the 2014 changes whereby anyone within 10 years of normal retirement age at 1 April 2012 would be protected against any loss of benefits arising from the introduction of CARE compared to what would have been receivable should the 2008 scheme have continued. The proposal was to permit the underpin also to apply to someone transferring into the 2014 LGPS Scheme from another public service pension scheme even though they had never been in the LGPS final salary scheme. The LGA was concerned that this not only provided a greater level of protection than such individuals would have received in their former scheme, but it could also prove difficult to establish to whom this could apply. The LGA planned to strongly oppose this proposal.

**RESOLVED** that (1) Derbyshire Pension Fund responds to the consultation, welcoming the proposed changes with the exception of Draft Regulation 25 which it opposes; and

(2) the Committee uses the consultation to express concern at the increasing number of 'small' employers within the Fund and its adverse effect on value for money.

**54/16**      **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 confirm the exempt minutes of the meetings held on 1 and 22 June 2016
2. To consider the exempt report of the Director of Finance on Application for Release of Deferred Local Government Pension Scheme Pension Benefits on the Grounds of Ill-Health (contains information relating to the financial or business affairs of any particular person (including the Authority holding the information))