Nottinghamshire County Council

Local Pensions Board

Thursday, 10 December 2020 at 14:00

https://youtu.be/E_vH9kAWydM

AGENDA

Notes

(1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.

(2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

(3) Persons making a declaration of interest should have regard to the Code of Conduct and the Council's Procedure Rules. Those declaring must indicate the nature of their interest and the reasons for the declaration.

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Martin Gately (Tel. 0115 977 2826) or a colleague in Democratic Services prior to the meeting.

(4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.

(5) This agenda and its associated reports are available to view online via an online calendar - http://www.nottinghamshire.gov.uk/dms/Meetings.aspx

Nottinghamshire County Council

minutes

Meeting	NOTTINGHAMSHIRE LOCAL PENSION BOARD
Date	Thursday 12 December 2019 at 1.30 pm

membership
Persons absent are marked with `A'

Employers

Councillor Tony Harper	Nottinghamshire County Council
Councillor Steve Battlemuch A	Nottingham City Council
David Smith	Autism East Midlands

Members

Mark Heppenstall	Pension Scheme member
Thulani Molife	Pension Scheme member

Also in Attendance

John Raisin	John Raisin Financial Services Ltd, Advisor to the Board

Officers in Attendance

Jon Clewes	Team Manager, Pensions
Martin Gately	Democratic Services Officer
Sarah Stevenson	Group Manager, Business Services Centre

MINUTES

The minutes of the last meeting held on 11 September 2019 were agreed subject to the addition of the following text from the Advisor to the Board. "Mr Raisin stated however that the 3rd January 2019 consultation had been "informal" and therefore there had not been an official consultation. The MHCLG had now indicated that they hoped to issue a formal consultation on new statutory guidance on investment pooling sometime late in 2019."

APOLOGIES FOR ABSENCE

None.

DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

None.

4. **<u>NOTTINGHAMSHIRE LOCAL PENSION BOARD – PUBLIC SERVICE GOVERNANCE AND ADMINISTRATION SURVEY 2019</u>**

Jon Clewes, Pension Manager, introduced the report, the purpose of which was to provide the Pensions Board with a copy of the draft response to the Public Service Governance and Administration Survey 2019 issued by the Pension Regulator (TPR).

Mr. Clewes explained that each year the fund was required to complete an information return. The main areas are: governance (e.g. documented policies on conflicts of interest), resources, knowledge/understanding, and numbers of Board Members.

Responding to questions from Board Members regarding resourcing, Mr Clewes said that there were a number of vacancies within the department, and some posts were proving difficult to recruit to (e.g. a recently advertised senior practitioner post). The issue will need to be addressed via training people internally and apprenticeships.

In relation to data quality, Mr Clewes indicated that an extensive data audit and forensic analysis was currently taking place. There can be some difficulty in getting employers to address any problems with data, this may be mitigated by the move to monthly returns.

In response to questions from Board Members regarding compliments, Mr Clewes stated that although there is no formal process for compliments, they were circulated to the team. The survey does not request details of compliments.

RESOLVED 2019/007

That:-

1) No changes were required to the Governance and Administration Survey prior to submission.

5. **<u>NOTTINGHAMSHIRE LOCAL PENSION BOARD – PENSION FUND ADMINSTRATION PERFORMANCE REPORT</u>**

Jon Clewes introduced the report, the purpose of which was to inform the Nottinghamshire Pension Board of the administration, activity and performance of the Administration Team.

Mr Clewes explain that the table on page 2 demonstrated the improved position, and while further work is still required, a great deal has already been done in relation to deferred benefits and leavers. Fluctuation of membership will continue, auto-enrolment is taking place now and academies sit as multi-academy trusts.

Benefit statements have been issued on time and, for the first time, information has been received from all employers.

Regarding the Fund Key Performance Indicators, Mr Clewes explained that the administration following a death could be complex and challenging. Diverse families can also present a challenge because of the numbers of next of kin involved.

A forthcoming piece of work will be in relation to members coming up to 55 and having deferments.

Mr Clewes reported a piece of good news in relation to the GMP reconciliation. The HMRC had asked for £750k, and this was duly challenged, and the figure reduced. HMRC were reverted to on a number of occasions because the amount still seemed fairly high, but they declined to reduce it further.

The Board noted the error in the published report recommendation (which referred to the Nottinghamshire Pension Fund Committee rather than Nottinghamshire Pension Board), and this was corrected, further to being duly moved and seconded.

RESOLVED 2019/008

That the performance of the administration of the pension fund, and the continued development of systems and processes that will improve the service to members of the fund be considered.

6. PENSION FUND RISK REGISTER

Ciaran Guilfoyle, Investments Officer, went through the Risk Register. One risk (ref. Inv3) covers the possibility that the Fund's assets are insufficient to meet the Fund's long-term obligation to pay pensions. This is something that is examined by the actuaries in their triennial valuation exercise. The most recent valuation (March 2019) indicated a funding level of 93%, which is in line with other LGPS funds. The intention is for the gap to be closed over the course of 20 years and employers' contribution rates are determined accordingly. There are no resulting day to day problems.

RESOLVED 2019/009

That no actions were required in relation to the issues contained within the report.

7. THE LOCAL GOVERNMENT PENSION BOARD REVIEW 1 APRIL 2018 TO 31 MARCH 2019

Mr John Raisin, Advisor to the Board, introduced the report, the purpose of which was to review the activity of the Nottinghamshire Local Pension Board for the period 1 April 2018 to 31 March 2019. Mr Raisin explained that the purpose of the Board was to assist the scheme manager in securing compliance with legislation. The Board challenges and asks suitable questions, as well as undertaking a broad consideration of risk. Mr Raisin indicated that it was extremely important for the Board to receive Pensions administration data – this should continue to be one of the Board's main focuses.

The Board agreed that the Advisor should present the Local Government Pension Board Review to the Pension Fund Committee at the next available meeting.

RESOLVED 2019/0010

That:-

1) the Advisor to the Board be requested to present the Pension Board Review 1 April 2018 – 31 March 2019, at a mutually agreed date, to the Nottinghamshire Pension Fund Committee.

8. LGPS UPDATE (AN ORAL UPDATE FROM THE ADVISOR TO THE BOARD)

RESOLVED 2019/0011

At a training session prior to today's Pension Board meeting, the Advisor to the Board presented an LGPS update to Board Members in the form of a 90 minute training session. The issues covered were:

1) The Scheme Advisory Board – Good governance in the LGPS project

2) Investment Pooling – a National Update

3) Scheme Advisory Board draft guidance on responsible investment of November 2019

The meeting concluded at 2.30 pm.

CHAIR

Nottinghamshire County Council

Report to Nottinghamshire Pension Board

10 December 2020

Agenda Item: 4

REPORT OF THE SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE AND EMPLOYEES.

LOCAL GOVERNMENT PENSION SCHEME – PENSION ADMINISTRATION PERFORMANCE REPORT.

Purpose of the Report

1. The purpose of the report is to inform the Nottinghamshire Pension Board of the 4 Quarters to the Year- End up to the 31 March 2020 of the Pension Administration Team.

Information and Advice

Background

2. The LGPS is a statutory scheme with regulations made under the Superannuation Act 1972 and the Public Service Pensions Act 2013. The LGPS is a defined benefits scheme based, since 1 April 2014, on 'Career Average Revaluated Earnings' (CARE). Members benefits are determined strictly in accordance with the scheme regulations and are not affected by the value of Fund assets. Where members joined the scheme before 1 April 2014, protections are in place for their benefits to be based on accrued scheme membership to that date and their full-time equivalent pensionable pay at retirement.

3. During 2019-20, scheme members were required to pay a contribution rate of between 5.5% and 12.5% of their pensionable pay, depending on their pay banding. Employer contribution rates, also expressed as a percentage of pensionable pay, and tailored specifically to each employer in the scheme, were applied to cover the accrual of new benefits earned by members. The contribution to fund any past service deficit was expressed as a cash sum or supplementary percentage of pensionable pay.

4. The 2019 valuation was completed by the Scheme Actuary on 31 March 2020, and employer contribution rates were issued for the 1 April 2020.

5. One of the of the main areas of focus across the Local Government Pension Scheme has been the performance of scheme employers providing their statutory data to Administering Authorities in a timely manner to enable the updating of member records. The Scheme Advisory Board along with the Local Government Association has highlighted this matter.

Pension Benefits Administration

6. The Pensions Office undertakes the administration of the pension benefits of the scheme members against the regulations of the Local Government Pension Scheme, and the administration broadly comprises:

- Maintaining a database of:
- Active members (i.e.) contributors
- Pensioners, including widows, widowers and dependants
- Those with deferral benefits that will become payable in the future
- Providing Annual Benefit Statements to active and deferred scheme members
- Providing estimates of benefits
- The calculation and payment of retirement benefits
- The calculation and payment of transfer values to other schemes
- Processing transfer values from “club” and local government schemes
- Providing valuations, a splitting of pensions in divorce cases
- Communicating with employers and scheme members on scheme changes and pensions issues.
- Onboarding new scheme employers
- Supporting employers to carry out their responsibilities under the LGPS Regulations
- Reconciling employers’ monthly and annual contribution rates
- Providing pension savings statements to scheme members as appropriate
- Providing data for triennial valuations and the annual FRS102 for all but large bodies who report in accordance with AIS19.
- Replying to questions and issues raised by scheme members and employers
- In addition, the office also undertakes some of the employer related work of the LGPS on behalf of Nottinghamshire County Council.

7. The Pension Team is currently separated into the following areas of work:
   a. Pensions Administration
   b. Employer Support and Compliance
   c. Technical/Communications
   d. Technical/Performance

At 31.03.2020	Established FTE	Actual in Post FTE
Pension Team	26.20	23.10
Pension System Team	3.0	2.0
GMP Project Manager (Temporary)	1.0	1.0

The GMP Project Manager is seconded from the Pension System Teams. The Administration Team is currently recruiting to the vacant posts with the pension administration team and interviews are scheduled for September 2020.

8. The total cost of administration expressed as a cost per member for the past five years is shown in the table below –

1.

£ per member	2015	2016	2017	2018	2019	2020
The Fund cost per member	£15.93	£11.18	£14.23	£13.59	£14.37	*
Average cost per member in the benchmarking club	£18.73	£18.69	£20.14	£21.85	£21.34	*

*Not available, awaiting Cipfa report 2020

Data Quality

9. The Pensions Regulator has continued raise concerns across the LGPS funds relating to data quality and the need for improvement. The Regulator requires all Funds to maintain accurate records. The Fund is required to have a data improvement plan as specified by the Regulator. Failure to do so can put the Pension Fund at risk of failing to meet its legal obligations, and the Regulator will take enforcement action where schemes are not meeting the standards expected and are taking appropriate steps to improve pension records.

10. Data is important to the Administering Authority for several reasons, the main reasons being:

    a. Members are paid the pensions they are entitled to
    b. Employers' costs are reliable/correct
    c. Investment and administration costs are reliable/correct
    d. Fund valuations reflect true costs/ liabilities of the fund
    e. Cost effective administration – less queries
    f. Reduce Internal Dispute Resolution Procedure cases
    g. Avoid the Pensions Regulator
    h. Maintains the scheme's reputation

11. Members will be aware that the pension fund has an Administration Strategy which provides a framework for the management of scheme employer's responsibilities to ensure that the Administering Authority receives accurate data in a timely manner. Included in the Administration Strategy is a service level agreement, which is designed to enable the monitoring of activities, undertaken by scheme employers and the Administering Authority.

12. To help manage the improvement of data, Pensions Administration has been using the Pension Administration Strategy to try and drive compliance with scheme employers. Over the last financial year, the Administration Team have also been undertaking data improvement activities to improve data quality for the fund valuation.

13. The fund monitors its performance through a suite of SLA reports, which are based on the agreed SLA's within the Administration Strategy.

14. The Administration Team is continually updating records, chasing employers, and reminding members of the scheme to update the fund of changes of personal circumstances, e.g. changes of address.

15. To meet the requirements set out by the regulator the Fund reported the following:

	2019 Accuracy	2020 Accuracy
Common Data	59%	73.37%
Conditional/Scheme Specific Data	60%	*Awaiting data following ABS data update

- Please note Data to be update when annual benefit statement data is loaded into the data quality dashboard.

16. A Data Audit and Improvement workstream was approved by Pension Committee in September 2019 and reported to the last Pension Board as part of the scope of the Nottinghamshire Pension Fund "transforming pension administration through digital development and new ways of working programme". The details of this workstream are covered in more detail in the Pension Transformation update report to be presented at the Pension Board meeting.

Pension Fund Membership Statistics

17. At 31 March each year the Administering Authority report a set of figures that identify the number of members within the fund under certain categories. These figures are used to populate the fund's annual report, along with other statistical reports including the Office of National Statistics, the Pension Regulator Scheme Return, and the Cipfa Benchmarking report

18. The following table details the membership of the Fund against each category and sets a context to the size of the fund.

Type of Member	2017-2018	2018-2019	2019-2020
Active Members	44,436	46,350	47,841
Deferred members	46,448	47,365	56,068
Pensioners	35,245	37,157	38,923
Total Membership	126,129	130,872	142,832

19. In addition, it is important to understand the context of the number of employers in the Fund as this increases the complexity of managing the collection of data from different employers. The following table gives a breakdown of the employers in the scheme. The headline figure in the table shows a net increase of 9 employer bodies which are mainly due to new admission bodies, but there has been a reduction in the number of active employers from 342 to 302. This reduction in numbers is due to the Fund continuing to consolidate academy trust schools into single employers. This reduces complexity of administration for the academies and the Fund, along with reducing costs. The table also shows the movement of employers in the Fund with employers withdrawing from the scheme, as they no longer have any active members of the scheme, which drives an employer closure.

Scheduled		as at 31/03/19	Number Joined	Number Leaving	as at 31/03/20
Schedule 1	Local Authorities	9	-	-	9
	Academies	196	3	41*	158
	Others - active	16	-	4	12
	Others - defunct	42	44	-	86
Schedule 2	Town and Parish Councils	33	2	-	35
	Others - active	9	-	-	9
	Others - defunct	13	-	2	11
Total Scheduled		318	49	47	320
Admitted					
Admission		59	7	9	57
Others	- active	22	-	-	22
	- defunct	86	9	-	95
Total Admitted		167	16	9	174
Total		**485**			**494**

* includes 1 extra to balance out an academy duplicate

The following is a list of new scheme employers 2019-2020.

Scheme Employer	Type of Employer Body
Landgold Dyscarr Community School	Compulsory body (Academy)
Capita IT Services (BSF) Limited - Bulwell	Admission body
Churchill Contract Services Limited (SAT)	Admission body
Cater Link Limited	Admission body
Solo Service Group Limited	Admission body
St Mary's Church of England Primary School	Compulsory body (Academy)
Haggonfields Primary School	Compulsory body (Academy)
Aspens Services Limited (Newark)	Admission body
Aspens Services Limited (Sparken Hill)	Admission body
Aspens Services Limited (Sneinton St Stephens)	Admission body

Complaints and Internal Dispute Resolution Procedure Appeals

20. Set out below are three tables which outline the number of written complaints received by the Administering Authority in 2019-2020 along with the number of formal appeals at stage 1 and stage 2 of the Internal Dispute Resolution Procedure process along with the number of appeals that the Administering Authority is aware of that have been submitted to the Pension Ombudsman in respect of cases escalated following the two stage adjudication process.

	Total	Closed	Outstanding	Justified	Partial Justified	Not Justified
Written Complaints	**25**	**23**	**2**	**4**	**6**	**13**

IDRP - Stage 1 Appeals against the Administering Authority and Employers 2019-2020

Total	Appeals upheld	Appeals dismissed	Progressed to stage 2	Awaiting Decision
10	**1**	**3**	**3**	**3**

IDRP - Stage 2 Appeals against the Administering Authority

Total	Appeals upheld	Appeals dismissed	Progressed Ombudsman	Awaiting Decision
8	**1**	**1**	**1**	**5**

*Please note this is the first year of being able to collect a standard set of complaints data that will enable comparisons over future years.

Pensions Administration System

21. The Pension Administration system used by the Nottinghamshire Pension Fund is the Universal Pensions Management (UPM) system, provided by Civica UK. UPM was implemented in 2015 and is an 'on premise' system with the servers located at the County Hall Data Centre and the Node 4 site in Derby, for resilience. The infrastructure is managed by Nottinghamshire County Council ICT and regular co-ordination with the Pensions Systems team. Maintenance and upgrades are undertaken on a regular basis to ensure the system remains compliant, up to date and available to users. New developments and upgrades from the software supplier are evaluated, tested and deployed in line with the requirements of the Pension Office

22. Over the last year several developments have been progressed, the main development has been the implementation of an Employer portal which has completed its pilot witha large scheme employer. The objective of the Portal is support employers manage their data and provide access to some specific employee pension information. The other main activity has been the ongoing work to ensure the accuracy of pension data within the administration system and this will continue in line with the requirements of the Pensions Regulator. Further system developments are being planned for the coming year.

Employer Support and Compliance Team

23. The Pension Office Employer Support and Compliance team is responsible for liaison with scheme employers on a range of matters in relation to their responsibilities under the LGPs Regulations. This includes –

- Supporting employers in undertaking their responsibilities;
- Communicating Regulation and process changes to LGPS employers;
- Resolving problems in relation to the quality of information supplied by LGPS employers;

- The development of improved communication methods between the Pensions Office and LGPS employers;
- Work on Employer acceptance into the scheme, plus also employer closures.
- The review and improvement of information and administrative systems.

24. The team also have the following contact with Nottinghamshire LPGS Scheme Employer representatives –

- Year-end meetings are undertaken yearly to support preparation for and understanding of reporting requirements at year end;
- Meetings with employer representatives to communicate changes to the LGPS Regulations and the impact on employer responsibilities;
- Ad hoc individual or group support and training sessions with LGPS Employers

25. The Administration Strategy has now been in operation with scheme employers since May 2017 and has supported the work of the Pensions Team and Scheme Employers. The Strategy has helped in providing a framework to ensure that the Administering Authority, and scheme employers work together for the benefit of members to ensure statutory compliance and efficiency in the administration of the scheme, and update on the strategy is planned for this year.

26. The Team has continued to work with employers to improve the submission of pension data to the Fund, and this has been significantly important in 2019/2020 to enable the completion of the valuation, where data collected by 31 March 2019 is checked and balanced and was passed to the Scheme actuary in August 2019.

27. In addition, there is also statutory requirements for participating scheme employers to provide timely and accurate year-end data. For the year 2019-2020, participating employers in the scheme were required to provide accurate year-end data by 14 May 2020 the processing of the year-end returns has continued up to the time of writing this report, annual benefit statements have been issued to deferred members of the scheme by 3 July 2020 and active benefit statements were issued by 31 August 2020.

28. Where employers fail to meet the requirements set out in the Administration strategy the Pension Fund reserves the right to charge the employer for additional administration time where appropriate. The fund also reserves the right to report employers to the Pension Regulator where there is a breach of statutory regulations.

29. The following table provides information on employer submissions to year end data over the last six-year ends.

Year End	Number of submissions received by submission date	Accurate submissions received by submission date	Submission date	Number of Employer returns expected	Percentage of expected returns received by the deadline	Percentages of Accurate returns by the deadline
2014-2015	112	92	31 May 2015	260	43%	35%
2015-2016	162	157	30 April 2016	276	59%	57%
2016-2017	253	166	2 May 2017	310	82%	54%
2017-2018	314	183	14 May 2018	337	93%	54%
2018-2019	272	162	13 May 2019	341	80%	47.5%
2019-2020	304	206	15 May 2020	342	88.%	60%

30. The Fund received all its year end submissions to enable the production of annual benefit statements for the 31 August statutory deadline. This has however taken a lot of time and resource in contacting and chasing employers for their responses to data corrections to enable the balancing, and accuracy of member data, to allow the production of annual benefit statements. There will be a need to undertake a second run of benefit statements in November to ensure all members that the fund has data for can receive a benefit statement.

Planned Move to monthly returns

31. The Employer Support and Compliance Team has continued to support employers and to simplify the way data is requested, this has been achieved by reviewing communications and improving the content of the year-end briefings. The briefings delivered in early March 2020 again targeted new and existing employers to ensure that they understood their responsibilities for year-end. Even though the Pension Team went into working from home due to COVID19, all information was issued to scheme employers on time, to enable them to complete their year-end activities.

32. The implications of not receiving data from scheme employers can be serious, potentially leading to incorrect pension calculations. Without the correct data, the Administering Authority may not be able to issue annual benefit statements to individual members where the scheme employer has failed to provide the required data. This type of situation would ultimately result in a breach of the statutory regulations and may result in the fund being subject to a fine. Any fines will be passed on to the appropriate non-compliant scheme employers

33. The Pension Office will be working with Scheme Employers to implement monthly returns. The detail of this project is covered within the Pension Transformation update report to be presented to Committee on 10 September 2020.

Performance Data

34. Performance statistics in the table below represent the 4th quarter of 2019/20 and compares the performance of the Administration Team fund KPI's against the Cipfa benchmark legal requirement. The Committee will see that performance against the legal requirement averages around 80% compliance this is down from last year's average of 90%. Overall the fund performance against our KPI's is 65%, however this figure will have been impacted by reduced performance in March 2020 due to the Pensions Office moving to home based working due to COVID 19

4 Quarters 2019-2020 1.04.2019 to 31.03.2020 Pension Administration KPI Compared against the Cipfa Benchmark Key Performance Indicators					
Process	**Fund KPI**	**% of cases completed within the fund KPI**	**No. cases completed Within the Year**	**Cipfa Benchmark Legal Requirement (from notification)**	**% of cases completed within the CIPFA KPI**
Deaths – Initial letter acknowledging death of member	5 days	28%	367	2 months	92%
Deaths – letter notifying amount of dependant's pension	10 days	74%	443	2 months	80%
Retirements –letter notifying estimate of retirement benefits	15 days	85%	121	2 months	97%
Retirements – process and pay pension benefits on time (next available payroll) –	30 days	74%	2460	2 months	86%
Deferment Retirement Quote Letter	2 Months	95%	2256	2 Months	95%
Deferment – calculate and notify deferred benefits	2 Months	61%	4922	2 months	61%
Transfers in/out – letter detailing transfer quote	1 Month	44%	1050	2 months	59%
Refund – Process and pay a refund following election	2 Month	96%	802	2 months	96%
Divorce quote – letter detailing cash equivalent value and other benefits	2 Month	97%	375	2 months	97%
Divorce Settlement – Letter detailing implementation of pension sharing order	2 Month	31%	13	2 Months	31%
Provision of Estimate of Benefits			1448	2 Months	95%

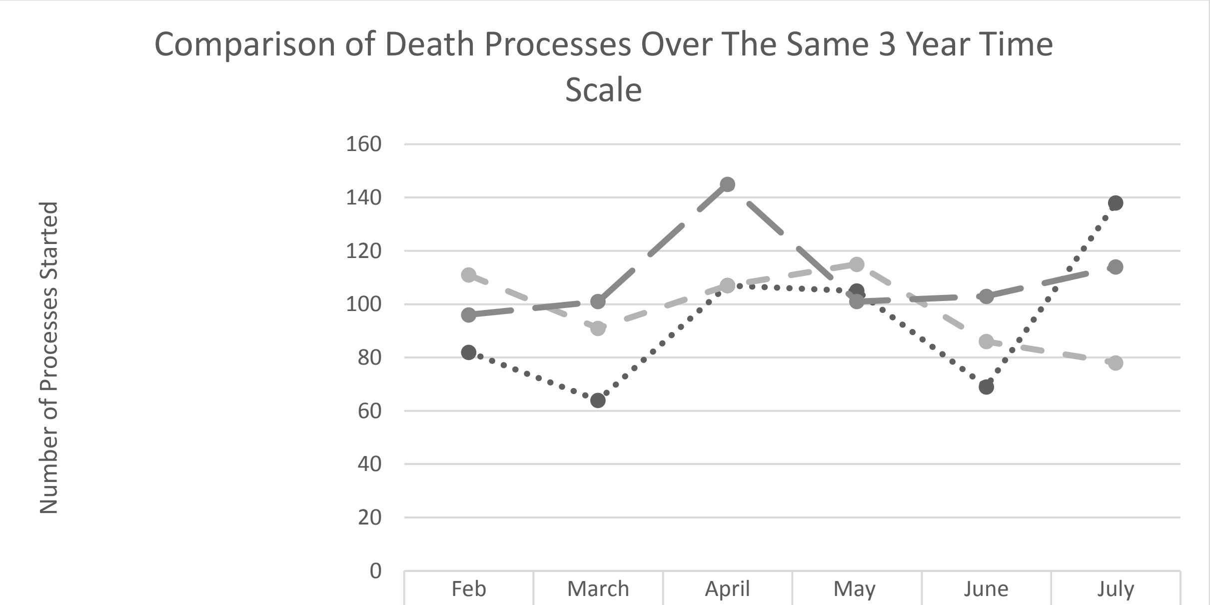
35. It can also be reported from information extracted from the administration system, in the financial year 2018/2019, the Pension Administration Team completed 7617 processes across the year. For the year 2018/19 the Administration Team increased the number of processes to 10,688 which is an increase of 40%. This increased again by 13% over 2019/20.

	2017/18	**2018/2019**	**% +/-**	**2019/2020**	**% +/-**
Processes Completed	7617	10,688	+ 40%	12,138	+13%

36. Since the changes in legislation in May 2018, there continues to be a significant increase in requests from deferred pension members over 55 years of age to seek payment of their pension benefits. The Administration Team have completed 4922 process in the year up to March 2020 of which 61% were provided within 2 months.

37. The member death process is the most difficult statistic to gather and measure, and the team is currently reviewing how this process is monitored. The difficulty is the date and timing of when the Pension Administration Team are informed of the death, against when the team receive the appropriate documentation. Where the relevant information is provided death in service grants are paid within 5 days to the next of kin.

38. The following graph shows that 2020 has seen an increase in the number of deaths processed. These statistics include death in retirement, death in deferment, death in service and death of preserved refunds.



	Feb	March	April	May	June	July
Total Death Processes 2018	82	64	107	105	69	138
Total Death Processes 2019	111	91	107	115	86	78
Total Death Processes 2020	96	101	145	101	103	114

Other Options Considered

39. Work will continue to develop the SLA reports to provide a full range of benchmarking data over the coming financial year this will be in conjunction with a national set of benchmarks across all LGPS schemes

Reason/s for Recommendation/s

40. This report has been compiled to inform the Nottinghamshire Pension Board of the activities being undertaken by the administration team to improve the performance of employers, and the administration of the fund.

Statutory and Policy Implications

41. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

42. The administration of the Nottinghamshire Pension Fund is being delivered within existing resources at a cost of £1,266,293 2019-2020.

RECOMMENDATION

It is recommended:

1. That the Nottinghamshire Pension Board consider the performance of the administration of the pension fund, and the continued development of systems and processes that will improve the service to members of the fund.

Marjorie Toward
Service Director – Customers, Governance, and Employees
For any enquiries about this report, please contact:

Jonathan Clewes, Pension Manager on 01159773434 or jon.clewes@nottscc.gov.uk
Constitutional Comments (KK01/09/2020)

43. The proposal in this report is within the remit of the Nottinghamshire Pension Board.

Financial Comments (KP01/092020)

44. The cost of pension's administration is a valid charge to the pension fund and as set out in the report the costs are £1,266,293 at 2019/20.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- 'None' or start list here

Electoral Division(s) and Member(s) Affected

- 'All' or start list here

Nottinghamshire County Council

Report to Pension Board

10 December 2020

Agenda Item: 5

REPORT OF SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE, AND EMPLOYEES.

LOCAL GOVERNMENT PENSION SCHEME – TRANSFORMING PENSION ADMINISTRATION UPDATE REPORT

Purpose of the Report

1. To update Pension Board on the "transforming pension administration through digital development and new ways of working programme".

2. To update Pension Board on Pension Committee approval for the next phases of the data audit and improvement work stream.

Information

Background

3. Pension Administration is changing nationally, and in the LGPS with changes to regulations, and with the requirements and scrutiny of the Pension Regulator. LGPS administration needs to reflect this change through the delivery of a range of digital services which include increased automation, significantly reduced manual inputting and amending of member data, ensuring that employers fulfil their responsibilities as a scheme employer within the Fund and for scheme members to be able to access their pension record 24/7.

4. The Pension Regulator has stipulated that it expects Pension Funds to enable scheme employers and members to interact with the Fund via digital platforms.

5. At the September 2019 Pension Committee meeting approval was given to the scope of the Nottinghamshire Pension Fund "transforming pension administration through digital development and new ways of working programme".

6. The programme consists of 4 key phases

- Data Audit and Improvement
- Scheme Employer Portal
- Hosting Options
- Members Portal

7. The key aims of the programme are to

   a. Through improved data quality and increased automation move towards "administration by exception". Ensuring the right people are doing the right tasks at the right time. Enabling our skilled administrators to concentrate on dealing with complex issues, whilst the automation takes care of the very day tasks where possible.

   b. Provide Scheme Employers with portal access to upload validated data, removing paper and manual input into Civica UPM where at all possible and supporting Employers to fulfil their duties under the Pension Administration Strategy

   c. Improve the management and transition of member and financial data through the deployment of monthly returns rather than a yearly return which would support auto loading and processing of new starters, changes and leavers to enable cost efficient and transparent processing

   d. Provide Members with self-service access to enable them to maintain their personal data, review their pension benefits and communicate with the Fund.

   e. Support the Fund to meet increasing regulatory requirements and standards on reporting for example, The Pension Regulator requirement for Funds to improve the quality of their data and the expectation that Funds enable Scheme Employers and Members to interact with the Fund via digital platform.

   f. This programme will ensure that the Nottinghamshire Pension Fund Administration Service can operate as a leading-edge administration service through improving the customer experience, ensuring regulatory compliance whilst delivering an efficient and cost-effective service.

Data Audit and Improvement

8. The Pension Regulator requires all Funds to maintain accurate records. The Fund is required to have a data improvement plan as specified by the Regulator. Failure to do so can put the Pension Fund at risk of failing to meet its legal obligations, and the Regulator will take enforcement action where schemes are not meeting the standards expected and are taking appropriate steps to improve pension records.

9. The continuing diversification of the scheme employer base, the increasing number of payroll providers and the size of membership together with the complexity inherent in the scheme's design presents the Fund with significant operational challenges in meeting the statutory record keeping requirements.

10. The Fund is required by the Pension Regulator to hold and measure two types of data within the Civica Universal Pension Manager (UPM) System scheme records: **Common Data and Scheme Specific Data.**

11. **Common data** is used to identify scheme members and includes names, addresses, national insurance number and data of birth

12. **Scheme specific data** is essential to calculate benefit entitlement such as employee contributions, pensionable pay, service history. It also encompassed data relating to events that occur during an individual's membership, for example transfer, purchase of additional pension and pension sharing orders.

13. The Nottinghamshire Pension Fund collects and holds data provided by several external sources

    a. **Scheme Employers** – However, employers fail to inform the Fund of new starters, leavers and other changes in a timely manner. Significant volumes of new starters and leavers and other data changes such as TUPE transfer, merging of records are notified to the Fund via the Year End return. This then means that the Fund has a substantial amount of data changes to implement and queries to resolve prior to the production of the Annual Benefit Statements.

    b. **Members** – failure to inform the Fund of changes to their personal data such as change of address and name, marital status

14. The Fund is also required to respond to a range of other external factors which impact on the data that the Fund holds such as -

    a. **GMP reconciliation project** - HMRC have identified errors in their systems and through no fault of its own the Fund is required to undertake work to reconcile and rectify the issues. The details of this ongoing project have been the subject of separate reports to Pensions Committee. At a high level the Fund has been required to undertake a financial reconciliation as well as to reconcile individual members details of the GMP held against a member's pension record with that held by HMRC.

    b. **McCloud – Court of Appeal judgement regarding age discrimination -** Since Committee approved the scope of the data audit and improvement workstream of the transformation project more information regarding the impact of the McCloud age discrimination judgement is now known. The McCloud judgement will affect pensions already in payment, active members and deferred beneficiaries. Following a national consultation on the proposed changed in regulations there will be a statutory obligation on all LGPS Funds to review all retirement calculations undertaken since 1 April 2014 to ensure that the McCloud underpin protections are now considered against the original calculations and to extend underpin benefits to eligible younger members. To enable these calculations to be undertaken the Fund will be required to collect hours and service break data for all members since 2014 to enable the underpin calculations to be performed. This data is needed for all members of the LGPS from the date the scheme changed in April 2014 to 31 March 2022 (or earlier if the member left active membership of the scheme or reached their 2008 Scheme NPA before that date). Employers will be legally required to provide administering authorities with the information they need to undertake the McCloud project. Details of the McCloud project will be the subject of a separate eport to Pension Board.

15. The data improvement workstream has been reviewed to ensure that it lays the foundations to future proof the data collection for projects such as McCloud and the national pensions dashboard with confidence in the Nottinghamshire Pension Funds data position.

16. The data audit and improvement phase of the programme is split into four distinct phases

- Phase 1 - Data Audit - completed
- Phase 2 – Forensic Analysis - completed
- Phase 3 – Improvement – proposal detailed within this report
- Phase 4 – Ongoing data maintenance – proposal detailed within this report

17. Working with the Nottinghamshire Pension Fund Civica have completed phase 1 – detailed data audit and phase 2 forensic analysis. This has enabled the scoping of the improvement phase to be undertaken and which is presented within this report.

18. **Phase 1 Data Audit** took place between January and March 2020, prior to the 2019-2020-year end being processed and has provided a holistic view of the data held by Nottinghamshire Pension Fund on Civica UPM. A comprehensive suite of 430 data validation checks (DVCs) were deployed. The DVCs were agreed between the Fund and Civica and cover both common and scheme specific data across 173,647 pension folders which covers a total of 134,496 individual members of the Nottinghamshire Pension Fund. This has provided the Fund with an accurate and informed data position as well as access to a dynamic data quality dashboard.

19. The Data Quality Dashboard provides the Administration Team with a baseline and breakdown detailing the number of members and the data validation checks not passed in volume range as follows -

Number of Members	DVC not passed
24,035	Passed all DVCs
56,658	1-3 amendments required
26,825	4-6 amendments required
13,507	7-9 amendments required
13,408	10+ amendments required

20. The Data Quality Dashboard enables the Administration Team to look at Fund level, employer level and membership category (active, deferred, deceased etc). At Scheme Employer level the Fund is able to review the data position for each employer, compare employers and identify employers with good/bad attributes and therefore provide targeted support.

21. Phase 2 Forensic Analysis was undertaken in April 2020 based on the data cut taken in January 2020 and utilised the results from phase 1 to enable forensic analysis of the DVCs, including assessing the potential for bulk data resolution solutions for systemic data issues and trends that have been identified. As part of this phase potential bulk data resolution activity has been identified which could resolve 159,487 DVCs, 28.5% of the total DVCs identified.

22. The data resolution activity has been categories as follows –

- Data fix required by either Employer, Scheme or Member
- Client specific data change if deemed a client requirement
- Combination of the above

23. The baseline results of delivering phase 1 and 2 against the data cut taken in January 2020 is that 537,341 data validation amendments have been identified. The top 10 data validation amendments are detailed in the table below

Data Validation Check	**Count**	**Status**
Latest year's pension increase details are not present	52,188	**Resolved** following the application of Pension Increase in April 2020
Total current pension is not present (deferred member)	51,109	**Resolved** following the application of Pension Increase in April 2020
Incorrect contribution rate	47,144	Resolution in progress following year end processing
NI modification amount is not present	29,365	DVC requires review and re run
Annual allowance calculation is not present (active member)	19,752	**Resolved** – as part of the year end processing and production of ABS.
First contribution date is not present	12,684	DVC requires review and re run
GMP Figures are not present (pension member)	11,418	**Will be resolved as part of the GMP Reconciliation Project**
No CARE entry for period of active services (post 31/3/2014)	11,388	DVC requires review and re run
Invalid entry for folder status reason flag	11,035	Outstanding – requires further investigation
No main section earnings data for one of the last 5 scheme years	10,721	Outstanding - year end queries still awaiting response from Employer
No main section earnings data for the last 12 months	10,552	**Resolved** – as part of the year end processing and production of ABS.
Pension end date is not present when previous status exists	10,465	Outstanding – requires further investigation

24. However, it should be noted that since the baseline position was determined the Administration team has now processed all 2019-2020 Year End returns and have completed a suite of activities which have covered the creation of new starters, notification of leavers and updates of a range of changes to members records notified to the Fund via the Employers Year End Return. To date 145,019 out of 266,433 amendments have been implemented as shown in the above table. Pension Increase has also been applied to deferred pensioner and dependent records. The Fund now requires to re run the DVCs on the year-end update data to provide an up dated data position.

25. Phase 3 is the most extensive phase of the programme and as such the proposal is broken down into 5 stages to give a greater understanding of the projected work to support the delivery of the data audit and improvement objectives.

Stage	**Activity**
1	Further detailed forensic analysis exploring all avenues for potential bulk resolutions are fully exhausted.
2	Creation of a process to facilitate the bulk resolutions that are identified via the forensic analysis.

3	Execution of the build solutions identified in line with the bulk resolution process created in phase 3, stage 2. It will also involve the creation of a process to administer the individual members resolution activity to follow in Phase3, stage 4.
4	Execution of the individual member resolution processes as created in phase 3, stage 3 to enable direct action to resolve member data issues.
5	This stage will run concurrently alongside the others stage in phase 3 and will involve the update and monitoring of the data audit dashboards to maintain up to date visibility of data issues.

26. The costs of phase 3 of the data improvement project are detailed in the table below and the expenditure was approved by Pension Committee at its meeting on 10 September 2020. The Fund will take a blended approach working with Civica to determine which party is best placed to work to resolve the outstanding issues. Where a bulk resolution is identified this is likely to be deployed by Civica. The Fund will interact directly with Scheme Employers and members where individual data amendments require resolving. The Fund will work to minimise external spend where it can but also ensure the most cost effective approach is taken in using external input to work through the data validation results.

Phase 3	**Activity**	**Actual/Estimate**	**Cost**
Stage 1	Further detailed forensic analysis	Actual	£46,620
Stage 2	Resolution process developed for each DVC reviewed in forensic analysis	Actual	£62,808
Stage 3	Bulk resolutions and DVC code changes applied, and individual resolution activity developed	Estimate	£150,000
Stage 4	Individual member resolution activity	Estimate	£150,000
Stage 5	Ongoing data audit refreshes – up to 6 at £1750 per refresh	Actual	£10,500
		Total	**£419,928**

27. Phase 4 will focus on data quality maintenance, as informed by periodic data quality dashboards, enabling ongoing identification of any emerging data quality trends.

Monthly Returns

28. As stated in paragraph 13a of this report, the Fund is reliant upon the accuracy, completeness and timeliness of data provision from scheme employers and any third-party agencies they may utilise for example payroll providers.

29. Currently scheme employers provide a year-end return. Employers are required to provide details of new starters, leavers and changes to the Fund throughout the year. However, the submission of the year end return by employers often provides the Fund with substantial additional information about new starters, leavers and changes to earning/salaries, names and addresses. This then requires the Fund to engage in a significant piece of work to update the data held within the Civica UPM system. The implementation of monthly returns will work to resolve this data collection issue.

30. Through the initial scoping of the implementation of monthly returns and discussions with another LGPS Fund that are amid moving to monthly returns it is imperative that a full data

audit and improvement exercise be completed in conjunction with each employer prior to an employer’s move to monthly returns. This will support a move to preventing a range of data issues occurring at source rather than working to resolve the issues retrospectively.

31. Every month Scheme Employers will be required to submit an employee record file which identifies any changes in data including changes to earnings/salaries, names and addresses with that held by the Fund.

32. It is therefore proposed that until data improvement workstream progresses to resolve the identified DVC amendments at individual employer level that this phase of the programme is only progressed on an employer by employer basis as and when the data issues for the employer are resolved.

Hosting Pension Systems

33. Work is ongoing to review both public and private cloud hosting options together with managed services to determine the requirement for ICT and pension system resource going forward. The results of this work will be presented in a separate report to Pension Committee in due course.

Scheme Employers Portal

34. The Scheme Employer phase of the programme is running in parallel with the data phase.

35. The Scheme Employer Portal pilot went live with Nottinghamshire County Council on 1 July 2020. Nottinghamshire County Council is now able to enter details and upload documents to the secure portal relating to death in service, ill health retirements and flexible retirements and limited access to view their members records. Discussions have taken place with four district and borough scheme employers and two large educational scheme employers. Plans are to rollout access to the portal to these employers next.

36. Plans will then be developed to rollout access to the Scheme Employers Portal to all remaining employers thereafter.

Members Portal

37. It was originally proposed to visit the scope of the Members Portal during the second half of 2020. However, good quality data is key to the successful channel shift of members to online services. It is paramount that the data audit and improvement workstream must be progressed significantly before this can be progressed.

38. It is therefore proposed to review the timescales of this phase of the programme to align with the resolution activity within the data improvement workstream.

Resources

39. Pension Administration Team will input into aspects of the scoping and delivery of the programme due to their knowledge and expertise of the regulations and existing processes.

40. Additional project management capacity will continue to be released from within the Business Services Centre to support the delivery of the digital transformation programme.

41. If additional resources are required as the data improvement workstream progresses these will be the subject of a further report.

Other Options Considered

42. Data audit and improvement is a regulatory requirement and the Fund is required to have a data plan and be able to demonstrate how data supplied to the Fund is improving. Therefore, there is a statutory obligation upon the Fund and its Scheme Employers to progress the data workstream.

43. The Fund is also required through the national GMP reconciliation project and legally required through the outcome of the McCloud judgement to undertake these two significant projects. The Fund does not have an option not to do either of these.

44. The Pension Administration Service could continue to operate as it currently does utilising paper and pdf forms but this is not considered a viable option given both the increasing legislative demands and increasing number of scheme employers, members and their expectations in this digital age.

45. Without the development of digital platforms for Scheme Employers and members to interact with the Fund consideration may have to be given to increasing the number of pension administration staff.

Reason/s for Recommendation/s

46. For the Nottinghamshire Pension Fund to be able to meet ongoing statutory responsibilities, increased expectation of members and scheme employers to interact with the Fund online and via self-serve it is imperative that the Fund transforms its service offer ensuring that it is cost efficient and effective and meet its regulatory and statutory requirements.

47. Data improvement is a continuous process and not a one-off exercise. Good quality data is critical to the Pension Fund and a vital element in the success of digital transformation. Without the implementation of the proposed data improvements it will become increasing difficult and risky for the Nottinghamshire Pension Fund to fulfil its statutory obligations within the LGPS and will not enable the Fund to move its service online enabling members to self-serve.

Statutory and Policy Implications

48. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public-sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

49. A high-level Data Privacy Impact Assessment has been completed and signed off for the programme. This will be reviewed to ensure that the aspects of the programme detailed within this report are included.

Financial Implications

50. The financial implications for the next phases are covered within the body of this report at paragraph 26.

RECOMMENDATION/S

It is recommended that the Members:

1) Consider the pension transformation update report.

Marjorie Toward
Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:
Sarah Stevenson, Group Manager Business Services Centre on 0115 9775740 or sarah.stevenson@nottscc.gov.uk

Constitutional Comments (KK/ 26/08/2020)

51. The proposals in this report are within the remit of the Nottinghamshire Pension Fund Committee.

Financial Comments (KRP 27/08/2020)

52. The financial implications are set out in paragraph 26 of the report. The total cost for the 5 stages of phase 3 are £419,928. These costs are a valid charge against the fund administration costs.

HR Comments (JP 27/08/2020)

53. The HR implications are set out in the body of the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- ‘None’ or start list here

Electoral Division(s) and Member(s) Affected

’All’

Nottinghamshire County Council

Report to Pension Board

10 December 2020

Agenda Item: 6

REPORT OF SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE, AND EMPLOYEES.

LOCAL GOVERNMENT PENSION SCHEME – UPDATE ON THE PROGRESS ON THE IMPACT OF THE MCCLOUD JUDGEMENT ON THE ADMINISTRATION OF THE PENSION FUND

Purpose of the Report

1. The purpose of the report is to update Pension Board on the impact of the McCloud and Sargeant Court of Appeal ruling that the Government's 2015 public sector pension reforms unlawfully treated existing public sector employees differently based on members ages on 1 April 2012.

2. To provide the Pension Board with a copy of the response to the Government Consultation on the proposed changes to the Local Government Pension Scheme Regulations relating to the McCloud Judgement

3. The report also explains what activities the Pension Fund will be required to undertake to implement the potential remedy that is being proposed through a current consultation process.

Information

Background

4. The case came about when R Sargeant , a firefighter employed by the London Fire Brigade, was 44 years old or more on April 1 2015, she would have been entitled to remain in the Firefighters' Pension Scheme – a final salary pension fund that has a normal pension age between 50 and 55, a deferred pension age of 60 and an accrual rate of 1/60.

5. Because she was younger, Ms Sargeant was moved to the new Firefighters' Pension Scheme 2015, which is a career average revalued earnings scheme.

6. After a legal battle that saw firefighters and judges joining forces to claim discrimination on the grounds of age, Ms Sargeant and her peers were granted their claim by the Court of Appeal in 2018. And in June 2019, the Supreme Court refused the government's application to appeal the court case, by then known as McCloud, which marked the end of the legal process.

7. The case through the Courts identified unjustified age discrimination in transitional protection arrangements in the Judicial and Firefighters' Pension Schemes. However, in relation to the Local Government Pension Scheme (LGPS), this difference in treatment exists between two groups of LGPS members:

   • those who were in service on 31st March 2012 and were within ten years of Normal Pension Age (NPA) on 1st April 2012, therefore benefiting from underpin protection and 'better off' than the second group; and,

   • those who were in service on 31st March 2012 and were more than ten years from NPA, were not eligible for underpin protection and therefore 'worse off' than the protected members (as they were not guaranteed a pension of at least the level they would have received in the final salary scheme).

The Proposals

8. On 16 July 2020 various consultations were issued by the Government proposing solutions to providing a remedy across many of the public service pension schemes, a copy of the consultation document for the LGPS is attached for information and provides an in-depth explanation of the position and consultation. The Consultation runs until 8 October 2020 and the Pension Fund will be responding to the consultation.

9. The consultation sets out how Ministery of Housing Communities and Local Government (MHCLG) propose to amend the statutory underpin to reflect the Courts' findings in the McCloud and Sargeant cases. Primarily, the proposals are to remove the age requirements from the underpin qualification criteria. However, there are additional proposals to ensure that the underpin works effectively and consistently for all qualifying members following the extension of the underpin to younger members. From April 2022, it is proposed that the period of underpin protection will cease and all active LGPS members will accrue benefits in the career average scheme, without a continuing final salary underpin.

10. In the LGPS, the protection compares the benefits payable under the current career average scheme with the benefits that would have been paid if the Scheme had not changed from a final salary scheme in 2014 (2015 Scotland and Northern Ireland) and pays the higher. This protection is called the underpin.

11. Currently, the underpin applies automatically to protected older members. The Government is proposing to change the scheme rules so that the underpin will automatically be extended to eligible younger members.

12. The Pension Fund responded to the consultation and a copy of the response is attached in appendix A.

Impact on Members Benefits

13. Analysis nationally has identified that the proposals will mean that on average the members of the LGPS will see a slight improvement in their pensions as a result. However, this is not evenly spread, and the reality is that the average consists of members seeing no change at

all to their benefits, whilst other members will see material improvements in their retirement income.

14. It has also been estimated that younger members of the pension scheme with relatively high pay growth could see up to an estimated 10% increase on their 8 years accrual from 2014 to 2022, when compared to what they could have expected from the current career average scheme.

Impact on Employers within the LGPS

15. The higher than average benefits will need to be paid for, by the scheme employers. There are approaching 20,000 employers nationally, and it is estimated on average each employer will only see a small impact as a result of the proposed changes. Analysis, by our fund actuary has indicated that at the whole scheme level the increase in liabilities could be in the order of 0.3% or around £0.9bn. This will depend on several factors, namely assumed salary growth and withdrawal assumptions. This is lower than the estimate made by Government Actuary's Department (GAD). This is largely because salary growth assumption made by GAD is CPI plus 2.2% which is materially higher than the Actuary's assumptions for the 2019 valuation which was CPI plus 1% p.a.

16. The impact of the remedy might be to increase average primary contributions by around 0.2% - 0.3% p.a. of pay and secondary contributions by around the same (with more variability at individual employer level). However, in the case of the Fund the Actuary has already allowed for McCloud in the 2019 valuation calculations through various mechanisms, such as increased prudence in the discount rate or an explicit asset reserve. The actuary does not intend to revisit the 2019 valuation results. Any further differences will be captured at the 2022 and other subsequent valuations. Details of the Fund's allowance for McCloud can be found in the Funding Strategy Statement.

17. Although the impact on the fund is likely to be small at whole fund level it could be significant at individual employer level.

18. For many employers in the LGPS with mature workforce, like councils, there is likely to be minimal impact. Although promotional increases could result in a material cost for certain members as the final salary scheme pension could exceed the career average scheme pension as where salary increases are higher, the underpin is more likely to have an impact.

19. Smaller employers may also be more affected. The change in an individual member's benefits may increase a significant proportion of their liabilities and therefore the impact on smaller employers is likely to be more volatile.

20. It is known that some employers are much more likely to be impacted than others, i.e. those with younger membership profiles and more concentrated on active employees, such as academy schools and leisure centres, and therefore it is estimated that they could see a contribution rate increase of 1% or more (but this estimate relies heavily on future salary growth).

Impact on the Administration of The Fund

21. In terms of what is being proposed, this will have a major impact on the Administration Team for various reasons:

    a. Pension Processes will require to be reviewed and updated in line with the McCloud underpin protections.

    b. The Pension Fund will be required to collect hours and service break data for eligible members and scheme employers will have a statutory obligation to provide this data to the Fund back to 2014.

    c. Retrospective calculations performed on all eligible pensioners which may result in backdated pension adjustments being determined and require putting into payment.

    d. McCloud underpine protections being determined and applied to eligible members.

22. This will need to be undertaken for an estimated 24,000 member records within the Nottinghamshire pension fund across all members who have a current underpin

23. It will be important given the scale of the task, that the fund starts to plan to get ready for implementation. In addition the Scheme Advisory Board will be producing some guidance and consistency across the LGPS. Work is also ongoing in respect of administration software providers to update the administration systems to deal with the complexities of the changes in calculations.

24. Communication to employers and members will be essential. The key focus for members will be for them to know that the underpin will be applied to them without the need for any action on their behalf, but also understand when their benefits will be reviewed. Employers will also need to understand the requirement to provide historic and ongoing data to enable the 2008 Scheme benefits to be calculated, and the Scheme Advisory Board have an implementation group to help provide documents to pension funds.

25. The Fund will be required to collect data regarding hours changes and service breaks to enable the calculations for qualifying members since the 1 April 2014 to be undertaken.. This will include not only additional members covered by the underpin, but those who were previously covered as well. Retired members may also be affected, and arrears may be payable, which may also bring several pension tax complications to consider and communicate.

Review of Resource Requirements

26. In terms of estimating the amount of work and resources required, the fund has estimated that there may be around 24,000 records that may need to be reviewed, several recalculations of members benefits, communicating to members, scheme employers, along with collecting and checking data. This work cannot be completed with the current resources in the Pension Administration Team, and maintain the current service level, as well as progress several other statutory required projects. Therefore, in order to complete this work, there will need to be a temporary project team established to focus on this area of work.

27. Approval has been agreed by the Pension Committee to the establishment of a temporary Project Manager post for a period of two years, or less if the project is able to finish earlier, at Band B up to £35,934 per anum subject to pay awards, at a total cost of £71,868.

28. It will be the responsibility of the Project Manager to scope the details of the project and the additional resource that will be required to met the Fund obligations as part of the McCloud judgement.

29. Consideration will be given to seconding some experienced staff from the Pension Administration Team to the project with appropriate back fill arrangements implemented.

30. In order to support the project, it may also be prudent to engage some additional support from the scheme actuary, who will be able offer advice and support to the project manager on preparing for the project, fund resources and other issues raised in the report.

31. Once the Project Manager is appointed it is proposed to undertake further work on the requirements of the project and to present a separate report on what resources will be required considering, current and future work activities of the Administration Team.

Other Options Considered

32. The Pension Fund is following, the Scheme Advisory Board, and the Local Government Association (LGA) advice, along with engaging with the Scheme Actuary, as well as using normal LGPS funds to ensure that Nottinghamshire is following the best advice.

33. The Pension Fund has a legal requirement to ensure that the McCloud judgment is correctly applied to all eligible pensioners and members of the Nottinghamshire Pension Fund.

34. Absorb the McCloud project work into the existing work of the administration team. However, this is not considered to be a feasible option as this would have very significant implications and disruption for the delivery of the current business as usual, as well as the legal obligation to deliver the McCloud project.

Reasons for Recommendations

35. This will be a significant project for the Pension Fund which will require project management and additional resources to ensure that the Fund fulfils the requirmeents of the McCloud judgement.

36. Advice and support from the Scheme Actuary and their extensive knowledge and understanding of the LGPS regulations and the McCloud judgement will provide the Nottinghamshire Pension Fund McCloud project with a quality assurance role to the project.

Statutory and Policy Implications

37. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment

and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

38. The project, by its very nature, involves reconciliation, sharing and processing of personal and sensitive data. This is covered by existing arrangements and agreements with scheme employers and scheme members.

Financial Implications

RECOMMENDATIONS

It is recommended that the Board:

1) That the Pension Board consider the implications of the McCloud case, and agree to receive further update reports as the project becomes clearer following the consultation on the national proposals.

2) The Pension Board consider the Consultation response in appendix A.

Marjorie Toward
Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:
Jonathan Clewes, Pension Manager on 0115 9773434 or Jon.Clewes@nottscc.gov.uk

Constitutional Comments (KK30/11/ 2020)
39. The proposals in this report are within the remit of the Nottinghamshire Pension Board.

Financial Comments (KP 30/11/2020)
40. The financial implications are set out in the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Link to the Government Consultation Document:
:
https://www.gov.uk/government/consultations/local-government-pension-scheme-amendments-to-the-statutory-underpin

Electoral Division(s) and Member(s) Affected

- All

Dear Sirs

<u>Nottinghamshire Local Government Pension Fund</u>
<u>Consultation Reply – Amendments to the Statutory Underpin</u>
<u>LGPS (McCloud/Sargeant)</u>

I write in reply to the consultation on the amendments to the Statutory Underpin. The reply is on behalf of the Nottinghamshire Local Government Pension Fund.

I reply to the 29 questions;

Question 1 – Do you agree with the proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members?

Answer 1– Yes

Question 2 – Do you agree that the underpin period should end in March 2022?

Answer 2 – Yes

Question 3 – Do you agree that the revised regulations should apply retrospectively to 1 April 2014?

Answer 3 – Yes

Question 4 – Do the draft regulations implement the revised underpin which we describe in this paper?

Answer 4 – Yes

Question 5 – Do the draft regulations provide for a framework of protections which would work effectively for members, employers and administrators?

Answer 5 – The Fund feels the draft regulations provide for a framework of protections which work for members. However, the Fund is concerned about the impact on the scheme employers and the significant impact on Pension Administration.

Employers need to check and provide hours and service breaks between 1 April 2014 and 31 March 2022. In this period some employers will have left the Fund, merged with other employers (especially Academies joining Multi Academy Trusts) and changed payroll providers. For some employers, providing the data will be problematic and a pragmatic solution will be required that should be adopted nationally for those scheme members where the data is unavailable.

Pension Administration has the added burden this proposal brings. Scheme employers will also see this as an additional burden given funds will also be undertaking other projects with scheme employers, such as data improvement, and moving to monthly returns.

Fortunately, the Nottinghamshire Fund has continued to collect hours and breaks in service, therefore the Fund proposes to check Employer data, and collect any missing data, rather than the proposed solution of collecting the data for the first time. However, this will still create difficulty for the Fund due to the many changes that have occurred with scheme members and employers, especially where schools moved to academy status and then moved to multi academy trusts and where there have been changes in payroll providers.

Question 6 – Do you have other comments on technical matters related to the draft regulations?

Answer 6 – No

Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for the underpin protection to apply?

Answer 7 – Yes, this seems reasonable given actuarial factors that could be applied when a member claims payment. These factors could decrease or increase a member's benefits depending on their age and membership, at the point benefits are paid.

Question 8 – Are there any other comments regarding the proposed underpin qualifying criteria you would like to make?

Answer 8 – No

Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?

Answer 9 – Yes, whilst the Fund accepts there are administrative issues in opening the aggregation window for a new 12 months (from the date of the regulations) for a set group of members, the Fund feels this is more sensible than trying to deal with underpins covering more than one scheme if the proposal was reversed.

The Fund wishes to raise concern about the increased risk reopening the aggregation window could have on employer strain costs.

Because of the increased financial pressure on employers due to Covid-19, some Fund employers are looking at potential staff reductions through redundancy exercises. The Fund has concern, if a member is being considered for redundancy (age 55 plus) and is now able to transfer in earlier service (because of the reopened

12 month aggregation window in the proposal), which they previously had not transferred but would now be attractive to do as the member would then be able to include this service unreduced with immediate payment, this could significantly increase the redundancy capital cost value that the employer has to pay to the Fund.

This could make cases, that could have been considered for early release unviable, which makes the necessary staff reductions more difficult for the employers to resolve. The fund is also unsure at this point how the exit Cap would impact on this situation.

Question 10 – Do you agree with our proposal that certain active and deferred members should have an additional 12 months period to decide to aggregate previous LGPS benefits because of the proposed changes?

Answer 10 – Yes, as detailed in answer 9, but noting the increased risk detailed, and considering any impact by the exit cap.

Question 11 – Do you consider that the proposals outlined in paragraphs 50 to 52 would have “significant adverse effects” in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?

Answer 11 – No, the Fund’s view is that, it is very unlikely to impact adversely on pensions payable to current pensioner members.

Question 12 – Do you have any comments on the proposed amendments described in paragraphs 56 to 59?

Answer 12 – The Fund feels the paragraphs 56 to 59 are reasonable and designed to benefit scheme members and their surviving partners and provide a consistent and effective approach.

Question 13 – Do you agree with the two-stage underpin process proposed?

Answer 13 – Having reviewed Annex C and the examples in Annex D (pages 62 to 69) the Fund accepts a two stage underpin is required to guarantee the member receives the higher “protected benefit” from either the 60^{th} 2008 scheme or the 49^{th} CARE 2014 scheme.

The Fund does have concerns about the calculations of the comparisons and wishes to stress that the pension system providers will need to ensure their systems calculate the options correctly, to ensure the higher option is provided to the member.

The Fund also believes that pension Teams will be inundated with questions and scenarios by members who maybe impacted, which will put increased strain on Pension Fund Admin Teams.

Question 14 – Do you have any comments regarding the proposed approaches outlined above?

Answer 14 – No, the Fund has no comments on the proposed approaches in Sections 64 to 102.

Question 15 – Do you consider there to be any notable omissions in our proposals on the changes to the underpin?

Answer 15 – No

Question 16 – Do you agree that annual benefit statements should include information about a qualifying member's underpin protection?

Answer 16 – The Fund agrees the annual benefit statement is the most important information a scheme member receives whilst in active or deferred membership. However, the Fund feels many members are a little overwhelmed by the calculation of their pension already and usually head for the "total annual pension" figure and compare this to last year's value. If the latest value in higher, the Fund's general experience is, the member will accept this without question.

Whilst the Fund does appreciate the proposal, to include the underpin on the annual benefit statement, the Fund's view is this will only add another layer of unnecessary confusion to the majority of member's, especially given this may not apply to many members, and if it does, it is only at a future point in time.

The fund will need to increase its Administration Team in order to be able to address the increase in administration that this change will bring. There is currently difficulty in recruiting experienced staff in order to meet the current needs of the service, let alone finding new experienced staff.

This comes at a time of heightened financial pressures on Councils, increased further by the Covid-19 crisis, where Councils need to be reducing costs.

Question 17 – Do you have any comments regarding how the underpin should be presented on annual benefit statements?

Answer 17 – If it is decided the underpin value is to be included on annual benefit statements, the system providers will need to capture this value and write it back to the member's record annually.

The Fund suggests if the value must be included it should be shown as a separate value with simplistic wording applied. If a member wants greater information, then more detailed explanation can be provided.

This maybe an appropriate time to review benefit statements and the information required.

Question 18 – Do you have any comments on the potential issue identified in paragraph 110?

Answer 18 – The Fund agrees the impact of the underpin should only take effect on the members annual allowance pension growth calculation from the year the member reaches their “underpin crystallisation date”. The Fund accepts this approach, meaning a member’s pension input amount in this year is higher than in previous years.

The Fund recognises there may be a very small group of people impacted by this approach (members with low career average earnings 1 April 2014 to 31 March 2022, but a high final salary over the same period), but the Fund accepts this risk is extremely small, and the approach is reasonable.

Question 19 – Do the proposals contained in this consultation adequately address the discrimination found in the “McCloud and Sargeant” cases?

Answer 19 – Yes

Question 20 – Do you agree with our equalities impact assessment?

Answer 20 – Yes

Question 21 – Are you aware of additional data sets that would help assess the potential impacts of the proposed changes on the LGPS membership, for the protected characteristics not covered by the GAD analysis (age and sex)?

Answer 21 – No

Question 22 – Are there other comments or observations on equalities impacts you would wish to make?

Answer 22 – No

Question 23 – What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?

Answer 23 – The Fund agrees members and employers need to understand the implications of the proposals.

The Fund's view is there will need to be targeted communications for the different groups of members affected, in the main pensioners, deferred and actives and the communications will need to be tailored to suit the individual's circumstance and this should be done at Fund level. However, the Fund is aware the Local Government Association has a communication sub group working on McCloud and intends to use agreed wording that is provided nationally.

The Fund agrees employers need to be made aware of the implications it has on them. This includes providing and checking for missing data (hours and service breaks), but they also need to be aware of the impact on them financially.

The Pension Fund's Actuary is likely to provide guidance on the financial impact on future employer rates, at the next Fund valuation, but also for noting in their accounts and FRS notices, where applicable.

Question 24 – Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?

Answer 24 – The Fund has plans to set up a Project in the Pension Administration Team to manage the administrative impact.

The Fund will be writing to scheme employers making them aware of McCloud and the outlining the potential requirement that they will need to check and provide any missing data between April 2014 and March 2022. Fortunately, the Fund has continued to collect data from scheme employers unlike other LGPS funds. Therefore, it is hope that this will reduce some of the burden in collecting data. The plane is to send data to employers for them to check and update any incorrect or missing data.

The Fund is represented on the Local Government Associations McCloud working party through the East Midlands Pension Managers Group so has been kept up to date on the work to produce a national data template and notes to assist employers.

The Fund will be reliant on the Civica our system provider to assist in uploading of any updates in employer data into the system along with enabling the Administration System to revise member calculations to provide a set of results.

Revision of pensions in payment will be time consuming, especially if the member has been in receipt of their pension prior to the latest annual pensions increase.

The Fund will be planning the work in a priority order, but further work will be required as part of our planning process.

The Fund is concerned about the complexity of the communications to members, especially to those members who will have the aggregation window reopened for 12 months. It is expected this will generate phone calls and enquiries.

There is clearly an additional administrative cost to this work, both in times of resource and systems.

The Fund is also concerned about the administrative impact on the employers checking (in our position) data including hours and service breaks between April 2014 and March 2022. This will be challenging and costly for the employers.

It is expected that some employers may ask if any additional charges they incur can be passed back to the Fund.

Whilst the fund accepts there is no recommended date for completion of the exercise and should therefore be able to set its own timeframe to complete the work, there is also some concern that without a set timescale, employers may drag their feet, which will impact on the funds ability to undertake the work, which increases costs, but also leads to a never ending activity.

Question 25 – What principles should be adopted in determining how to prioritise cases?

Answer 25 – The Fund believes the priority order should be – pensioners, deferred members and then active members. Within the pensioners the Fund suggests there should then be further prioritisation based on the likelihood of recalculation. The initial priority cases are likely to be “best of the last 3-year cases and average 3 in 13 cases” as it is anticipated these are more likely to require revised benefits.

The deferred members could be prioritised by age. Those nearing, or at age 55 and over, should be treated with greater priority.

Other groups including deaths and transfers out may require greater prioritisation, but guidance should be provided nationally on this.

The reopening of the 12-month aggregation window will appear to run alongside, if the 12 months starts for the amendment of the regulations.

Question 26 – Are there material ways which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators?

Answer 26 – The Fund’s view is the remedy must deal with the legal age discrimination challenge. Given the complexity of the current scheme, the proposal was always going to be extremely challenging for employers, system providers and administrators.

The Fund accepts there needs to be clear regulations to satisfy the legal requirements of the age discrimination challenge, and therefore a check needs to be made for each member, however the impact administratively seems to be disproportionate to the resolution.

The Fund suggests an idea to address the challenge more easily but accepts it does not provide complete clarity from the legal challenge, but it better solves the administrative and employer impact.

In order to try and simplify the resolution, there is an idea circulating, to pay a compensation value to members impacted, rather than take the time to collect and calculate benefits, but to use each individual member's hours for the period April 2014 to March 2022 (which employers will need to extract from their systems and the administrator backload into their pensions administration system), instead, use full time hours for all.

For cases that show an underpin applies, then collect the correct hours from the employers and if the underpin still applies, pay them a single value compensation payment to these members, given only a small number of members are likely to be impacted, this seems a fair and pragmatic solution.

Question 27 – What issues should be covered in administrative guidance issued by the Scheme Advisory Board, regarding the potential additional data requirements that would apply to employers?

Answer 27 – The Fund believes the work already taking place by the Local Government Association adequately addresses this. This includes the data template, notes and guidance.

Question 28 – On what matters should there be a consistent approach to implementation of the changes proposed?

Answer 28 – The Fund feels the prioritisation of the different groups is required so that all Funds work consistently.

There are differing views in relation to time limits, there are advantages and disadvantages, set time limits will focus the projects, and support the work with employers. Whilst on the other hand some funds with less generous resources may not be able to meet nationally set deadlines.

Question 29 – Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?

Answer 29 – The Fund is concerned that the McCloud remedy could appear to some local taxpayers, as "Public Sector pension changes, guaranteed, to provide an even better pension". This is at a time of significant financial crisis throughout the economy and when people are losing their jobs after Covid-19.

Therefore, the Fund strongly supports preventing increased costs being passed to local taxpayers. The Fund has no comment on how this should be achieved.

Nottinghamshire County Council

Report to The Nottinghamshire Local Pension Board

10 December 2020

Agenda Item: 7

REPORT OF SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE, AND EMPLOYEES.

LOCAL GOVERNMENT PENSION SCHEME – REFORM OF LOCAL GOVERNMENT EXIT PAYMENTS

Purpose of the Report

1. The purpose of the report is to inform Pension Board on the implementation of the reform of local government exit payments on scheme members and the implications for scheme employers.

2. The report also seeks approval for the funds proposed solution for dealing with cases impacted for an interim period prior to a change in pension regulations.

Information

Background

3. In 2015 the government first announced plans to introduce a cap on exit payments in the public sector. The cap applies to the total amount payable when someone exits and so applies to the total of severance payments, any pension strain cost and notice payments in excess of three months. The cap, set at £95,000 was legislated for in the Enterprise Act 2016, which amends the Small Business, Enterprise and Employment Act 2015, but required secondary legislation to be introduced.

4. On 10 April 2019, HM Treasury (HMT) opened a consultation on draft regulations, directions and guidance to implement the exit cap. This included provisions about the circumstances in which, and by whom, the cap could be waived. The consultation closed on 3 July 2019.

5. The Local Government Association (LGA) response to the cap consultation made detailed comments on the practical and statutory complexities of introducing the cap and its effects.

6. On 21 July 2020, HMT published the government's response to the consultation and laid the implementing regulations in Parliament. These were approved by the House of Lords on 23 September and the House of Commons on 30 September. They were officially made on 14 October and came into effect from 4 November 2020.

7. This law change has created an issue for employers and the Pension Fund as the Exit Cap Regulations and the Local Government Pension Scheme (LGPS) Regulations currently do not align. The proposals are that the LGPS will be amended to align these with the Exit Cap Regulations in future.

8. The Exit Cap regulations, laid by HMT, set out the general rules that must be applied to the public sector, and consultation ended on 9 November, with the ability to provide further comments on how the 95K cap should apply specifically to local government, alongside wider reforms on exit payments.

9. The proposals, set out by the Ministry of Housing Communities and Local Government (MHCLG), are of relevance to the LGPS, and therefore communication has been provided to scheme employers to make them aware of the potential changes.

10. There are a few key points to highlight as part of the consultation on the changes:

    a. The Government has decided to no longer proceed with a staged approach to implementation, the cap will now apply across all the public sector when implemented to ensure value for money as soon as possible.

    b. HMT has confirmed that employer funded early access to pensions (strain cost) will be within scope of the exit payment although the cap will not apply to all employers in funds as it currently stands.

    c. The Government is committed to strong governance and that any exceptions process for the cap not to apply will be fit for purpose and not cause any unnecessary delays.

    d. Whilst there are no current plans to uprate the £95K cap each year the government has committed to "making decisions on the level of the cap with reference full contextual factors" and any changes can be implemented through secondary legislation.

11. Under the current LGPS provisions, where a member's employment is terminated on redundancy or efficiency grounds the member must have access to their unreduced pension benefits.

12. In cases where the cap is breached, then the member may have to take a reduced pension. Consequently, MHCLG is looking at options to introduce choice to allow members in this position to opt for a deferred pension instead.

13. The Government Actuaries Department (GAD) has produced draft factors and strain cost guidance for administrators to calculate the pension strain for retirements on both redundancy and efficiency grounds so that the cap can be applied equally to members across the LGPS.

Impact on Scheme Members

14. Within the new proposals there are a number of options of how members can be paid by scheme employers their redundancy payments, which will lead to reduced payments, and complexity for members who will now have to make a choice on their redundancy benefits.

15. Currently under the LGPS Regulations; when an active scheme member retires on either redundancy or efficiency grounds age 55 or over in the LGPS a pension strain cost is created and paid by the employer to the Pension Fund. This funds the Pension Fund’s early release of unreduced pension benefits to the scheme member.

16. Since the 4 November 2020, as per the new Exit Cap Regulations, if a scheme member breaches the £95,000 cap their total benefit package must be reduced.

17. The Fund has taken legal advice and followed the LGA’s guidance and proposes to adopt the following solution for cases where the members retires from the 4 November 2020;

For Cases that breach the £95,000 cap

18. For redundancy cases that breach the exit cap the pension fund will offer either:

    a. Fully reduced benefits, or
    b. A deferred benefit

    It is anticipated across the LGPS nationally that this position will generate appeals from pension members caught up in this process and the LGA have indicated that cases will be fast tracked to the Ombudsman.

19. As part of the process the Pension Fund will explain its reasoning to the member and make it clear to them that they have the right to claim under the regulations for underpayment of benefits.

20. The Pension Fund anticipates that it will receive claims from members as a result of this approach. If it does so, and those claims are successful, so that the member is entitled to an unreduced pension in the absence of any clarifying guidance or regulations, it may be required under the LGPS Regulations to approach employers for additional strain payments at a later date.

21. As part of fund communication scheme employers will need to be made aware that they will need to carefully consider the position of not making a payment of a “cash alternative” up to the exit cap to employees who are made redundant as this will create an additional unnecessary risk of overpayment.

22. This communication is designed to avoid overpayments or the need to reclaim amounts from scheme members. If an employer makes a payment of a cash alternative and then the ultimate regulatory position requires payment of a pension strain cost, the cash alternative will then need to be reclaimed (in full or in part) from the member. Employers will need to have a legal agreement in place with the scheme member to enforce repayment of the cash alternative, should this become necessary.

For Cases that do not breach the £95,000 Cap

23. The Pension Administration Team will continue to produce estimates for employers related to members retiring on redundancy and efficiency grounds who are under the £95,000 Cap, up to and including a retirement date of the 31 March 2021, based on the current scheme rules (as at 10 December 2020). This means members will continue to receive fully unreduced benefits. This is on the understanding the employee and the employer have entered into an agreement to terminate before the LGPS Regulations come into force.

24. It is anticipated there will be a protection period, but it is unclear as yet when this will be but will follow the implementation of the new regulations sometime in early 2021.

Impact on the Fund and Scheme Employers

25. The issue for the funds and employers is wide ranging, as the proposals will affect governance arrangements, retirement processes, information flows, calculations, and communications with both employees and employers. It is envisaged that the practicalities of implementation will be onerous from the fund's perspective.

26. The reforms apply to all employers set out in the overarching HMT regulations who are designated a public sector employer. The reforms will not affect employees of employers outside of the public sector. The proposals will change severance packages and impact workforce planning, as the provisions go much further than the overarching public sector exit regulations and affect all members regardless of the £95K exit payment cap

Summary of Proposals on the changes to the LGPS Regulations

27. The consultation which is due to cease on the 18 December 2020 changes to the LGPS Regulations sets out the following proposed approach:

    a. A general reform of redundancy payments, to involve a maximum of three weeks' pay per year of service, an overall ceiling of 15 months' pays and a maximum salary of £80,000p.a. which can be used in the calculation.

    b. Inclusion of pension strain in the overall payment cap of £95K.

    c. A waiver process to allow for relaxation of the £95K cap in exceptional circumstances, requiring ratification and approval of the business case by MHCLG.

    d. Strain costs and the related pension enhancements will be reduced by the value of any statutory redundancy which the employee will receive.

    e. In general, where a scheme employer pays' discretionary redundancy payment over the statutory redundancy payment, this will not be payable where there is a strain cost to the scheme employer.

Statutory and Policy Implications

28. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

29. The Exit Cap Regulations which were consulted on until the 9 November 2020, require further changes to that detailed above. For cases that take place from the point when the LGPS Regulations change sometime in early 2021, the new regulations require the Pension Fund to reduce the pension strain by the redundancy payment, so the scheme member receives an element of their pension reduced.

Data Protection and Information Governance

30. N/A

Financial Implications

31. The costs of early release of pension benefits are currently met by employers through a strain payment. In the event that the £95k cap applies, the benefits will be reduced so there will be no additional costs to the pension fund.

RECOMMENDATIONS

It is recommended that the Pension Board:

1) Acknowledge the proposals on implementing the interim arrangements for the Pension Fund.

Marjorie Toward
Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:
Jonathan Clewes, Pension Manager on 0115 9773434 or Jon.Clewes@nottscc.gov.uk

Constitutional Comments (GR30/11/2020)

32. Pursuant to the Nottinghamshire County Council constitution both the report and recommendation contained within it fall within the remit of the Board.

Financial Comments (KRP 30/11/2020)

33. There are no direct financial implications as a consequence of the change in process identified in the report.

HR Comments ()

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Links to Consultation on Exit Payments:

https://www.gov.uk/government/consultations/restricting-exit-payments-in-the-public-sector

https://www.gov.uk/government/consultations/reforming-local-government-exit-pay

Electoral Division(s) and Member(s) Affected

- All

Nottinghamshire County Council

Report to the Nottinghamshire Local Pension Board

10 December 2020

Agenda Item: 7

REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE AND EMPLOYEES

THE LOCAL GOVERNMENT PENSION BOARD REVIEW 1 APRIL 2019 TO 31 MARCH 2020.

Purpose of the Report

1. To provide a report by the Advisor of the Board reviewing the activity of the Nottinghamshire Local Pension Board for the period 1 April 2019 to 31 March 2020.

2. That the Pension Board consider the report prior to the report to be presented at the next available Pension Committee meeting.

Information

3. The Local Government Pension Board was established on 26 March 2015 and is responsible for “assisting” to secure compliance with pension legislation, regulations and guidance to ensure the effective governance and administration of the Local Government Pension Scheme.

4. The Pension Board is not a decision making body and the decision making function remains with the Administering Authority and this in Nottinghamshire is delegated to the Pension Committee.

5. The Board currently meets twice a year and the last meeting was held on 12 December 2019.

6. As part of the work activities of the Pension Board there is a requirement for the Chair of the Pension Board to provide a report to the Pension Committee updating the committee on the work of the Board and where appropriate to make recommendations to the Pension Committee.

7. The final report is attached in Appendix A. In drawing up the report the chair of the Pension Board Asked the Independent Pension Board Advisor to write the report reviewing the activities of the Pension Board since for 1 April 2019 to 31 March 2020.

Other Options Considered

8. There are no other options to be considered.

Reason/s for Recommendation/s

9. This report has been compiled to for the Pensions Board to consider the report prior to the report being presented to the next available Pension Fund Committee.

Statutory and Policy Implications

10. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance
N/A

Financial Implications
N/A

Human Resources Implications

N/A
Implications for Service Users

N/A

RECOMMENDATION/S

It is recommended that:

1) The Pensions Board receives and considers the report of the advisor of the Pension Board. along with identifying any actions required.

Marjorie Toward
Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:

Jon Clewes, Pension Manager on 01159773434 or Jon.Clewes@nottscc.gov.uk

Constitutional Comments (KK30/11/2020)

11. The proposals in this report are within the remit of the Nottinghamshire Local Pension Board.

Financial Comments (KP30/11/2020)

12. There are no financial implications identified within the report

HR Comments

N/A

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- ‘None’ or start list here

Electoral Division(s) and Member(s) Affected

- ’All’ or start list here

Appendix 1

JOHN RAISIN FINANCIAL SERVICES LIMITED

The Nottinghamshire Local Pension Board

Pension Board Review 1 April 2019 to 31 March 2020

A report by the Advisor the Board

Executive Summary

This report reviews the activity of the Nottinghamshire Local Pension Board during the period 1 April 2019 to 31 March 2020.

Purpose of the Nottinghamshire Local Pension Board

Under its Terms of Reference, approved by the Nottinghamshire County Council on 26 March 2015, the purpose of the Nottinghamshire Local Pension Board is to assist the Nottinghamshire Pension Fund Committee (and its sub-committees). The Pension Fund Committee exercises the role of Scheme Manager for the Nottinghamshire Fund under the Public Service Pensions Act 2013 and the Local Government Pension Scheme (LGPS) Regulations.

Regulation 106(1) of the Local Government Pension Scheme Regulations 2013 (as amended) requires that each Administering Authority, which in the case of the Nottinghamshire Local Government Pension Fund is Nottinghamshire County Council, establish a Local Pension Board by 1 April 2015 responsible for *"assisting it"* to secure compliance with pension legislation, regulations and guidance; and "*to ensure the effective and efficient governance and administration"* of the Local Government Pension Scheme.

Under its Terms of Reference (and in accordance with the LGPS Regulations 2013 (As amended)), the Board does not replace the Pension Fund Committee or make any decisions or carry out other duties which are the responsibility of that Committee. Rather, its first core function is to assist the Pension Fund Committee in securing compliance with the relevant legislation relating to the governance and administration of the LGPS in Nottinghamshire. The second core function is to ensure the effective and efficient governance and administration of the Fund. In accordance with its Terms of Reference the Board may, however, determine which areas it wishes to consider and the Board has authority to make a request for information with regard to any aspect of the operation of the Pension Fund. It may also make recommendations to the County Council or any relevant committees which must be considered and a response made to the Board.

Board Meetings

The report to Council, in 2015, which resulted in the establishment of the Board proposed that the Board meet twice a year. Two meetings of the Board were held, on 11 September 2019 and 12 December 2019, during the period covered by this review. The Agenda Items considered at each Board meeting are shown in the Table below:

	11/09/19	11/12/19
Minutes of Previous Meeting	/	/

Declarations of Interest	/	/
LGPS Update	/	/
Risk Register	/	/
Pension Administration Performance Report	/	/
Transforming Pension Administration	/	
Guaranteed Minimum Pension Reconciliation Report	/	
LGPS Central Limited Update	/	
Fossil Fuel Investments Query	/	
Work Programme 2019-20	/	
The Pension Regulators Public Service Survey		/
Pension Board Review 1 April 2018 – 31 March 2019		/

James Lacey, Director of Finance at Nottingham Trent University, who was elected as Chair of the Board in April 2016 stood down as Chair after the September 2019 meeting. Councillor Tony Harper Chaired the meeting held on 12 December 2019 pending the appointment of a new Chair.

The number of Pension Board meetings to be held annually is not specified in the LGPS Regulations or Statutory Guidance issued by the MHCLG. The Pensions Regulator, however, recommended, in its September 2019 report (Governance and administration risks in public service pension schemes: an engagement report) arising from engagement with 10 LGPS Funds, that *"The pension board should meet an appropriate number of times a year, at least quarterly."*

Principal Issues Considered at Board Meetings in 2019-20

A prerequisite for the Pension Board to operate effectively is knowledge and understanding of the LGPS at a national level. An LGPS Update was therefore presented by the Advisor to the Board on both 11 September and 12 December 2019. These Updates provided Board members with information and explanation in relation to a number of major national developments in the LGPS. The 11 September Update took the form of a paper covering the Scheme Advisory Board project – Good Governance in the LGPS; the LGPS Cost Control process, "McCloud" and its potential implications; the LGPS Consultation "Changes to the Local Valuation Cycle and the Management of Employer Risk" ; Investment Pooling – the present situation regarding national Guidance. The 12 December LGPS Update primarily took the form of a 90 minute training session prior to the Board meeting but the issues covered were also briefly highlighted at the Board meeting which followed in the afternoon. The issues covered were a further update on the Scheme Advisory Board – Good Governance in the LGPS project; Investment Pooling – a National Update; the Scheme Advisory Board draft Guidance on Responsible Investment of November 2019; The Pension Regulators report on Administration and Governance in the LGPS of September 2019.

As the Foreword to the CIPFA publication "Managing Risk in the Local Government Pension Scheme" (December 2018) states *"Effective risk management stands at the heart of sound corporate governance across all organisations and functions and the Local Government Pension Scheme (LGPS) is no exception."* Additionally, the Pensions Regulator in its September 2019 report arising from engagement with 10 LGPS Funds included the recommendations that *"A risk register should be in place and cover all potential risk areas. It should be regularly reviewed by the pension board… The pension board should have good oversight of the risks and review these at each pension board meeting*." Consequently, Risk Management is fundamental to effective Pension Fund governance.

It is therefore positive that at both meetings of the Pension Board held in 2019-20 the Pension Fund Risk Register was considered with Officers representing both the Administration and Investment functions in attendance and that the Board actively engaged asking questions and raising constructive challenge. At the September 2019 meeting it was reported to the Board that the Risk Register was reviewed by the Pension Fund Committee on an annual basis. Having asked questions of Officers the Board then resolved to make the recommendation "*That the Pension Fund Committee be invited to consider the Risk Register on a more frequent basis."*

Pensions Administration remained the primary area of specific focus by the Board. This is logical as the most direct link between both Employers and Employees (representatives of whom comprise the Board membership) and the Pension Fund is with Pensions Administration. Employers have a crucial role in both providing data to the Pensions Administration Team and working with the team to communicate with individual Employees who are members of the Scheme. From an Employee perspective their benefits are entirely dependent on the Pensions Administration Team having the correct pay and service details. Not only did the Board receive a detailed Pensions Administration Performance Report at both of its meetings in 2019-20 it also received a report (11 September 2019) on the programme of work to transform the Nottinghamshire Pensions Administration service utilising digital developments; a report (11 September 2019) on the exercise to reconcile the "Guaranteed Minimum Pension" records of the Nottinghamshire Pension Fund and those held by HMRC; and a report (12 December 2019) providing the background to and a copy of the Nottinghamshire Pension Fund's draft response to the "Public Service Governance and Administration Survey 2019" issued by the Pensions Regulator.

The Pension Administration Performance reports submitted to both meetings, held during 2019-20, together with the accompanying presentation by the Pensions Manager provided the Board with both performance statistics and commentary on the activity of the Pensions Administration Team including work in the context of continuing changes to the composition of the active Employers in the Nottinghamshire Fund. The September 2019 report on Transforming Pensions Administration provided the Board details of the digital developments implemented/been implemented to enhance data quality and communication with both Employers and individual Employees. The report explained that through the development of self service portals for both Employers and individual Employees paper processes and the double input of data could be avoided. This would enable the Pensions Administration Team to concentrate on complex issues with automation taking over more and more day to day tasks. To facilitate the development of digital solutions the report explained that it is proposed that all aspects of the digitalisation of pensions administration are brought together under one overarching programme "Transforming Pension Administration through digital development." These reports on performance and transformation resulted in a range of questions and constructive challenge from Board members across performance, data quality and in particular resourcing.

The development and implementation of Asset (Investment) Pooling has been a high profile issue in the LGPS since 2015. In previous years the Board has received both reports and detailed training relating to Asset Pooling. Therefore, it was appropriate that the Board continued, in 2019-20, to received reports, oral information at Board meetings and training relating to Asset Pooling at both a national level and as it specifically impacts the Nottinghamshire Pension Fund. At the meeting held on 11 September 2019 the Board received an Officer report updating the position with regard to both the development the LGPS Central asset pool and the relationship between the Nottinghamshire Pension Fund and LGPS Central. The Advisor to the Board (again) emphasised that the determination of Investment Strategy, which is the primary determinant of investment returns, remains the responsibility of the Nottinghamshire Pension Fund Committee but that Asset Pools (LGPS Central in the case of Nottinghamshire) will, over time, take over responsibility for investment manager appointments. These are, however, from an investment viewpoint, decisions of second order importance.

The September 2019 meeting received an Officer report in response to a query received by the Chair of the Nottinghamshire Local Pension Board from Nottingham Friends of the Earth regarding the Nottinghamshire Pension Funds investments in the equities of companies exposed to fossil fuels. The Officer report included a copy of the response provided to Nottingham Friends of the Earth as well as a clear explanation of the approach of the Pension Fund Committee with links to relevant reports/documents. The Advisor to the Board also stated that William Bourne, the Independent Investment Advisor to the Nottinghamshire Pension Fund, has provided advice on the issue of responsible investment to the Pension Fund Committee within the statutory guidance on investment issued by MHCLG.

Pension Board Review 1 April 2018 to 31 March 2019

A review of the activity of the Pension Board during the period 1 April 2018 to 31 March 2019 was prepared by the Advisor to the Board and presented at the meeting held on 12 December 2019. After receiving the report, the Board resolved to request that the Advisor present the review to a future meeting of the Nottinghamshire Pension Fund Committee.

On 12 March 2020 I attended the Nottinghamshire Pension Fund Committee, on behalf of the Pension Board, to present the Nottinghamshire Pension Board Review 1 April 2018 to 31 March 2019. At the Committee meeting I was given the opportunity, by the Chair, to both fully explain the background to the report as well as the content of the report itself. Following my presentation, the Members of the Committee asked a number of questions and made a number of observations. I am pleased to be able to report that the Pension Fund Committee were clearly both genuinely interested in and appreciative of the work of the Pension Board.

Training and Development

Sufficient and effective Training and Development are clearly essential for Board Members to properly discharge their responsibilities. Furthermore, knowledge and understanding are specifically required of Pension Board Members by the Public Service Pensions Act 2013.

As pointed out earlier in this report there were LGPS Updates presented on both occasions that the Board met in 2019-20 which provided individual Board members with knowledge and understanding on a range of significant national LGPS issues across Governance, Pensions Administration and Investment issues. The training provided in 2019-20 sought to build upon the strong foundations of the significant and broad ranging training provided to the Board in previous years

Support for the Board by the Administering Authority 1 April 2019 - 31 March 2020

The effectiveness of the Board is dependent not only on the approach and contribution of its Members but also that of the Administering Authority. Throughout the period covered by this review the Board received positive support, advice and guidance from the Officers of the

Nottinghamshire Pension Fund with responsibility for both the Administration and Investment aspects of the Pension Fund.

Meetings of the Board were also supported and attended by the Advisor to the Board who provided independent support and also an external viewpoint on the Officers reports in addition to presenting training to the Board.

John Raisin

Advisor to the Nottinghamshire LGPS Local Pension Board

21 September 2020

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JOHN RAISIN FINANCIAL SERVICES LIMITED

Nottinghamshire Local Pension Board

LGPS Update

A paper by the Advisor to the Pension Board November 2020

Introduction

This paper informs the Board of developments in respect of some important issues in the LGPS since the Board last met on 12 December 2019. Two matters of major importance – the "McCloud" (age discrimination) case and the reform of Local Government Exit Payments are covered in Officer reports elsewhere on the Agenda of this meeting of the Pension Board. Therefore, this paper focusses on three other major issues – Firstly an overview of the 2019 Actuarial Valuation in the context of the Nottinghamshire Fund, Coronavirus and the LGPS; Secondly the Supreme Court decision of April 2020 regarding LGPS Statutory Guidance issued in 2016; Thirdly national LGPS Scheme Governance developments.

The report also provides a brief update on two other issues covered in LGPS Update reports received by the Board in 2019 - the MHCLG Consultation "Changes to the Local Valuation Cycle and the Management of Employer Risk" which was issued in May 2019, and secondly - Investment Pooling the present situation regarding national guidance. In addition, the paper reports back on the presentation, on 12 March 2020, to the Nottinghamshire Pension Fund Committee of the Pension Board Review 1 April 2018 to 31 March 2019.

The issues covered in this paper are:

- Overview of the 2019 Actuarial Valuation, Coronavirus and the LGPS
- Scheme Governance – Good Governance in the LGPS project
- Supreme Court Case regarding 2016 Statutory Guidance
- MHCLG Consultation "Changes to the Local Valuation Cycle and the Management of Employer Risk"
- Investment Pooling – the situation regarding national guidance
- Presentation to Pension Fund Committee – 12 March 2020

1. Overview of the 2019 Actuarial Valuation, Coronavirus and the LGPS

On 31 March 2020 the Actuary to the Nottinghamshire Fund, Barnett Waddingham, issued their Valuation Report relating to the Actuarial Valuation as at 31 March 2019 and the Rates and Adjustments Certificate which sets the individual Employer Contribution rates for the period 1 April 2020 to 31 March 2023. This was in accordance with the requirements as to Actuarial Valuations as set out in Regulation 62 of the LGPS Regulations 2013 (as amended).

Using the assumptions agreed with the Nottinghamshire Fund the Actuary in his Valuation Report calculated, as at 31 March 2019, the value of the Fund's liabilities was £5,820m compared to assets of £5,415m, a deficit of £405m and a Funding level of 93%. This compared to a Funding level of 87% at the 2016 Actuarial Valuation. Therefore, at the whole Fund level the Funding level had clearly improved since 2016 and was approaching full funding for past service accrued. The Actuarial Valuation Report for 2019 may be accessed at https://www.nottinghamshire.gov.uk/media/2885041/nott-march-2019-valuation-report.pdf

In considering the deficit/surplus and Funding level it is however important to note that the deficit/surplus and Funding level are only measurements at a particular point in time based on past experience and, crucially, assumptions about the future. Therefore, it is important to look beyond the headline Funding level and to consider how it has been determined.

The Valuation Report sets out how the Funding level has been determined. Based on past experience since 2016, compared to assumptions made at the 2016 Valuation, alone, the Fund would have been (I calculate) approximately 104% Funded. This is primarily because in the words of the Valuation report (page 11) *"Investment returns have been strong since 2016 leading to an estimated improvement in the position of just under £680m. The Fund's investment returns have been 10.3% p.a. on average compared to the prudent long term return assumption at the last valuation of 5.4% p.a. over the three year period."* However, in preparing the Valuation report the Actuary also has to make assumptions for the period going forward to which the Valuation applies – that is to 31 March 2022.

In determining assumptions going forward the Fund Actuary has, overall, taken a more prudent view than at the previous Valuation. The most significant change is a reduction in the financial assumptions, most notably a reduction in the Discount Rate from 5.4% p.a to 4.8% p.a which reflects lower long term investment expectations than at the 2016 Valuation. I would suggest that given market and LGPS developments over the period since 2016 an assumption of lower future investment returns is reasonable. Therefore, taking account of both experience since the last Valuation and assumptions going forward the Actuary arrived at a Funding level for the whole Nottinghamshire Fund of 93%.

A higher overall Funding level does not, however, necessarily result in lower overall Employer Contributions. The Employers Contribution rate comprises two elements – the Primary rate and the Secondary rate. The Primary rate covers the cost of future service accrual and has increased at whole Fund level because of the reduction in future anticipated returns as expressed by the Discount Rate. The Secondary rate covers the cost of recovering past service deficits which has reduced as a result of the improved Funding level from 2016 to 2019. Overall, the combined changes to the Primary and Secondary rates result in *"generally stable contributions"* for Employers. Details of individual Employer Contribution Rates are set out on pages 28 to 59 of the Valuation Report. Details of individual Employer Contribution Rates as set at the previous Valuation can be found on pages 19 to 39 of the Valuation Report issued in March 2017 https://www.lgpsboard.org/images/Valuations2016/Nottinghamshire2016.pdf

The latest Valuation Report issued on 31 March 2020 was issued after world financial markets began to materially adversely react to the implications of Coronavirus. This can reasonably be dated to Monday 24 February following the decision over the weekend of 22/23 February of Italy to quarantine 10 towns in response to Coronavirus. The period from late February to the end of March 2020 saw dramatic falls in investment markets. Looking at the Quarter January to March 2020 global equity prices fell heavily with the MSCI World Index down 21% (in $ terms). As the Quarter progressed it also became clear that many companies would either suspend or reduce Dividend payments going forward. European and UK equities were especially badly affected with the MSCI EMU Index down 25% (in Euro terms) and the FTSE All Share down 25% (in £ terms). The benchmark United States S&P 500 index lost 20% as did the Japanese Nikkei 225.

Page 16 of the latest Valuation Report specifically addresses the issue of COVID-19 including the statement *"Since the valuation date there has been some very significant movements in investment markets and in particular over the three months to 31 March 2020, largely driven by the COVID-19 crisis."* Page 16 also includes the statement *"…no adjustments have been made to the valuation results or to the employer contributions previously agreed. The results are based on the position as at 31 March 2019."* This leads to the question as to why the Actuary did not take into account the effects of COVID-19 and whether this was a reasonable approach?

Page 16 provides a clear explanation of the approach of the Actuary as it also includes the following statements *"However, our funding model is designed to help withstand short-term volatility in markets as it is a longer term model and we also use smoothed assumptions over a six-month period with the ultimate aim of setting stable contributions for employers. Therefore, although the falls in equity and corporate bond markets have been significant, the ongoing funding position under our model will not have fallen to the same extent, as the model helps to mitigate some of the impact of extreme events"* and *"…. The impact of the COVID-19 crisis will be fully considered as part of the 2022 valuation when we revisit employer contributions."*

Additional to the clear and logical explanation of the Fund Actuary there are a number of other factors which support the approach of the Actuary not to adjust the Valuation results or Employer contributions as a result of market reaction to COVID-19 in the period to 31 March 2020. These include:

- The LGPS is an open scheme with an overall strong covenant due to the proportion/size of Employers with taxpayer/government backing and therefore able to take a long-term outlook

- The fact that at 31 March 2020 it was very uncertain how COVID-19 would affect the long term economy and investor returns

- The three other Actuarial firms who provide services to the LGPS also did not change their Valuation results or proposed Employer contribution rates as a result of COVID-19

- During March 2020 Governments and in particular central banks, most especially the United States Federal Reserve the most important of central banks, introduced unprecedented support to help stabilise financial markets. By 31 March 2020 there was clear evidence that these actions would prevent the possibility of a financial market "meltdown."

Since March 2020 there has been an ongoing recovery in financial markets. Despite the very significant downturn in markets during February and March 2020 the value of the assets of the Nottinghamshire Fund were as at 30 September 2020 clearly in excess of the value as at the date of the last Actuarial Valuation. At 31 March 2019 (the Valuation date) the value of the Fund's assets was £5.4 billion. Following the severe turbulence in world financial markets in February/March 2020 the value of the Fund at 31 March 2020 was just over £5.0 billion. However, as a result of the recovery in markets from late March 2020 the value of the Fund was approaching £5.6 billion as at 30 September 2020.

As reported to the Pension Fund Committee on 10 September 2020 (Agenda Item 13) the Fund Officers carefully monitored the impact of market movements and the performance of the Fund's investment managers at the peak of the market turmoil (February and March 2020) and continue to do so on an ongoing basis. The Fund has continued to receive regular oversight and support from its Independent (Investment) Advisor William Bourne. Furthermore, as the report (Paragraph 4) to the 10 September 2020 Committee stated *"…The Fund's investment strategy and asset allocation continue to be kept under consideration. However we are long term investors and market volatility in itself will have a limited impact on the Fund."*

2. Scheme Governance – Good Governance in the LGPS project

The Board has previously received detailed updates on the national Scheme Advisory Board's Good Governance in the LGPS project in the training session held before the meeting held on 12 December 2019 and in papers to the Board, presented at the 11 September 2019 and 4 December 2018 meetings. This update will summarise the earlier updates and cover developments since December 2019.

This project is the most important development presently underway in the LGPS as it seeks to fundamentally enhance and strengthen the governance of the individual LGPS Funds across England and Wales (over 80 in total). Completion of the project and its effective implementation across the LGPS in England and Wales is surely the most effective means of maintaining the existing and longstanding local management of the LGPS and avoiding the possibility of compulsory amalgamations of individual Funds going forward.

In August 2018 the Scheme Advisory Board (SAB) invited proposals from interested parties to assist it in developing options for change with regard to the relationship of LGPS Pension Funds to their existing host authorities for consideration prior to potentially making recommendations to the Secretary of State. Hymans Robertson were awarded the contract to work with the SAB to develop possible options.

In July 2019 Hymans Robertson issued a report to the Scheme Advisory Board which did not suggest any structural change in relation to the number of LGPS Funds in England and Wales (87 at the time this report was issued) but rather proposed a framework for improving governance at individual Fund level based on an 'outcomes-based' approach. This to be based on minimum standards including assurance on sufficiency of administration and other resources (quantity and competency) and appropriate budget; explanation of policy on employer and scheme member engagement and representation in governance; crucially a system of regular independent review of governance of each Fund was proposed. Enhancement to training for Pension Committee Members and updating of the Statutory Guidance on LGPS governance issued in 2008 were also proposed.

The Board meeting of the SAB held on 8 July 2019 agreed that the SAB Secretariat (Officers) should in liaison with the project team from Hymans Robertson and Scheme stakeholders develop a detailed plan to implement the conclusions from the Hymans Robertson report for presentation to the November meeting of the SAB. Two stakeholder working groups (the Standards & Outcomes Group and the Compliance & Improvement Group) were established to work with Hymans Robertson on the Phase II report. [The Advisor to the Nottinghamshire Pension Board was a member of both working groups].

A report by both working groups and Hymans Robertson, including detailed implementation proposals was considered by the SAB and issued in November 2019. This report – the Phase II report included a broad range of proposals which may be summarised as follows:

1. The Ministry for Housing Communities and Local Government (MHCLG) to produce Statutory Guidance to establish new governance requirements for Funds to effectively implement the proposals in the Phase II report

2. Each Administering Authority (LGPS Fund) must have a single named officer responsible for the delivery of all LGPS related activity for the Fund – "the LGPS Senior Officer"

3. Each Administering Authority must publish an annual Governance Compliance Statement that sets out how they comply with the governance requirements for LGPS Funds as set out in the new Statutory Guidance

4. Each Fund must produce and publish a Conflicts of Interest Policy including reference to key conflicts identified in the Statutory Guidance

5. The new Statutory Guidance should refer all involved in the management of the LGPS, and in particular those on decision making Committees (the Pension Fund Committee) to the guide on statutory and fiduciary duty which will be produced by the Scheme Advisory Board (SAB)

6. Each Fund must produce and publish a policy on the representation of Scheme Members and non Administering Authority Employers on its Committees, explaining its approach to representation and voting rights for each party

7. The new Statutory Guidance to contain an enhanced requirement, compared to that at present, for key individuals within the LGPS, including Officers and Pension Committee Members to have knowledge and understanding to carry out their roles effectively

8. A requirement for Chief Finance Officers (the Section 151 Officer) to undergo LGPS relevant training as part of their Continuing Professional Development

9. Administering Authorities must publish a policy setting out their approach to the delivery, assessment and recording of training plans

10. CIPFA and other relevant bodies to be asked to produce appropriate guidance and training for Section 151 Officers and to consider including LGPS training within their qualification syllabus

11. Each Administering Authority to document key roles and responsibilities relating to the LGPS Fund and publish a roles and responsibilities matrix setting out how key decisions are reached

12. Each Administering Authority must publish a Pensions Administration Strategy

13. Each Administering Authority must report the Fund's performance against an agreed set of national indicators designed to measure standards of service

14. Each Administering Authority must give proper consideration to pay and recruitment policies, including as appropriate market supplements, relevant to the needs of their pension function. Administering Authorities should not simply apply general council staffing policies such as recruitment freezes to the LGPS function

15. Each Administering Authority must undergo a biennial Independent Governance Review and, if applicable, produce the required improvement plan to address any issues identified

16. Independent Governance Reviews (IGR) will be assessed by a SAB panel of experts to look for outliers and areas of concern. The panel may refer an unsatisfactory IGR to The Pensions Regulator or further escalate to the MHCLG

17. The Local Government Association to consider establishing a peer review process for LGPS Funds.

The full Good Governance in the LGPS Phase II report may be accessed at https://www.lgpsboard.org/images/PDF/HymansRobertson_GoodgovernanceintheLGPS_Phase-II_November2019.pdf

At the Board meeting of the SAB held on 6 November 2019 it was agreed that:

- The Good Governance Phase II report to be published

- The SAB Secretariat, with Hymans Robertson and stakeholders, should develop Phase III of the project including the draft Statutory Guidance and key performance indicators

- Comments on the Phase II recommendations be invited

- Final proposals for Phase III to be considered on 3 February 2020

At the meeting of the Scheme Advisory Board held on 3 February 2020 it was agreed that the two working groups who prepared the Phase II report be combined to form an Implementation Group. [The Advisor to the Nottinghamshire Pension Board was appointed a member of the Implementation Group]. It was further agreed that this group prepare a detailed paper for consideration by the Board at its meeting in May 2020 to include proposals for necessary changes to the LGPS Regulations and new Statutory Guidance, the establishment of Key Performance Indicators, and the process for the independent assessment of LGPS Fund governance.

The Implementation Group began its work in February 2020. In March an initial draft of the new Statutory Guidance on Governance in the LGPS and draft paper on the role of the LGPS Senior Officer were issued and circulated for comments. The social distancing restrictions introduced by the government in March prevented the group meeting in person. Telephone conferencing discussions were held but attendance was limited due to the fact that local government Officers on the group were engaged in responding to Coronavirus.

Therefore, on 6 April at a virtual meeting involving the SAB Chair, Vice Chair and Chairs of the Investment and Cost Management Committees it was agreed to stand down the Implementation Group until further notice but that the project team at Hymans Robertson be asked to continue to work on papers for consideration by the Implementation Group once meetings again become viable.

Hymans Robertson have continued to work on the Good Governance project and momentum has increased again. Further work has been undertaken on draft papers including on the form of the independent governance review and the Key Performance Indicators (KPIs) to be utilised by all LGPS Funds as well as additional work on the role of the LGPS Senior Officer. Hymans Robertson have also engaged in discussions with individual Officers.

At the 2 November 2020 meeting of the Scheme Advisory Board (SAB) working papers on the LGPS Senior Officer role and the proposed KPIs were circulated. The introduction to these stated *"These working papers address 2 of the recommendations which the working groups identified need further detail before they can be implemented. Please note that these are draft working papers which set out the thinking and feedback received to date. Not all stakeholders have had an opportunity to comment on all areas and we recognise that different stakeholders have different views. These papers do not therefore at this stage represent a consensus position."* A possible example of the new Governance Compliance Statement was also circulated, together with a possible example of the summary page of a report issued under the proposed Independent Governance Review arrangements.

It was recommended that the SAB agree these four working papers along with other relevant materials be circulated to the Implementation Group, Treasurer's groups and other relevant parties for comment. It was further recommended that finalised proposals be presented to the February 2021 meeting of the SAB.

Once SAB has considered the finalised proposals, and possibly made any amendments it considers appropriate, it will then share these with the MHCLG. For proposals to become applicable to individual LGPS Funds this would require the MHCLG to consult on revised Statutory Guidance (and possibly some changes to the actual LGPS Regulations), consider responses to the Consultation and issue final guidance/regulations.

The MHCLG were represented on the Phase II Working Groups and are on the (Phase III) Implementation Group. A senior representative from MHCLG also attends the meetings of the Scheme Advisory Board. Therefore, the proposals of the Good Governance in the LGPS project are likely to be adopted, eventually, by the MHCLG and compliance with them required of LGPS Funds through the issuing, in due course, of new Statutory Guidance on Governance in the LGPS (and if necessary, amendment to the LGPS Regulations).

It is very difficult, however, to suggest when the proposals of the Good Governance in the LGPS project may become mandatory on individual LGPS Funds such as Nottinghamshire. Once MHCLG issues a Consultation a period of six months might be anticipated for the actual Consultation (likely 13 weeks), consideration of responses and issuing of the final Statutory Guidance (and if necessary, any amendments to the LGPS Regulations). This period however could be longer. Furthermore, as the paper to the SAB of 2 November 2020 states *"Board members also need to be mindful of the strong statement from MHCLG that in view of other competing priorities, eg, 95k Cap and McCloud remedy, they are unlikely to be able to devote any time to the good governance project over the next six months or so."* Consequently, it would seem unlikely that the MHCLG will issue any Consultation on the Good Governance proposals until the late spring/summer of 2021 at earliest. Therefore, it would seem that the proposals will not become mandatory on individual LGPS Funds until late 2021 at earliest but much more likely not until sometime in 2022.

3. Supreme Court Case regarding 2016 Statutory Guidance

In 2016 the Local Government Pension Scheme (Management and Investment of Funds) Regulations were updated. To accompany the new Regulations the Government issued Statutory Guidance to assist Administering Authorities in the LGPS to formulate, publish and maintain their Investment Strategy Statement as required under the new Regulation 7. This was entitled "Guidance on Preparing and Maintaining an Investment Strategy Statement."

This Statutory Guidance was 10 pages long and provided much clear and helpful guidance to Administering Authorities. The Statutory Guidance did however include two short paragraphs that became the subject of a case led by the Palestine Solidarity Campaign which claimed that the inclusion of two specific paragraphs in the Guidance were unlawful and that they should be removed.

Before discussing the case initiated by the Palestine Solidarity Campaign and its implications it is essential to stress that the fundamental investment duty of an LGPS Administering Authority is not affected by this case. LGPS Funds, in the words of the 2016 Statutory Guidance, *"should make the pursuit of a financial return their predominant concern…"* Both the case taken by the Palestine Solidarity Campaign and the Judgement of the Supreme Court did not concern, challenge or alter this overriding duty.

The case raised by the Palestine Solidarity Campaign merely concerned the breadth of the ethical investments that Administering Authorities of the LGPS (such as Nottinghamshire) are permitted to make. In the Judgement of the Supreme Court of 29 April 2020 Lord Wilson defined (in paragraph 1) an ethical investment as follows *"By an ethical investment, I mean an investment made not, or not entirely, for commercial reasons but in the belief that social, environmental, political or moral considerations make it, or also make it, appropriate."*

The paragraphs that the claimants believed were unlawful are in italics below:

- *"However, the Government has made clear that using pension policies to pursue boycotts, divestment and sanctions against foreign nations and UK defence industries are inappropriate, other than where formal legal sanctions, embargoes and restrictions have been put in place by the Government."*

- An Administering Authority *"Should not pursue policies that are contrary to UK foreign policy or UK defence policy"*

The case was originally heard in the High Court in 2017 which declared the two passages in the Guidance under challenge to be unlawful. This decision was reversed by the Court of Appeal in 2018. Leave was granted for the case to be finally determined by the Supreme Court which heard the case in November 2019 and delivered its Judgement on 29 April 2020.

In their Judgement the Supreme Court determined by a majority of 3 to 2 that the two passages in the Guidance under challenge were indeed unlawful as in issuing them the Secretary of State had exceeded his powers. As part of the Judgement (in paragraph 31) Lord Wilson stated *"Power to direct HOW administrators should approach the making of investment decisions by reference to non-financial considerations does not include power to direct (in this case for entirely extraneous reasons) WHAT investments they should not make."*

On 11 May 2020 the LGPS Scheme Advisory Board for England and Wales posted the following initial statement on its website: *'The SAB welcomes the clarity brought by the judgement of the Supreme Court in the case of R (on the application of Palestine Solidarity Campaign Ltd and another) Appellants) v Secretary of State for Housing, Communities and Local Government (Respondent). In seeking to restrict the outcome as well as the considerations* *taken account of by an LGPS administering authority when developing its responsible investment policy, the government has been judged to have overstepped its powers. It is the Board's view that Responsible Investment policy decisions belong at the local level reflecting: the need to pay pensions both now and in the future; local democratic accountability and the views of scheme members; and that outcomes of policy developments should not be subject to restrictions based on unrelated matters'*

The Judgement issued by the Supreme Court is 35 pages long and statements made by the Judges in this may clearly have implications beyond the issue of the two passages in the Statutory Guidance which were the subject of the case. Therefore, the Scheme Advisory Board (SAB) agreed that its Secretariat, in conjunction with the Board's legal adviser, draft a statement summarising the Judgement for publication on the Board's website. This was to include the direct effect of the decision and possible indirect impacts of the decision.

The SAB issued their (five page) note on the Judgement on 8 June 2020 which *"seeks to clarify the direct legal impact of the Supreme Court's judgement in relation to investment guidance issued by the Secretary of State. It also includes items of interest from the court's reasoning in reaching its judgement that may inform the thinking of both scheme stakeholders and government in the future."* In three separate places (pages 2,3,4/5) the comment is made that the Judgement does not change the fundamental duties of LGPS Administering Authorities in relation to their investment or other powers and confirms that the Administering Authority remains *"responsible for investment decisions".*

Comments in the note on ***"The Decision and its Direct Impact"*** include:

- *The outcome of the decision is that the Secretary of State went beyond his powers by including the contested passages in the guidance. The reissued guidance from July 2017 (with the relevant passages removed) remains valid.*

- *The judgement does not change the fundamental duties and responsibilities of LGPS administering authorities in relation to their investment or other powers. The administering authorities remain responsible for investment decisions.*

In the section **"Are LGPS Funds Public Money?"** the SAB note very helpfully addresses issues considered in paragraphs 28 to 30 of the Judgement issued by the Supreme Court in April 2020. One of the arguments that was raised by the Barrister (Julian Milford) representing the Secretary of State at the hearing before the Supreme Court in November 2019 was the concept that LGPS Funds are *"public money."* The SAB note contains the following statement on this issue which, I think, it is helpful to quote below in full. I have however highlighted in bold the two paragraphs that perhaps merit particular attention.

"In pursuing an argument that administering authorities were part of the machinery of state, MHCLG also argued that LGPS funds are "public money". What MHCLG appear to have argued is that because LGPS funds are ultimately funded by the taxpayer, they are effectively the government's money and therefore the government has the power to direct how those funds should be used via guidance.

Lord Wilson rejected this argument, quoting Sir Nicolas Browne-Wilkinson VC from the Imperial Tobacco case[2], making the point that contributions are paid by both employees and employers and that employer contributions are made in consideration of the work done by their employees and so represent another element of the employees' overall remuneration.

Lord Wilson came to the conclusion that LGPS funds should rather be viewed as representing employees' money rather than public money.

This comment may be at risk of being taken out of context and should not be interpreted as meaning that LGPS funds are owned or controlled by the members. It is clear elsewhere in the judgement that the LGPS is a statutory pension scheme and that the primary responsibility for delivering the functions of the LGPS rests with its administering authority.

There is no suggestion that the assets of an LGPS fund legally vest in anybody but the administering authority. We do not believe that Lord Wilson was making such a suggestion. In fact, Lord Carnwath specifically states that, "responsibility for investment decisions thus rests with the administering authorities"".

The full text of the SAB note on the Supreme Court Judgement can be found at the link https://www.lgpsboard.org/images/Guidance/SAB_SCSN062020.pdf This SAB note on the Supreme Court Judgement provides Administering Authorities with helpful information as to the overall consequences of the Judgement.

In conclusion the Judgement issued by the Supreme Court on 29 April 2020 determined that the Secretary of State exceeded his powers by including in the Statutory *"Guidance on Preparing and Maintaining an Investment Strategy Statement"* of 2016 the (few) lines contested in the case relating to not pursuing policies that are contrary to UK foreign policy or UK defence policy. The contested lines (but nothing else) were removed from a revised version of the Statutory Guidance issued in July 2017 (following the original High Court ruling) and this remains valid in its entirety.

The Judgement does not in any way suggest that Administering Authorities, such as Nottinghamshire County Council, are not completely responsible for investment decisions relating to their LGPS Fund. Indeed, in paragraph 42 of the Supreme Court Judgement Lord Carnwath explicitly stated "*…Responsibility for investment decisions thus rests with the administering authorities."*

Finally it is worth restating that it can be said with certainty that the Judgement does not undermine the overriding duty of the Administering Authority, in the words of the 2016 Statutory Guidance on Preparing and Maintaining an Investment Strategy Statement, that *"…schemes should make the pursuit of a financial return their predominant concern…"* This element of the Statutory Guidance was not disputed in this case.

Note: The full Supreme Court Judgement referred to above can be accessed at https://www.supremecourt.uk/cases/docs/uksc-2018-0133-judgment.pdf

4. MHCLG Consultation "Changes to the Local Valuation Cycle and the Management of Employer Risk"

The LGPS Update report presented to the Board at its meeting held on 11 September 2019 (Agenda Item 6, Appendix 1) included a section describing and explaining the proposals in the Consultation issued by MHCLG on 8 May 2019 entitled "Changes to the Local Valuation Cycle and the Management of Employer Risk." This Consultation closed on 31 July 2019.

No response was issued by the MHCLG until early 2020 when a first partial response was issued. This resulted in the Local Government Pension Scheme (Amendment) Regulations 2020 which came into force on 20 March 2020 but have effect from 14 May 2018. This gives Administering Authorities such as Nottinghamshire County Council certain additional discretions regarding exit payments which may be paid to an Employer exiting a LGPS Fund.

A second partial response was issued on 26 August 2020. This included reference to the need for new regulations to allow Administering Authorities to manage and mitigate risk in the context of COVID-19. Consequently, the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2020 came into force on 23 September 2020. These are concerned with three issues:

- The review of Employer contributions by the Administering Authority – The Administering Authority now has greater ability to review Employer Contributions between Actuarial Valuations where there has been a significant change to the liabilities or covenant of an Employer.

- The spreading of Exit Payments – This expressly permits the Administering Authority the discretion to allow an Employer to spread exit payments to be paid to the Fund over a period it *"considers reasonable."*

- Deferred Debt Agreements – The Administering Authority *"may enter into a deferred debt agreement"* with an exiting Employer in certain circumstances. Where an Employer ceases to employ any active members the Administering Authority, at its discretion, may permit the deferment of any due exit payment and instead permit the payment of regular (*"secondary rate")* contributions to cover the exit payment due. A

Deferred Debt Agreement may be terminated in a number of circumstances including where *"…the administering authority is reasonably satisfied that the deferred employer's ability to meet the contributions payable under the deferred debt arrangement has weakened materially or is likely to weaken materially in the next 12 months."*

As at 25 November 2020 the MHCLG were still to publish its response to the other matters in the Consultation including proposed changes to the LGPS Actuarial Valuation Cycle and proposed changes to the requirements for some Education sector Employers to offer LGPS membership to their new non teaching Employees.

5. Investment Pooling – the situation regarding national guidance

The LGPS Update presented to the Board at its meeting held on 11 September 2019 and the training presented before the Board meeting held on 12 December 2019 both included detailed briefings on the position regarding national Guidance relating to Investment Pooling.

The Board was informed that in 2015 the Government had issued Guidance requiring individual LGPS Funds to form themselves into "Pools" for the purpose of pooling the management of their investments. This 2015 Guidance was broad in nature and consequently 8 Pools with very significant diversity in terms of structure and approach were subsequently approved. The Nottinghamshire Fund is one of eight LGPS Funds (together with Cheshire, Derbyshire, Leicestershire, Shropshire, Staffordshire, West Midlands and Worcestershire) who formed (and own) the LGPS Central Pool.

The Board were informed that on 3 January 2019 the MHCLG had issued an informal Consultation on new Statutory Guidance on Investment Pooling which sought to provide in one document clear enforceable guidelines. This had, however, resulted in over 90 responses including that the Consultation had breached Cabinet Office Principles, was *"unlawful,"* was "*unnecessarily prescriptive"* and that some of the content was a matter of Regulation rather than Statutory Guidance. In response the MHCLG indicated a that formal Consultation would take place in 2019.

As at the date of the last Board meeting on 12 December 2019 the MHCLG had not issued a formal Consultation on Statutory Guidance for Investment Pooling.

So far during 2020 there has been no Consultation issued on this matter. This is likely accounted for by a number of issues including but not restricted to the COVID-19 pandemic. The MHCLG have been particularly involved in both "McCloud" and the reform of Local Government Exit Payments and work on both these issues is continuing. Furthermore, there have been suggestions from some commentators that the Supreme Court Judgement of April 2020 regarding the Statutory Guidance on preparing and maintaining the Investment Strategy

Statement may have caused the MHCLG to give further consideration to any proposed new Statutory Guidance on Investment Pooling. This is because the April 2020 Judgement indicated that in the case of the Statutory Guidance on preparing and maintaining the Investment Strategy Statement the Secretary of State exceeded his powers of direction and was too prescriptive.

Therefore, it would not be surprising if there is not a further considerable delay before the MHCLG issues a Consultation on Statutory Guidance for Investment Pooling. Such a Consultation would likely last 13 weeks and result in a very significant response from LGPS stakeholders which may delay the issuing of the final Statutory Guidance further. This leads to the view that new Statutory Guidance on Investment Pooling may not be finalised until 2022 or later in 2021 at the earliest. In the meantime, individual LGPS Funds and Pools continue to progress asset pooling in accordance with the Guidance issued in 2015.

6. Presentation to the Pension Fund Committee – 12 March 2020

On 12 March 2020 I attended the Nottinghamshire Pension Fund Committee, on behalf of the Pension Board, to present the Nottinghamshire Pension Board Review 1 April 2018 to 31 March 2019.

At the Committee meeting I was given time, by the Chair, to both fully explain the background to the report as well as the content of the report itself. Following my presentation, the Members of the Committee asked a number of questions and made a number of observations. I am pleased to be able to report that the Pension Fund Committee were clearly both genuinely interested in and appreciative of the work of the Pension Board.

In addition, I was invited by the Chair and Members to remain for the entire Committee meeting including the Exempt Agenda items. During the remainder of the meeting I was impressed by the quality of the observations made, and the questions asked, by Committee Members to Fund Officers, the Independent Advisor and Investment Managers who attended the Committee meeting.

Based on my experience of attending the Pension Fund Committee on 12 March 2020 I believe that there is clear scope for further positive interaction between the Pension Board and Pension Fund Committee. This is highly desirable in terms of the Pension Board proactively fulfilling its role under Regulation 106 of the LGPS Regulations 2013 which is *"assisting"* the Administering Authority whose role, at Nottinghamshire, is exercised by the Pension Fund Committee.

John Raisin

25 November 2020

Nottinghamshire County Council

Report to Local Pension Board

10 December 2020

Agenda Item: 10

REPORT OF SERVICE DIRECTOR – CUSTOMER, GOVERNANCE AND EMPLOYEES.

PENSION FUND - RISK REGISTER

Purpose of the Report

1. To provide the Pensions Board with a report on the Risk Management on the Risk Register of the Nottinghamshire Pension Fund.

2. To draw attention to the Board the risks identified by the fund as part of its response to the Covid 19 emergency and the impact on the Fund.

Information and Advice

3. The Risk Register was last formally reviewed by the Pension Board in December 2019. Good practice is for the register to be reviewed at each Pension Board Meeting. The Risk Register is attached as an appendix to this report.

4. The Risk Register was last reviewed by the Pension Committee in October 2020, however and addition to the risk register has been attached as part of the response to the Covid 19 response, the pension fund drew up an additional Covid 19 risk register to identify and respond to the risks to the fund.

5. The risks as outlined in the Register are as follows:

Ref	Risk
Adm1	Standing data & permanent records are not accurate.
Adm2	Inadequate controls to safeguard pension fund records
Adm3	Failure to communicate adequately with all relevant stakeholders.
Gov1	Pension Fund governance arrangements are not effective
Gov2	Pension Fund objectives are not defined and agreed.
Gov3	An effective performance management framework is not in place.
Gov4	Inadequate resources are available to manage the pension fund.
Gov5	Failure to adhere to relevant legislation and guidance.
Inv1	Inappropriate investment strategy is adopted.
Inv2	Fund cash is insufficient to meet its current obligations.
Inv3	Fund assets are assessed as insufficient to meet long term liabilities.
Inv4	Significant variations from assumptions used in the actuarial valuation
Inv5a	Inadequate controls - Fund manager mandates

Inv5b	Inadequate controls - Custody arrangements
Inv5c	Inadequate controls - Accounting arrangements
Inv5d	Inadequate controls - Financial Administration
Inv5e	Inadequate controls - Stewardship

6. Activities classed as 'Administrative' are managed by Pensions Administration under Group Manager (BSC), those classed as 'Investments' are managed by the Pensions & Treasury Management team in Finance under Group Manager (Financial Strategy & Accounting), and those classed as 'Governance' may involve either Admin or Finance, with additional support from Legal Services. However, there is some degree of overlap.

7. The review of the Risk Register has two aims: (i) to separate out and clarify these key risks/responsibilities; (ii) to consider what action is required to maintain or improve current risk levels and set specific and measurable objectives accordingly. The risk register is attached in Appendix A, and the additional Covid risk register attached as Appendix B

8. A copy of the Risk Register has been approved by the Pension Fund Committee and is posted to the Fund website alongside other Fund policies.

Statutory and Policy Implications

9. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

That Pension Board members consider whether there are any actions they require in relation to the issues contained within the report.

Marjorie Toward
Service Director – Customers, Governance, and Employers

For any enquiries about this report please contact:

Jonathan Clewes, Pension Manager, Pension Administration
on 01159773434 or jonclewes@nottscc.gov.uk

Constitutional Comments (KK 30.11.2020)

10. This is an updating information report and Pension Board is the correct body for considering that information and any further action which members may wish to take in light of that information.

Financial Comments (KP 30.11.2020)

11. There are no direct financial implications arising from the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- 'None'

Objectives

1. The objectives of the Risk Register are to:
   - identify key risks to the achievement of the Fund's objectives
   - assess the significance of the risks
   - consider existing controls to mitigate the risks identified
   - Identify additional action required.

Risk Assessment

2. Identified risks are assessed separately and for each the following is determined:
   - the likelihood of the risk materialising
   - the severity of the impact/potential consequences if it does occur.

3. Each factor is evaluated on a sliding scale of 1 to 5 with 5 being the highest value i.e. highest likelihood/most severe impact/consequences. The risk evaluation tables below have been used in order to assess specific risks and to introduce a measure of consistency into the risk assessment process. The overall rating for each risk is calculated by multiplying the likelihood value against the impact value.

LIKELIHOOD:		
1	Rare	0 to 5% chance
2	Unlikely	6 to 20% chance
3	Possible	21 to 50% chance
4	Likely	51 to 80% chance
5	Almost certain	81%+ chance

IMPACT:		
1	Insignificant	0 to 5% effect
2	Minor	6 to 20% effect
3	Moderate	21 to 50% effect
4	Significant	51 to 80% effect
5	Catastrophic	81%+ effect

4. Having scored each risk for likelihood and impact, the risk ratings can be plotted onto the following matrix to enable risks to be categorised into Low, Medium, High and Very High Risk.

Risk Rating Matrix

Relative Impact		(1) Rare	(2) Unlikely	(3) Possible	(4) Likely	(5) Almost Certain
Catastrophic	(5)	M	H	VH	VH	VH
Significant	(4)	M	H	VH	VH	VH
Moderate	(3)	M	M	H	H	H
Minor	(2)	L	L	M	M	M
Insignificant	(1)	L	L	L	L	L

Relative Likelihood

5. This initial assessment gives the inherent risk level. Existing controls are then identified and each risk is re-assessed to determine if the controls are effective at reducing the risk rating. This gives the current (or residual) risk level. The current risk rating scores and categories are then used to prioritise the risks shown in the register in order to determine where additional action is required in accordance with the following order of priority:

   Red = Very High Priority
   Take urgent action to mitigate the risk.
   Orange = High Priority
   Take action to mitigate the risk.
   Yellow = Medium Priority
   Check current controls and consider if others are required.
   Green = Low Priority
   No immediate action other than to set a review date to re-consider your assessment.

NOTTINGHAMSHIRE PENSION FUND
RISK REGISTER - SUMMARY

Key to risk rating change since previous version of Risk Register: ⬆ Increase ⬇ Decrease ⬌ No Change ★ New

Risk Description	Inherent Risk Rating		Inherent Risk Change	Current Risk Rating		Current Risk Change
Risk Gov4 Inadequate resources are available to manage the pension fund.	20	VERY HIGH	⬌	12	HIGH	⬌
Risk Inv6 LGPS Central incurs net costs or decreases investment returns	16	VERY HIGH	⬆	12	HIGH	⬆
Risk Adm1 Standing data & permanent records are not accurate.	16	VERY HIGH	⬌	9	HIGH	⬌
Risk Inv3 Fund assets are assessed as insufficient to meet long term liabilities.	16	VERY HIGH	⬌	9	HIGH	⬌
Risk Adm2 Inadequate controls to safeguard pension fund records	15	VERY HIGH	⬌	6	MEDIUM	⬌
Risk Adm4 Scheme employers may fail to administer the scheme efficiently, leading to disruption to the discharge of administering authority functions (employer Risk) Potential data quality issues.	15	VERY HIGH	★	6	MEDIUM	★
Risk Adm5 Serious breach of law regarding the management of data/information, including an unauthorised release requiring notification to ICO, leading to disruption to the discharge of administering authority functions (Administrative Risk).	15	VERY HIGH	★	6	MEDIUM	★
Risk Inv4 Significant variations from assumptions used in the actuarial valuation	12	HIGH	⬌	9	HIGH	⬌
Risk Inv7 Financial risk of climate change	12	HIGH	★	8	MEDIUM	★
Risk Inv1 Inappropriate investment strategy is adopted.	12	VERY HIGH	⬌	6	MEDIUM	⬌
Risk Inv5b Custody arrangements	12	VERY HIGH	⬌	6	MEDIUM	⬌
Risk Gov5 Failure to adhere to relevant legislation and guidance.	12	HIGH	⬌	6	MEDIUM	⬌
Risk Gov3 An effective performance management framework is not in place.	9	HIGH	⬌	6	MEDIUM	⬌
Risk Gov1 Pension Fund governance arrangements are not effective	9	HIGH	⬌	6	MEDIUM	⬌
Risk Gov2 Pension Fund objectives are not defined and agreed.	9	HIGH	⬌	6	MEDIUM	⬌

Risk Inv2 Fund cash is insufficient to meet its current obligations.	9	HIGH	⬌	6	MEDIUM	⬌
Risk Inv5a Fund manager mandates	9	HIGH	⬌	6	MEDIUM	⬌
Risk Inv5d Financial Administration	9	HIGH	⬌	6	MEDIUM	⬌
Risk Adm3 Failure to communicate adequately with all relevant stakeholders.	9	HIGH	⬌	6	MEDIUM	⬌
Risk Inv5c Accounting arrangements	6	MEDIUM	⬌	4	LOW	⬌
Risk Inv5e Stewardship	6	MEDIUM	⬌	4	LOW	⬌

Governance					
Risk description: Gov1 - Pension Fund governance arrangements are not effective					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**9**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• The Council's constitution clearly delegates the functions of administering authority of the pension fund to the Nottinghamshire Pension Fund Committee.				
	• Under the LGPS Regulations the Administering Authority has established a Pension Board				
	• The terms of reference of the Nottinghamshire Pension Fund Committee are agreed. • The terms of reference of the Nottinghamshire Pension Board are agreed.				
	• The Fund publishes a Governance Compliance Statement which details the governance arrangements of the Fund and assesses compliance with best practice. This is kept regularly under review.				
	• A training policy is in place which requires Members to receive continuing training and encourages all new Members to attend the Local Government Pension Scheme Fundamentals training course. • Nottinghamshire Pension Board Members are also required to undertake training				
	• Officers of the Council attend meetings of the Nottinghamshire Pension Fund Committee and the Nottinghamshire Pension Board.				
	• The Fund has a formal contract for an independent adviser to give advice on investment matters. They are contracted to attend each Nottinghamshire Pension Fund Committee meeting.				
	• The Administering Authority has a formal contract for an independent adviser to give advice on LGPS regulations to the Nottinghamshire Pension Board				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services) Group Manager (BSC) Group Manager (Legal Services) Pension Manager Senior Accountant - Pensions & TM		**Timescale:**	On-going	

Governance					
Risk description: Gov2 - Pension Fund objectives are not defined and agreed					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**9**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• Purpose and objectives are outlined in the Funding Strategy Statement (FSS) and Investment Strategy Statement (ISS). Both documents are approved by the Nottinghamshire Pension Fund Committee and reviewed on a regular basis.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Nottinghamshire Pension Fund Committee; Group Manager (Financial Services)	**Timescale:**	On-going		

Governance					
Risk description: Gov3 - An effective performance management framework is not in place.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**12**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• Investment performance is reported quarterly to the Nottinghamshire Pension Fund Committee. The Fund's main investment managers attend each quarter and officers receive regular updates from the Fund's other investment managers.				
	• Poor investment performance is considered by the Nottinghamshire Pension Fund Committee. The Nottinghamshire Pension Fund Committee's actions are monitored by the Nottinghamshire Pension Board				
	• A Fund strategic benchmark has been implemented to improve monitoring of decisions regarding asset allocation and investment management arrangements.				
	• Performance of the administration function is managed through an Administration Strategy				
Action Required:	• Consider performance monitoring framework for Fund Administration.				
Responsibility:	Nottinghamshire Pension Fund Committee Group Manager (Financial Services); Group Manager (BSC) Pension Manager Senior Accountant - Pensions & TM	**Timescale:**	On-going		

Governance					
Risk description: Gov4 - Inadequate resources are available to manage the pension fund.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	5	4	**20**	**VERY HIGH**	⬌
Current Risk:	4	3	**12**	**HIGH**	⬌
Current Controls:	• The pension fund investments are managed by the Pensions & Treasury Management team.				
	• Pension administration is managed by the Pension Team Manager within the BSC				
	• Operating costs are recharged to the pension fund in accordance with regulations.				
	• Staffing levels and structures are kept under regular review. • Pension Costs and resources monitored against the CIPFA Benchmarking club				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services); Group Manager (BSC) Pension Manager Senior Accountant - Pensions & TM		**Timescale:**	On-going	

Governance					
Risk description: Gov5 - Failure to adhere to relevant legislation and guidance.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	4	3	**12**	**HIGH**	⬌
Current Risk:	3	2	**6**	**MEDIUM**	⬌
Current Controls:	• An established process exists to inform members and officers of statutory requirements and any changes to these.				
	• An Administration Strategy was introduced in 2017 to monitor the Administration of the Fund, along with monitoring Employer compliance.				
	• Sufficient resources are required to implement LGPS changes while continuing to administer the scheme.				
	• Membership of relevant professional groups ensures changes in statutory and other requirements are registered before the implementation dates.				
	• Any breaches in statutory regulations must be reported to the Pension Regulator.				
Action Required:	• Review Resources against statutory requirements • Continue to monitor requirements via appropriate sources.				

	• Continue to monitor resources to ensure adherence to legislation and guidance.		
Responsibility:	Group Manager (Financial Services); Group Manager (BSC); Senior Accountant - Pensions & TM Pension Manager	**Timescale:**	On-going

Investments					
Risk description: Inv1 - Inappropriate investment strategy is adopted.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	4	**12**	**VERY HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• The investment strategy is in accordance with LGPS investment regulations and is documented, reviewed and approved by the Nottinghamshire Pension Fund Committee.				
	• In setting asset allocation to deliver the Fund Return Target the Fund will seek as far as possible to invest in a diversified range of uncorrelated assets in order to reduce the level of investment risk.				
	• The Strategy takes into account the expected returns assumed by the actuary at the triennial valuation.				
	• Investment performance is monitored against the Fund's strategic benchmark.				
	• A regular review takes place of the Fund's asset allocation strategy by the Pension Fund Working Party.				
	• An Independent Adviser provides specialist guidance to the Nottinghamshire Pension Fund Committee on the investment strategy.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	

Investments					
Risk description: Inv2 - Fund cash is insufficient to meet its current obligations.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**9**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls	• Fund cash flow is monitored daily and a summary fund account is reported to the Nottinghamshire Pension Fund Committee each quarter				
	• Annual accounts are produced for the pension fund and these show the movements in net cash inflow				

	• Regular assessment of Fund assets and liabilities is carried out through actuarial valuations.
	• The Fund's Investment and Funding Strategies are regularly reviewed
Action Required:	• Continue to monitor via existing processes.

Responsibility:	Nottinghamshire Pension Fund Committee; Group Manager (Financial Services); Senior Accountant - Pensions & TM	**Timescale:**	On-going

Investments					
Risk description: Inv3 - Fund assets are assessed as insufficient to meet long term liabilities.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	4	4	**16**	**VERY HIGH**	↔
Current Risk:	3	3	**9**	**HIGH**	↔
Current Controls:	• Fund assets are kept under review as part of the Fund's performance management framework.				
	• Regular assessment of Fund assets and liabilities is carried out through Actuarial valuations.				
	• The Fund's Investment and Funding Strategies are regularly reviewed.				
	• An external adviser provides specialist guidance to the Pension Fund Committee on the investment strategy.				
	• Strength of covenant of new employers carefully assessed				
	• Risks relating to existing employers are reviewed periodically				
Action Required:	• Continue to monitor via existing processes. • Review cash flow projections prepared by actuaries on a regular basis.				
Responsibility:	Nottinghamshire Pension Fund Committee Group Manager (Financial Services); Senior Accountant - Pensions & TM	**Timescale:**	On-going		

Investments					
Risk description: Inv4 - Significant variations from assumptions used in the actuarial valuation occur					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	4	3	**12**	**HIGH**	↔
Current Risk:	3	3	**9**	**HIGH**	↔
Current Controls:	• Actuarial assumptions are reviewed by officers and discussed with the actuaries				
	• Sensitivity analysis is undertaken on assumptions to measure impact				

	• Valuation are undertaken every 3 years		
	• Monitoring of cash flow position.		
	• Contributions made by employers vary according to their member profile.		
Action Required:	• Continue to monitor via existing processes. • Review cash flow projections prepared by actuaries on a regular basis.		
Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM	**Timescale:**	On-going

Investments					
Risk description: Inv5 - Inadequate controls to safeguard pension fund assets.					
Inv5a - Investment managers					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**9**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• Complete and authorised client agreements are in place. This includes requirement for fund managers to report regularly on their performance. Mandate managers attend Nottinghamshire Pension Fund Committee on a regular basis.				
	• Investment objectives are set, and portfolios must be managed in accordance with these				
	• AAF 01/06 (or equivalent) reports on internal controls of service organisations are reviewed for mandate managers.				
	• Internal decisions have a robust framework in place which is tested by internal audit				
	• Fund Managers maintain an appropriate risk management framework to minimise the level of risk to Pension Fund assets.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	
Inv5b - Custody arrangements					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	4	**12**	**VERY HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• Complete and authorised agreements are in place with the external custodian.				
	• AAF 01/06 (or equivalent) report on internal controls is reviewed for external custodian.				

	• Regular reconciliations carried out to check external custodian records.				
	• Where assets are custodied in-house, physical stock certificates are held in a secure cabinet to which access is limited.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	
Inv5c - Accounting arrangements					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	2	**6**	**MEDIUM**	⬌
Current Risk:	2	2	**4**	**LOW**	⬌
Current Controls:	• Pension Fund accounting arrangements conform to the Local Authority Accounting Code, relevant IFRS/IAS and the Pensions' SORP.				
	• The Pension Fund subscribes to the CIPFA Pensions Network and Technical Information Service and officers attend courses as appropriate.				
	• Regular reconciliations are carried out between in-house records and those maintained by the external custodian and investment managers.				
	• Internal Audits are carried out regularly.				
	• External Audit review the Pension Fund's accounts annually.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	
Inv5d - Financial Administration					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**9**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• The Pension Fund adheres to the County Council's financial regulations with appropriate separation of duties and authorisation limits for transactions.				
	• Daily cash settlements are made with the external custodian to maximise returns on cash.				
	• Investment transactions are properly authorised, executed and monitored.				
	• Contributions due to the fund are governed by Scheme rules which are implemented by the Pensions Manager				
	• The Pension Fund maintains a bank account which is operated within regulatory guidelines.				
Action Required:	• Continue to monitor via existing processes.				

Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	
Inv5e – Stewardship -					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	2	**6**	**MEDIUM**	↔
Current Risk:	2	2	**4**	**LOW**	↔
Current Controls:	• The Pension Fund aims to be a long term responsible investor.				
	• The Fund is a member of Local Authority Pension Fund Forum (LAPFF) and National Association of Pension Funds (NAPF), and supports their work on shareholder engagement.				
	• The pension fund has a contract in place for a proxy voting services. Voting is reported to the Nottinghamshire Pension Fund Committee each quarter and published on the Fund website.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	
Inv6 - LGPS Central incurs net costs or decreases investment returns					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	4	4	**16**	**VERY HIGH**	↑
Current Risk:	4	3	**12**	**HIGH**	↑
Current Controls:	• We are shareholders in LGPS Central and have significant influence on them through involvement in Shareholders Forum, Joint Committee and PAF				
	• Costs and performance will be monitored				
Action Required:	• Continue to attend meetings relevant meetings • Continue to monitor via existing processes.				
Responsibility:	Nottinghamshire Pension Fund Committee Group Manager (Financial Services); Senior Accountant - Pensions & TM		**Timescale:**	On-going	
Inv7 – Climate change affects the financial returns of the Fund.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	4	3	**12**	**HIGH**	★
Current Risk:	4	2	**8**	**MEDIUM**	★
Current Controls:	• The financial impact of climate change on the fund can be mitigated. Businesses and individuals will have to change their behaviour and consumption to reduce their carbon footprint and this presents both opportunities and threats as investors.				
	• We engage with management of the companies we own through LGPS Central, LAPFF and Hermes EOS to influence them to consider climate change and their sustainability.				

	• Climate change risks are already considered as part of the purchasing and holding decision
Action Required:	• Risk analysis of the financial risks arising from climate change is to be completed with the assistance of LGPS Central. • The current impacts of climate change are affecting particular industries and regions and the Pension Fund will look to reduce exposure to these. • Continued move towards our long term asset allocation.

Responsibility:	Nottinghamshire Pension Fund Committee Group Manager (Financial Services); Senior Accountant - Pensions & TM	**Timescale:**	On-going

Administration

Risk description: Adm1 - Standing data and permanent records are not accurate.

	Likelihood:	Impact:	Risk Rating:		
Inherent Risk:	4	4	**16**	**VERY HIGH**	⬌
Current Risk:	3	3	**9**	**HIGH**	⬌

Current Controls:	• Business processes are in place to identify changes to standing data.
	• Records are supported by appropriate documentation; input and output checks are undertaken; reconciliation occurs to source records once input.
	• Documentation is maintained in line with agreed policies. • The Administration Strategy supports the monitoring of employer compliance.
	• A change of details form is sent out to members alongside their annual statement.
	• Data matching exercises (National Fraud Initiative) help to identify discrepancies.
	• Mortality Screening is being performed
	• The Data Improvement Plan presented to Pension Fund Committee is being implemented.
	• The GMP Reconciliation Project including Payroll and Pensions Data matching exercise with HMRC has commenced
Action Required:	• Continue to monitor via existing processes. • Improve monitoring of returns from major fund employers • Implementation of Data Improvement plan and GDPR Action Plan

Responsibility:	Group Manager (BSC) Pension Manager	**Timescale:**	On-going

Administration					
Risk description: Adm2 - Inadequate controls to safeguard pension fund records.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	5	**15**	**VERY HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• ICT Disaster Recovery Plan and Security Plan are agreed and in place				
	• New back up arrangements are in place				
	• Software is regularly updated to meet LGPS requirements.				
	• Audit trails and reconciliations are in place. • GDPR plan is in place				
	• Documentation is maintained in line with agreed policies.				
	• Physical records are held securely. • Pensions and other related administration staff undertake data management training as required.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (BSC) Pension Manager		**Timescale:**	On-going	

Administration					
Risk description: Adm3 - Failure to communicate adequately with all relevant stakeholders.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	3	**9**	**HIGH**	⬌
Current Risk:	2	3	**6**	**MEDIUM**	⬌
Current Controls:	• A communications strategy is in place and is regularly reviewed.				
	• The Fund website is periodically updated. • Member information guides are reviewed.				
	• The Fund has an annual meeting aimed at all participating employers.				
	• The Nottinghamshire Pension Fund Committee has representatives of the County Council, City Council, Nottinghamshire Local Authorities, Trade Unions, Scheduled and Admitted Bodies.				
	• Meetings are held regularly with employers within the Fund. • District and City Council employers and other adhoc employer meetings take place as required				

	• A briefing for employers takes place in February or March each year in preparation for year end		
	• Benefit Illustrations are sent annually to contributing and deferred Fund members.		
	• Annual report, prepared in accordance with statutory guidelines, is published on the website.		
Action Required:	• Continue to monitor via existing processes.		
Responsibility:	Group Manager (BSC) Pension Manager	**Timescale:**	On-going

Administration					
Risk description: Adm4 Scheme employers may fail to administer the scheme efficiently, leading to disruption to the discharge of administering authority functions (employer risk) Potential data quality issues.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	5	**15**	**VERY HIGH**	★
Current Risk:	2	3	**6**	**MEDIUM**	★
Current Controls:	• Clear communication of requirements to scheme employers.				
	• Undertake employer data review planned as part of the data improvement plan.				
	• Planned roll out of the employer portal to improve the transfer of data to the Pension Fund.				
	• Actuary makes prudent assumptions at valuation.				
Action Required:	• Continue to monitor via existing processes.				
Responsibility:	Group Manager (BSC) Pension Manager		**Timescale:**	On-going	

Administration					
Risk description: Adm5 Serious breach of law regarding the management of data/information, including an unauthorised release requiring notification to ICO, leading to disruption to the discharge of administering authority functions.					
	Likelihood:	**Impact:**	**Risk Rating:**		
Inherent Risk:	3	5	**15**	**VERY HIGH**	★
Current Risk:	2	3	**6**	**MEDIUM**	★
Current Controls:	• Information Governance oversee policies and procedures				
	• Data breach procedure in place				
	• Assurance obtained from third party providers and contractors on compliance with relevant legislation.				
	• Identified Data Protection Officer				

	• Appropriate access levels in the Pension Administration system.		
Action Required:	• Continue to monitor via existing processes.		
Responsibility:	Group Manager (BSC) Pension Manager	**Timescale:**	On-going

ID	Date Raised	Raised By	Type	Description (For Risks, state risk, impact and mitigation)	Causes	Current Position / Next Step	Prob (1-5)	Impact (1-5)	Severity (Calc)	Additional Controls	Owner (List)
1	07/04/20	Jon Clewes	Pension Admin	Pension Admin is unable to meet its statutory requirements on the production of annnual benefit statements and pension taxation statements	The current working situation due to COVID-19 has closed some employers/ or reduced the employers ability to provide year-end information.Pension admin resource is limited and could be reduced further due to sickness, and therefore resources to complete year end are reduced .	Currently working to the year-end timetable, all employers have been issued with their year end data to complete.	5	5	Critical	**Monitor the employers in their response to the year end, we willl then need to determine what actions need to be taken**	Jon Clewes
2	07/04/20	Jon Clewes	Pension Admin	Incorrect Pension benefits paid, or paid late, in particular the increase in Deaths of members. Unable to meet Service Level Agreements	Administrative pressure due to resource availability in calculating and administering the Death processes for members and suurvivor benefits. Year-end administration activity may also be impacted.	Prioritising retirements and deaths, as per the TPR current guidance.	5	5	Critical	**Monitoring incomuing notifications to try and ensure that benefits are paid on time. Set up a number of monitoring spreadsheets**	Jon Clewes
3	07/04/20	Jon Clewes	Pension Admin	Data improvement Project being delayed which is currently progressing with Intellica, the object to report to the TPR in September/October data quality score.	Potential to move resources onto other priorities. Conflict with other projects.	Making some adjustment to the project which may increase some costs in the second phase.	4	3	Medium	**Review the Project risk register through the project governance**	Jon Clewes
4	07/04/20	Jon Clewes	Pension Admin	Inability to process Transfers in a timely manner and ensure due dilligence in line with the TPR requirement to ensure Members are not targetted by scams	Administrative pressure due to resource availability in administering transfers.	Monitoring transfer requests, the fund has had some pressure from IFA's to undertake transfers	3	3	Medium	**Raise awareness on the pensions website of member FAQ's and monitor transfer requests**	Jon Clewes
5	07/04/20	Jon Clewes	Pension Admin	Employer and employee contributions not paid accurately and on time	Error on the part of the scheme employer. CV19 may reduce some employers incomes so they are unable to make payments	Potentially reportable to the Pensions Regulator as late payment is breach of the Pensions Act. Monitor employers	5	4	Critical	**Late payers will be reminded of their legal responsibilities**	Jon Clewes

6	17/04/20	Jon Clewes	Pension Admin	Employers within the fund failing or not able to meet obligations. Not meeting statutory duty, monitor employers.	Loss of income due to CV19 and ceasing trading	Currently undertaking a risk assessment of employers. Possible review covenant strength for certain employers or sectors within the fund	4	4	Serious	**Following risk assessment the fund may need to take some action yet to be determined**	Finance/ Admin
7	17/04/20	Jon Clewes	Pension Admin	Pension Freedoms - concern has been raised nationally that members could be tempted to access their pensions early to ofset any financial issues due to personal circumstances. Increased pressure on Pension Admin Resources to process retirements.	Loss of household income and debts due to Cv19 lock down	Monitor transfers and requests for early re lease of pension. Seen an increase in deferred pension estimates.	3	3	Medium	**Monitor requests, ensure members hhave access to information for them to make informed decssions.make them aware of pension scams**	Jon Clewes
8	28/04/20	Tamsin Rabbitts	Investments	Financial reporting may be delayed. The audit may also be delayed causing further delay in the sign of on the accounts. The extension to the deadlines means we should still be able to meet the statutory deadlines, but we may need to delay the AGM if the accounts are not signed off in time.	Difficulty in working from home has put additional pressure on the team, making tight timescales harder to deliver. The auditors have informed us that they will not be available at the planned times.	Team is working to progress the production of the accounts. An extension has been announced this year which will give us more time. We are awaiting confirmation of when the auditors plan to look at the accounts	5	2	Medium	**We may need to delay the AGM if the audit is not completed in time.**	Tamsin Rabbitts
9	28/04/20	Tamsin Rabbitts	Investments	The auditors may not be able to issue an unqualified report. If this happens it it likely that all similar pensions funds will be in the same situation. The extended timescales mean that additional data can be collected to support figures or adjustments which the auditors may then be comfortable with.	Property valuers have announced material uncertainty provision. Usual uncertainty over the valuation of private assets significantly exaggerated this year making it difficult for auditors to obtain sufficient comfort.	Intend additional disclosure of extent and impact of uncertainty. Extended timelines may enable additional evidence and potentially late adjustments to reflect 31 March valuation	3	2	Low	**All pension funds are in the same position**	Tamsin Rabbitts

10	28/04/20	Tamsin Rabbitts	Investments	Reduction in fund value may persist. Increased volatility increases the risk surrounding any transaction. Some companies will not survive this crisis despite the level of support, but the extent is very difficult to estimate..	There has been reduced valuations and volatility in the market due to Covid 19.	The future outlook is very uncertain. Our investment strategy is robust, but may require refinement depending on the market outlook. The position is being scrutinised by our Independent Adviser in support of officers. Any transactions are being approached with great care.	3	4	Medium	**The pension fund is a long term investor. The next triennial valuation is in March 2022 so the markets have two years to recover before there is an impact on employer contributions.**	Tamsin Rabbitts
13	28/04/20	Tamsin Rabbitts	Investments	Insufficient cash to pay pensions, or forced sales required to generate sufficient cash to pay pensions. This would result in a permanent impairment to the fund if it occurred. The plan is to ensure sufficient cash balances to avoid this risk.	A reduction in contributions, dividends, rental income, and decreased liquidity in the market, plus a higher credit risk could all impact the availability of cash	The pension fund currently has a high cash balance. Cash flow modelling will inform the level of cash required to ensure an adequate supply of cash for the payment of pensions.	1	5	Low	**Additional cash may find investment opportunities**	Tamsin Rabbitts
14	28/04/20	Tamsin Rabbitts	Investments	Reduced rent on our Property investments, reduces both income and potentially property valuations. Property managers are approaching each situation in a proactive way so far as possible to mitigate the impact on the fund.	Many businesses are closed because of Covid 19 and are choosing to conserve cashflow by not paying rent. Some businesses have proposed delays or payment holidays. Some have just not paid.	Property managers are dealing with each situation on its merits. Generally it is better for the fund to lose some rent than lose the tenant permanently. Managers are reporting regularly to the fund on rent recovered.	5	2	Medium	**Some tenants are prepared to extend lease terms or remove breaks in return for support at this time**	Tamsin Rabbitts
15	28/04/20	Tamsin Rabbitts	Investments	A number of property sales have been or may be delayed. This may lead to a reduction in sale price when the sale finally goes through. ASI are managing this situation as best they can. If sales price drops too far the property will not be sold	Businesses may be trying to conserve cash, or may have other priorities at this difficult time.	ASI are continuing with these where they can. Sales may just be delayed until 'after' the crisis.	5	2	Medium	**ASI reporting developments to officers**	Tamsin Rabbitts