



West Northamptonshire Council

Pension Committee

11/10/2021

Mark Whitby – Head of Pensions

Report Title	Governance and Compliance Report
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MO	Geoff Wild on behalf of Catherine Whitehead	13 September 2021
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List of Appendices

Appendix A – Skills and knowledge training schedule

1. Purpose of Report

- 1.1** This is a standing report that identifies issues and developments in the governance, management and administration of the Northamptonshire Local Government Pension Scheme (LGPS) as administered by West Northamptonshire Council.

2. Executive Summary

- 2.1** This report provides the Pension Committee with information on the following significant current issues which have an impact on the governance, management and administration.
- The Pension Regulator’s Governance and Administration Survey 2020-21 results
 - The Scheme Advisory Board Response to consultation on the new single code of practice
 - The Scheme Advisory Board 2020 LGPS Scheme Annual Report
 - Written Ministerial Statement on McCloud
 - High Court judgment on exit credits
 - Skills and knowledge opportunities

3. Recommendations

- 3.1** The Pension Committee is asked to:
- a) Note the contents of this report.

4. Report Background

4.1 Members of the Pension Committee are responsible for the ongoing governance, management and administration of the Northamptonshire Local Government Pension Scheme in conjunction with the Section 151 Officer and Fund Officers. This report provides an update on developments and issues that impact the LGPS that Members of the Pension Committee need to be aware of in order to fulfil their responsibilities to the Fund's key stakeholders. The content of this report will also provide information that will support decision making in other reports presented to the Pension Committee and assists in the ongoing attainment of skills and knowledge as required by the Pensions Regulator.

5. Issues

5.1 The Pension Regulator's (TPR) Governance and Administration Survey 2020-21 results

- 5.1.1 The Pensions Regulator published the results from the Public Service Pension Scheme Governance and Administration Survey 2020-21 on 1 July 2021. The survey was conducted online between January and March 2021 and aimed to track governance and administration practices among public service pension schemes. The 2020-21 survey also included new questions in response to the pandemic, pensions dashboard and action taken in relation to climate-related risks and opportunities.
- 5.1.2 The survey found little change since 2019 for the key processes that TPR monitors as indicators of performance. Two-thirds of LGPS administering authorities who responded to the survey had all six processes in place. The six key processes are:
- have a documented policy to manage board members' conflicts of interest
 - have access to the knowledge, understanding and skills needed to properly run the scheme
 - have documented procedures for assessing and managing risk
 - have processes to monitor records for accuracy and completeness
 - have a process for resolving contribution payment issues
 - have procedures to identify, assess and report breaches of the law.
- 5.1.3 The results also show improvements in risk management processes, cyber controls and the proportion of members receiving their annual benefit statement on time. Unsurprisingly, most schemes identified implementing the McCloud remedy as a significant risk. Governance has generally stood up well given the unique challenges the last year has presented.
- 5.1.4 The Northamptonshire Pension Fund participated in this survey and have all six key processes set out in Section 5.1.2 in place.
- 5.1.5 Please see [Public service governance and administration survey 2020-21](#) for full details.
- ### **5.2 The Scheme Advisory Board (SAB) response to consultation on the new single code of practice**
- 5.2.1 On 4 June 2021, the Board's secretariat, in consultation with the Investment, Governance and Engagement committee, responded to TPR's consultation on a new code of practice on behalf of the SAB.
- 5.2.2 The response covered the governance and investment elements of the proposed code and highlighted some issues specifically for the LGPS, such as the broad term of governing body and other requirements that SAB recommend are made clearer for the LGPS.

5.2.3 The new code of practice will no longer coming into force in November 2021 as the Pensions Regulator is still reviewing the consultation responses received. It is now expected that the code of practice coming into force in Spring 2022. The Fund will have six months in order to become compliant with the code of practice. An action plan will be produced to ensure compliance is achieved in that timescale.

5.2.4 Please see [full consultation response](#) for further information.

5.3 The Scheme Advisory Board 2020 LGPS Scheme Annual Report

5.3.1 On 18 May 2021, Councillor Roger Phillips, the SAB Chair, launched the 2020 LGPS England and Wales Scheme Annual Report. Highlights from the report included:

- Total membership up by 4.2% to 6.1 million members compared with 2019.
- Total assets decreased by 4.9% to £276 billion. These assets were invested in:
 - 68% pooled investment vehicles
 - 14% public equities
 - 6% bonds
 - 3% direct property
 - 9% other asset classes.
- The Local Authority return on investments over 2019/20 was -4.8%. This was reflective of the market conditions during the year and set against the UK return of -28.3%.
- The Scheme maintained a positive cash-flow position overall, including investment income.
- Over 1.8 million pensioners paid in the year.
- LGPS liabilities estimated at £291 billion on 31 March 2019. This indicates an overall funding level of 98%. The next triennial valuation of the LGPS will be as at 31 March 2022.

5.3.2 Please see [LGPS Scheme Advisory Board Annual Report](#) for full details.

5.4 Written Ministerial Statement on McCloud

5.4.1 On 13 May 2021, Luke Hall, Minister for Regional Growth and Local Government, made a Written Ministerial Statement on McCloud and the LGPS. The statement confirmed the key changes that the Government will make to the LGPS regulations to remove the unlawful age discrimination.

The statement confirmed that:

- the age requirement for underpin protection will be removed
- a member will not need to leave with an immediate entitlement to benefits to qualify for underpin protection
- the remedy period will end on 31 March 2022
- the underpin calculation will be based on final pay at the underpin date, even when this is after 31 March 2022
- there will be two stages to the underpin calculation:
 - the first on the underpin date – the date of leaving or on the normal pension age in the 2008 Scheme, if earlier
 - the second when the benefits are paid
- the regulations will be retrospective to 1 April 2014. We expect MHCLG to issue a full response to the consultation and to publish draft regulations later this year.

5.4.2 The Northamptonshire Pension Fund's remedial work is detailed in the Business Plan Update Report.

5.5 EMS & Amey V Secretary for State for MHCLG

5.5.1 From 14 May 2018, the LGPS (Amendment) Regulations 2018 introduced a requirement on administering authorities to pay any surplus (exit credit) to exiting employers. EMS exited the Scheme in June 2018. The surplus at leaving was £6.5 million. However, the administering authority (Northamptonshire County Council) had concerns about paying this amount to EMS because a 'pass-through arrangement' had been in place. MHCLG made the LGPS (Amendment) Regulations 2020, which came into force on 20 March 2020. The regulations amended the exit credit rules, requiring administering authorities to decide the amount of an exit credit after taking into account relevant factors. The regulations do not apply to credits paid before 20 March 2020. Therefore, as the administering authority in this case had yet to pay EMS the exit credit, the new rules applied to it. The claimants brought a judicial review against the 2020 Regulations applying retrospectively

5.5.2 On 27 May 2021, the High Court handed down its judgment in the case of EMS & Amey v Secretary of State for MHCLG. The Court found in favour of MHCLG and upheld the retrospective effect of the LGPS (Amendment) Regulations 2020. The judge noted that 'there were compelling public interest reasons for making the regulations retroactive', and that 'the aim of avoiding windfall payments and protecting the pension funds was legitimate'.

5.5.3 Please see [full judgement](#) for further details.

5.5.4 As a result of this judgement (to which Northamptonshire County Council were an interested party), West Northamptonshire Council, as the new administering authority for the Northamptonshire County Council, should now be able to determine the amount of exit credit, if any, due to EMS.

5.6 Skills and knowledge opportunities

5.6.1 Section 248A of The Pensions Act 2004 as incorporated within The Pensions Regulator's Code of Practice (Governance and administration of public service pension schemes) requires all members of the Pension Committee to maintain the necessary skills and knowledge to undertake their role effectively.

5.6.2 In order to facilitate the acquisition of skills and knowledge for members of the Pension Committee, Appendix A lists the main events that are deemed useful and appropriate.

5.6.3 Requests to attend external events will be facilitated by the Governance Team. It may be necessary to restrict numbers of attendees on some courses through reasons of cost.

5.6.4 It has been recognised that the local elections have resulted in a significant change to the membership of the Pension Committee and also the Pension Board. As a result, Officers scheduled a virtual training session on 4 June 2021 for new and existing members to refresh their knowledge on the requirements of being a Pension Committee and Pension Board member. This session was recorded and is available to view for those who were unable to attend. This was followed by more in-depth training modules to cover the eight CIPFA Skills and Knowledge requirements as detailed below.

- Pensions legislations and guidance
- Pensions governance
- Funding strategy and actuarial methods
- Pensions administration and communications
- Pensions financial strategy, management, accounting, reporting and audit standards
- Investment strategy, asset allocation, pooling, and performance and risk management
- Financial markets and product knowledge
- Pensions services procurement, contract management and relationship management

5.6.5 All of the training modules set out in Section 5.6.4 can be attended live or be viewed after the event via a recording.

6. Implications (including financial implications)

6.1 Resources and Financial

6.1.1 There are no resources or financial implications arising from the proposals as the ongoing costs (specifically training delivered by the Fund’s advisors) have been considered in the existing budget for 2021/22 as previously approved by the Pension Committee.

6.2 Legal

6.2.1 There are no legal implications arising from the proposals.

6.3 Risk

6.3.1 The mitigated risks associated with this report have been captured in the Fund’s risk register as detailed below -

Risk	Residual risk rating
Those charged with governance of the Fund and Scheme are unable to fulfil their responsibilities effectively.	Green
Failure to administer the scheme in line with regulations and guidance.	Green
Failure to provide relevant information to the Pension Fund Board to enable informed decision making.	Green

6.3.2 Full risks can be found on the [Northamptonshire Pension Fund Risk Register](#).

6.4 Relevant Pension Fund Objectives

6.4.1 The following objectives have been considered in this report -

- To have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies, whilst ensuring compliance with appropriate legislation and statutory guidance.
- To manage the Fund in a fair and equitable manner, having regard to what is in the best interest of the Fund’s stakeholders, particularly the scheme members and employers.
- To ensure the relevant stakeholders responsible for managing, governing and administering the Fund, understand their roles and responsibilities and have the appropriate skills and knowledge to ensure those attributes are maintained in a changing environment.

- To continually monitor and manage risk, ensuring the relevant stakeholders are able to mitigate risk where appropriate.

6.5 Consultation

6.5.1 Not applicable.

7. Background Papers

7.1 The Pensions Regulator's [Code of Practice number 14](#) .