

*Meeting:* **Local Pension Board**

*Date/Time:* **Monday, 4 December 2017 at 9.30 am**

*Location:* **Executive Committee Room, County Hall, Glenfield.**

*Contact:* **Matthew Hand (0116 305 6038)**

*Email:* **matthew.hand@leics.gov.uk**

### AGENDA

<u>Item</u>	<u>Report by</u>	
1. Minutes of the meeting held on 18 September.		(Pages 3 - 6)
2. Question Time.		
3. Questions asked by members under Standing Order 7(3) and 7(5).		
4. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.		
5. Declarations of interest in respect of items on the agenda.		
6. Pension Fund Administration Report - July to September 2017.	Director of Corporate Resources	(Pages 7 - 12)
7. Data Improvements - Month Posting	Director of Corporate Resources	(Pages 13 - 22)
8. Risk Management and Internal Controls.	Director of Corporate Resources	(Pages 23 - 28)
9. Scheme Complaints Procedure.	Director of Corporate Resources	(Pages 29 - 32)



10. Brewster Ruling.

Director of  
Corporate  
Resources

(Pages 33 - 38)

11. Any other items which the Chairman has decided to take as urgent.

12. Date of next meeting.

Monday 12 March 2018 at 9.30am.

**TO:**

Employer representatives

Mr. D. Jennings CC  
Mr. P. Bedford CC  
Cllr. D. Alfonso

Employee representatives

Ms. D. Haller  
Ms. A. Severn - Morrell  
Mrs. D. Stobbs



Minutes of a meeting of the Local Pension Board held at County Hall, Glenfield on Monday, 18 September 2017.

PRESENT

Mr. D. Jennings CC (in the Chair)

Cllr. D. Alfonso  
Mr. P. Bedford CC  
Ms. D. Haller

Ms. A. Severn - Morrell  
Ms. D. Stobbs

15. Mr Kershaw.

The Chairman and Members of the Board expressed their sadness at the recent death of former County Councillor and member of the Board Mr Kershaw.

16. Minutes of the previous meeting.

The minutes of the meeting held on 12 June 2017 were taken as read, confirmed and signed.

17. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 35.

18. Questions asked by members.

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

19. Urgent Items.

There were no items for consideration.

20. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting. No declarations were made.

21. Pension Fund Administration Report - April to June 2017 Quarter.

The Board considered a report of the Director of Corporate Resources regarding the performance of the Pension Section against its performance indicators. A copy of the report, marked '6', is filed with these minutes.

Arising from discussions the following was noted:

- Prioritising resources in order to meet the annual benefit statement deadline had resulted in a slight fall in the Section's response rates in other areas, most particularly death grant payments. The Director was confident that these would improve as workloads in other areas decreased;
- The Department for Communities and Local Government had indicated that expected changes to the Local Government Pension Scheme regulations, which included the age at which pre April 2014 preserved members could start to access their pension, would be put into statute before Britain left the European Union although this was still subject to change;
- Ahead of the implementation of the new European General Data Protection Regulations scheduled for May 2018, the Pension Section was reviewing its processes to ensure it complied with the changes which would still be a mandatory requirement despite Britain's exit from the EU. The Section intended to inform all Fund members of how their personal data was managed.

RESOLVED:

That the report be noted.

22. Record Keeping - Data Improvements.

The Board considered a report of the Director of Corporate Resources regarding the performance of the Pension Section against its performance indicators. A copy of the report, marked '7', is filed with these minutes.

The Director reported that all administering authorities of Local Government Pension Schemes were required to produce a data improvement plan which focused on how member data was managed. The Board noted that in terms of improvements to the Leicestershire Fund, it was intended that monthly payroll data postings would be introduced (rather than annually) to enable data queries to be identified and resolved more quickly alongside a new process to trace preserved members who were near retirement age to ensure the Section held their correct details ahead of the start of benefit payments.

RESOLVED:

That the report be noted.

23. Risk Management and Internal Controls.

The Director of Corporate Resources presented a report, the purpose of which was to detail any concerns relating to the risk management and internal controls of the Fund. A copy of the report is filed with these minutes, marked '8'.

The Director reported that the Fund's risk management was managed as part of the authorities corporate risk register and since the Board's last meeting no additional risks had been identified.

RESOLVED:

That the report be noted.

24. Children's Pensions and Payment of Death Grants.

The Board considered a report of the Director of Corporate Resources concerning the Pensions Section's approach to managing the pension benefits for eligible children should their parents die whilst in service. A copy of the report marked '9' is filed with these minutes.

The Director reported that under Local Government Pension Scheme Regulations, the County Council (as the Pension Scheme Administrator) had absolute discretion when authorising a death grant payment to the deceased members nominee, personal representatives or any other person the Authority deemed to have been a relative or dependent of the member. He added that when the deceased member had nominated their child to receive the payment, the Authority had to take extra care to make sure the child's guardian correctly managed the benefit payment on their behalf.

The Board noted that with secure child trust funds no longer being available, there was potential for the nominated guardian to access the death grant payment without the child's knowledge and/or agreement. This apparent lack of security had caused issues in a small number of cases in which family members had questioned the suitability of the guardian entrusted to manage the death payment.

In order to help mitigate such issues, and to ensure the Pension Section was satisfied that the individual claiming to be a guardian was in fact properly and legally appointed, a formal process had been introduced by the Section. The process required the legal guardian to produce the necessary documents confirming their appointment and also required them to sign a declaration confirming the money would be used in the best interest of the child.

RESOLVED:

That the report be noted.

25. Date of future meetings.

RESOLVED

- a) That future meetings of Local Pension Board be held at 9.30am on the following dates:-

Monday 4 December 2017 at 9.30am

Monday 12 March 2018 at 9.30am

Monday 18 June 2018 at 9.30am

Monday 17 September 2018 at 9.30am

Monday 3 December 2018 at 9.30am

- b) That the next Annual General Meeting of the Leicestershire Pension Fund will be held on Thursday 11 January at 6.00pm.

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**LOCAL PENSION BOARD**

**4 DECEMBER 2017**

**REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

**PENSION FUND ADMINISTRATION REPORT – JULY TO SEPTEMBER 2017  
QUARTER**

**Purpose of the Report**

1. The purpose of this report is to inform the Board of relevant issues in the administration of Fund benefits, including the performance of the Pensions Section against its Performance Indicators.

**Background**

2. The Pensions Section is responsible for the administration of Local Government Pension Scheme benefits of the Leicestershire Pension Fund's 90,000 members.

**Performance Indicators**

3. Attached as the appendix to this report is the performance indicators for the Pensions Section, which form part of the Section's Service Plan and have been agreed by the Director of Finance. These indicators are split into 2 broad categories – how quickly processes are carried out and how customers feel they have been kept informed and treated by staff.

**Performance of Pensions Section**

4. The results for the July to September 2017 quarter are detailed within the Appendix. Customer satisfaction remains good and overall performance figures remain positive in the quarter.

**Administration**

5. **General Workloads**

The tables show the position in five key work areas, July to September.

**July 2017**

Area	Cases completed in the period	Remaining cases at the end of the period	KPI Maximum - cases at the end of the period
Preserved benefits	193	755	900
Aggregations	27	448	450
Interfunds in	30	196	150
Retirements	343	553	500
Deaths	51	88	100

**August 2017**

Area	Cases completed in the period	Remaining cases at the end of the period	KPI Maximum - cases at the end of the period
Preserved benefits	304	730	950
Aggregations	16	456	450
Interfunds in	43	183	150
Retirements	431	565	600
Deaths	78	76	100

**September 2017**

Area	Cases completed in the period	Remaining cases at the end of the period	KPI Maximum - cases at the end of the period
Preserved benefits	145	886	1000
Aggregations	197	290	800
Interfunds in	41	181	150
Retirements	399	554	500
Deaths	57	72	100

The main points to note are;

- Interfunds continually remain above the maximum KPI target of 150. A thorough review of the outstanding cases has been completed which identified that no neighbouring Funds were causing a backlog of cases. The Pension Manager will continue to monitor this throughout 2017/18 and if the position remains, will recommend an increase to 200, for the maximum KPI from April 2018.
- Due to increasing scheme membership and the number of people breaching the annual allowance, year-end work and pension taxation statements have taken longer to complete than in previous years. This has caused Leicestershire County Council new starter interfaces to be delayed by approximately 4 months.



- Leicester City Council moved to a new payroll provider in April 2017. This has caused a delay in receipt of City new starter interfaces. It's expected these will be provided in December 2017.
- Once the outstanding County and City interfaces are run the number of aggregations will rise.

#### Annual Allowance Pension Taxation Statements 2016/17

6. Following the end of the year-end work in August, the pension taxation work was completed by the 6 October 2017 HMRC statutory deadline.
  - 30,918 annual allowance calculations were completed on active member's pension records.
  - 75 scheme members breached the annual allowance and received pension saving statements but had sufficient carry forward to avoid a tax charge.
  - 9 scheme members breached the annual allowance and incurred a tax charge.
  - 2 scheme members breached the tapered annual allowance and received a voluntary scheme pays tax charge.
7. There are a small number of cases that remain outstanding where scheme members have transferred in their pension benefits from other Funds, but the Pension Section has not received details of the previous carry forward. These will be completed once the information is received from the previous pension Fund.

#### Tender Update

8. The joint tender deadline by Leicestershire and Derbyshire County Council for a Pensions administration system has closed. The bids are being evaluated and companies will be invited to provide presentations in the coming weeks.
9. The tender covers the core pension system with three optional areas;
  - Member self-service
  - Pensions payroll
  - Employer services
10. The tender covers five years with an option for a further five. The system will be implemented from the end of the current contract in early 2019.

#### **Recommendation**

It is recommended that the Board notes the report.

#### **Equality and Human Rights Implications**

None specific

**Appendix**

Appendix - Quarterly Results – July to September 2017

**Officers to Contact**

Ian Howe – Pensions Manager - telephone (0116) 305 6945

Chris Tambini – Director of Finance - telephone (0116) 305 6199

**APPENDIX**

Quarter - July to Sept 2017									
Business Process Perspective	Target	This Quarter	Previous quarter	Customer Perspective - Feedback	Target	This Quarter	Previous Quarter		
Retirement Benefits notified to members within 10 working days of paperwork received	92%	97%	▲	97%	Establish members understanding of info provided - rated at least mainly ok or clear	95%	99%	▲	94%
Pension payments made within 10 working days of receiving election	95%	96%	▲	94%	Experience of dealing with Section - rated at least good or excellent	95%	88%	▼	86%
Death benefits/payments sent to dependant within 10 working days of notification	90%	92%	▲	83%	Establish members thoughts on the amount of info provided - rated as about right	92%	93%	▲	94%
				Establish the way members are treated - rated as polite or extremely polite	97%	97%	▲	95%	
				Email response - understandable	95%	94%	▶	97%	
Good or better than target	▲			Email response - content detail	92%	95%	▲	98%	
Close to target	▶			Email response - timeliness	92%	97%	▲	99%	
Below target	▼								

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## **LOCAL PENSION BOARD**

**4 DECEMBER 2017**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **RECORD KEEPING - DATA IMPROVEMENT (MONTHLY POSTING)**

##### **Purpose of the Report**

1. The purpose of this report is to inform the Board of data improvements in the Pension Section, with the introduction of monthly posting of pension data, to scheme member's pension records.

##### **Background**

2. At the Pension Board meeting on the 18 September 2017 the Board noted a report titled 'Record Keeping – Data Improvement', in response to the focus of The Pension Regulator, extending to pension record keeping and data improvement. This report is attached as an appendix to the report.
3. Within the report it details the phased implementation of monthly posting as being the most significant data improvement for the Pension Section.

##### **Current Process**

4. Currently data is only posted annually as part of the year-end process.
5. At March 2017 there were 30,918 active members with 3 key data fields posted for each individual, so 92,754 data fields were posted at year-end.
6. Validation checks took place on these data fields and queries were returned back to employers for investigation and resolution. Once resolved, the employer informed the Pension Section so changes could be made on member's pension records.
7. This data was used in the calculation of members annual benefit statements, pension taxation statements and future pension benefits.
8. The data is used by the Pension Fund Actuary when calculating future employer contribution rates.

9. The timeline from the receipt of the data from employers to the calculation of annual benefit statements is 5 months; 1 April to 31 August each year.
10. During the 2017 year-end process 9,104 data items were queried and investigated by the Pension Section and the employers.

### **Monthly Postings**

11. The Pension Section has purchased a system to allow employers to submit their data monthly, rather than annually.
12. This provides a number of benefits;
  - The Pension Section receives more timely data
  - Data queries are identified more quickly and resolved more easily
  - Significant data errors will not be received by the Pension Section as the system will not allow employers to submit certain flawed data
  - Data accuracy is improved and maintained more easily on the pension system
  - Scheme members running their own on-line calculations will be able to access more timely and accurate data
  - Data available for benefit calculations e.g. retirements, deaths, leavers will be more timely and accurate
  - Employers will receive data queries throughout the year in a much more timely manner, reducing the significant volume of work at year-end
  - The Pension Section is able to manage the year-end process more easily, by spreading the data queries over 12 months
  - The Pension Section is meeting The Pension Regulators requirement for data improvement.

### **Implementation of Monthly Postings**

13. The Pension Section provides the employers with the monthly posting data layout.
14. Employers work with their payroll system providers to develop the payroll extract file. This is a significant area of work for employers and is key in the success of monthly postings.
15. The Pension Section tests the data provided by employers and validates this against the information held on the pension system.
16. Once the Pension Section and an employer are both confident with their initial data quality, monthly posting of data commences.

### **Implementation Plan**

17. The Pension Section has developed a monthly posting implementation plan. This is attached as Appendix B.

**Recommendation**

18. It is recommended that the Board notes the report.

**Appendices**

Appendix A – Report to the Local Pension Board - 18 September 2017

Appendix B – Implementation Plan

**Equality and Human Rights Implications**

None specific

**Officers to Contact**

Ian Howe – Pensions Manager - telephone (0116) 305 6945

Chris Tambini – Director of Finance - telephone (0116) 305 6199

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## **LOCAL PENSION BOARD**

**18 SEPTEMBER 2017**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **RECORD KEEPING - DATA IMPROVEMENT**

##### **Purpose of the Report**

1. The purpose of this report is to inform the Board of the County Council's current data keeping practices concerning pension data and planned improvements.

##### **Background**

2. The focus of the Pensions Regulator is now extending to pension record keeping and data improvement. The Pension Section relies heavily on receiving accurate and timely data from its employers and therefore already works hard to ensure high quality data is sent by employers and once received is maintained correctly. However, to enable the Fund to demonstrate compliance with new legislative record keeping requirements and to enhance its current processes, the Pension Section has developed a plan to improve its processes further.

##### **Current record keeping**

3. The Pension Section already follows a number of processes to maintain high quality pension member records.
4. An annual record keeping exercise takes place during the year-end process. For all active members, payroll data is provided by the Fund's employers and loaded into each member's pension record, checked for accuracy, corrected if there are errors or discrepancies and then used in the calculation of member's annual benefit statements. The data includes final pay, career average revalued earnings (CARE) pay, pension contributions and additional contributions.
5. As part of the annual record keeping exercise any data queries are returned back to employers for them to investigate and correct if necessary, prior to the production of the annual benefit statements. In the 2016/17 annual exercise 9,104 data queries were identified and returned back to employers for resolution. In the main the data queries were on contributions, pensionable

pay used in the calculation of pre April 2014 benefits and career average revalued earnings (CARE) pay.

6. The Pension Section already uses a data quality checking tool. This allows the Pension Section to run data checks at any time and investigate and resolve pension member's data queries.
7. The Pension Section has annual audits including data quality and year-end. In these audits the data quality was found to be good and processes were correct.
8. The Pension Section sends its data to the Fund's Actuary every three years for use in the Fund valuation. This involves a very significant data check using the Actuaries data uploading tool. Errors are rejected and have to be corrected prior to the data being submitted. The last valuation data submission was in July 2016 and the Actuary reported the Fund's data as good.
9. The Guaranteed Minimum Pension (GMP) exercise requires the Pension Section to check the member's GMP data against that held by HMRC. Any discrepancies found are being corrected and the data records amended. This is a large ongoing exercise that is expected to continue until December 2018.
10. The Pension Section uses a monthly data mortality screening system. The system reports on deaths that the Pension Section then checks. This means deaths are dealt with quickly ensuring pensioner data remains accurate and reduces the risk of pensioner overpayments.
11. The Pension Section provides a member on-line service allowing scheme members to securely access their own pension record. This provides opportunity for scheme members to check their own data and inform the Pension Section about any data changes.

#### **Data Improvements Plan – 2 areas**

12. The most significant data improvement the Pension Section is implementing is the phased introduction of monthly postings. This allows employers to submit their payroll data monthly rather than annually. This will enable data queries to be identified and resolved more quickly, and in the process, will reduce the number of data queries at year-end. There is a significant amount of work each employer has to do in order to implement the change, including developing the monthly payroll extract prior to commencing monthly posting. There are currently three employers already using this system in live and a further eight large Fund employers developing their payroll extracts in readiness for go live.
13. The Board will consider a report in December detailing the implementation plan and progress made.

14. Another planned improvement relates to the proposed introduction of an ongoing process to trace preserved members who are near retirement age in order to ensure they have not moved address and failed to inform the authority. It is considered to be more cost effective doing this regularly with a small number of cases, rather than a large bulk exercise to trace all cases in one go. There are currently 150 preserved members age 60 or over who have not kept the Pension Section informed of their current address. Tracing these cases will commence in September.

#### **Recommendation**

15. It is recommended that the Board notes the report.

#### **Equality and Human Rights Implications**

None specific

#### **Officers to Contact**

Ian Howe – Pensions Manager - telephone (0116) 305 6945

Chris Tambini – Director of Finance - telephone (0116) 305 6199

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## APPENDIX B

IConnect Implementation position - as at 16 November 2017

Employer Contacted	Number of Active Members	Estimated Go Live Date	Comments
<b>Local Government Pension Scheme</b>			
Braunstone TC	14	Apr-17	Live
Countesthorpe PC	10	Apr-17	Live
Thurmaston PC	12	Apr-17	Live
Oadby and Wigston	133	Nov 2017, backdated to April 2017	Live
Leics Fire Civilians	127	Jan 2018, backdated to April 2017	Dummy data loaded
Charnwood	453	Apr-18	Dummy data loaded
Loughborough University	1150	During 2018-19	Spec sent to employer
Blaby	289	Data check being completed	Dummy data produced
Lough College	340	During 2018-19	Spec sent to employer
Stephenson College/ Stephenson Studio School	146	Not known	Spec sent to employer
DMU	1271	During 2018-19	Spec sent to employer
Lutterworth Academies Trust	76	Not known	Spec sent to employer
Leicester City Council	9000	Project plan being developed (SAFE)	Spec sent to employer
Hinckley and Bosworth	317	Not known	Spec sent to employer
Dataplan Fund ers (various incl Mowbray Ed Trust)	307	Not known	Spec sent to employer
Brooksby Melton College	196	Not known	Spec sent to employer
Leicester College	607	Not known	Spec sent to employer
NWLDC	516	Not known	Spec sent to employer
Wreake Valley Academy	47	Not known	Spec sent to employer
Leics Constabulary	1374	Not known	Spec sent to employer
Humphrey Perkins	40	Not known	Spec sent to employer
<b>Fire-fighter pension scheme</b>			
Derbyshire Firefighters	590	April 2018, possibly backdated to 2015	Dummy data produced
Nottinghamshire Firefighters	655	Not known	Dummy data produced
Leicestershire Firefighters	499	Jan 2018, backdated to April 2017	Dummy data loaded

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## **LOCAL PENSION BOARD**

**4 DECEMBER 2017**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **RISK MANAGEMENT AND INTERNAL CONTROLS**

##### **Purpose of the Report**

1. To inform the Board of the current Pensions risk register.

##### **Background**

2. At each of its meetings the Local Pension Board considers a report concerning risk management and internal controls as stipulated in the Pension Regulators Code of Practice.
3. The Leicestershire Fund already manages risk and this is recorded as a risk register. The risk register is regularly reviewed by officers and presented to the Board annually as recommended under the Regulators Code of Practice. The latest version of the Pensions Risk register is attached as an appendix.
4. Internal and external audits highlight pension risks allowing the Pensions Manager to remedy these as necessary.
5. The Local Pension Committee approved all investment elements of the risk register on 10 November 2017. The attached includes these and the latest administration risks.

##### **Identified Risks**

6. Risks on the risk register are scored based on impact and likelihood. There are two scores included for each risk. The first score is before any further actions and additional controls are added, and the second score is after these changes.
7. Any risks with a total score of 15 or over are escalated within Leicestershire County Council. All pension risks are below currently below 15.

##### **Recommendation**

8. It is recommended that the Board notes the report.

**Appendix**

Appendix – Pensions Risk Register November 2017.

**Officers to Contact**

Ian Howe – Pensions Manager - telephone (0116) 305 6945

Chris Tambini – Director of Finance - telephone (0116) 305 6199



APPENDIX A – Pensions Risk Register December 2017

Pensions																
R i s k  n o e	S e r v i c e	Risk	Causes (s)	Consequences (s)	Risk Owner	List of current controls	I	L	Current Risk Score	Risk Response; <i>Tolerate</i> <i>Treat</i> <i>Terminate</i> <i>Transfer</i>	Further Actions / Additional Controls	I	L	Residual Risk Score	Action owner	
1	Pensions	If we fail to reconcile HRMC GMP data with the Pension Section data there is a risk of overpayment of Pensions Increase	Government changes to end contracting out legislation. Contracting out ended April 2016. Between 2015 and December 2018 Pensions need to reconcile GMP data. From 2018 we take responsibility for GMPs so we need to ensure we pay Pensions Increase. (e.g. no GMP means we pay full PI and if there is a GMP we pay less PI)	Overpaying pensions  Reputation	Ian Howe	Checking of HMRC GMP data to identify any discrepancies	3	3	9	Treat	Working through cases  Developed reporting tools to assist  Recruitment taking place for a full time person to join the project	3	2	6	Ian Howe	Managed at Service level
2	Pensions	If we fail to implement a pension administration system the Pension Section will fail to deliver its statutory duties for both LGPS and the 3 Fire Authorities	The current pensions administration system contract ends in April 2019	Failure of the Pension Section  Unable to meet statutory requirements  Manual calculations  Huge increase in administration time causing delays  Increased appeals	Ian Howe	Currently use a successful pension administration system  Currently use a separate member self-service facility	5	2	10	Treat	Tender document completed  Working in partnership with another Fund  Working closely with internal IT, ESPO, internal audit and others	5	1	5	Ian Howe	Managed at Service level

3	Pensions	<p><b>If we fail to meet the service requirements of the three Fire Authorities we may lose their business</b></p>	<p>Changes in legislation on the Firefighters pension scheme has significantly increased the scheme's complexity.</p> <p>Only limited knowledge in the Section in this area.</p>	<p>Reputation</p> <p>Potential loss of business</p>	<p>Ian Howe</p>	<p>Quarterly meetings take place with the Fire Authorities to resolve issues</p> <p>Membership of the Midlands Fire Officer Group enables us to identify and resolve issues early</p> <p>Resource on the team increased</p> <p>SLA and contracts produced</p>	3	2	6	<p>Treat</p>	<p>Continue to monitor and develop improvements to work processes, guiding all three Fire Authorities to similar processes and decisions (where possible).</p> <p>Set up a joint pension board for the 3 Fire Authorities</p>	2	2	4	<p>Ian Howe</p>	<p>Managed at Service level</p>
4	Pensions	<p><b>If we fail to receive accurate and timely data from employers scheme members pension benefits could be incorrect or late</b></p>	<p>A continuing increase in Fund employers is causing administrative pressure in the Pension Section. This is in terms of receiving accurate and timely data from these new employers who have little or no pension knowledge</p>	<p>Late or inaccurate pension benefits to scheme members</p> <p>Reputation</p> <p>Increased appeals</p> <p>Greater administrative time being spent on individual calculations</p>	<p>Ian Howe</p>	<p>Training provided for new employers</p> <p>Guidance notes provided for employers</p> <p>Communication and administration guide provided to employers</p>	3	3	9	<p>Treat</p>	<p>Implement IConnect with employers so they provide monthly data in a secure and timely manner</p> <p>Review the SLA and communication and administration guide (for IConnect)</p>	2	2	4	<p>Ian Howe</p>	<p>Managed at Service level</p>
5	Pensions	<p><b>If employer and employee contributions are not paid accurately and on time</b></p>	<p>Error on the part of the scheme employer</p>	<p>Potentially reportable to The Pensions Regulator as late payment is a breach of The Pensions Act</p>	<p>Colin Pratt</p>	<p>Receipt of contributions is monitored and late payments are chased quickly</p>	2	4	8	<p>Treat</p>	<p>Late payers will be reminded of their legal responsibilities.</p>	2	3	6	<p>Colin Pratt</p>	<p>Managed at Service level</p>

6	I n v s	<b>If assets held by the Fund are ultimately insufficient to pay benefits due to individual members</b>	Ineffective setting of employer contribution rates over many consecutive actuarial valuations	Significant financial impact on scheme employers due to the need for large increases in employer contribution rates.	Chris Tambini/ Colin Pratt	Input into actuarial valuation, including ensuring that actuarial assumptions are reasonable and the manner in which employer contribution rates are set does not bring imprudent future financial risk	5	2	10	Treat	Actuarial assumptions need to include an element of prudence, and Officers need to understand the long-term impact and risks involved with taking short-term views to artificially manage employer contribution rates	4	2	8	Chris Tambini/ Colin Pratt	Managed at Service level
7	P e n s / I n v s	<b>If the sub-funds of Community Admission Bodies were not monitored to ensure that there is the correct balance between risks to the Fund and fair treatment of the employer</b>	Changing financial position of both sub-fund and the employer	Significant financial impact on employing bodies due to need for large increases in employer contribution rates, which may ultimately lead to insolvency and a deficit that has to be met by the Fund.	Ian Howe/ Colin Pratt	Ensuring, as far as possible, that the financial position of Community Admission Bodies is understood. On-going dialogue with them to ensure that the correct balance between risks and fair treatment continues.	5	2	10	Treat	Dialogue with the employers, particularly in the lead up to the setting of new employer contribution rates.	3	2	6	Ian Howe/ Colin Pratt	Managed at Service level
8	I n v s	<b>If market investment returns are consistently poor and this causes significant upward pressure onto employer contribution rates</b>	Poor market returns, most probably caused by poor economic conditions	Significant financial impact on employing bodies due to the need for large increases in employer contribution rates	Chris Tambini/ Colin Pratt	Ensuring that strategic asset allocation is considered at least annually, and that the medium-term outlook for different asset classes is included as part of the consideration	5	2	10	Treat	Making sure that the investment strategy is sufficiently flexible to take account of opportunities and risks that arise, but is still based on a reasonable medium-term assessment of future returns	4	2	8	Chris Tambini/ Colin Pratt	Managed at service level
9	I n v s	<b>If market returns are acceptable but the performance achieved by the Fund is below reasonable</b>	Poor performance of individual managers, or poor asset allocation policy	Opportunity cost in terms of lost investment returns, which is possible even if	Chris Tambini/ Colin Pratt	Ensuring that the causes of underperformance are understood and acted	3	3	9	Treat	After careful consideration, take decisive action where this is deemed appropriate. It should be	2	2	4	Chris Tambini/ Colin Pratt	Managed at service level

		<b>expectations</b>		actual returns are higher than those allowed for within the actuarial valuation		on where appropriate						recognised that some managers have a style-bias and that poor performance will happen on occasions.					
10	I n v s	<b>Failure to take account of ALL risks to future investment returns within the setting of asset allocation policy and/or the appointment of investment managers</b>	Some assets classes or individual investments perform poorly as a result of incorrect assessment of all risks inherent within the investment.	Opportunity cost within investment returns, and potential for actual returns to be low. This will lead to higher employer contribution rates than would otherwise have been necessary.	Chris Tambini/ Colin Pratt	Ensuring that all factors that may impact onto investment returns are taken into account when setting asset allocation policy. Only appointing investment managers that integrate responsible investment into their processes, and ensuring that managers take a holistic view on the risks associated with the investments they make on behalf of the Fund.	3	3	9	Treat		Responsible investment aims to incorporate environmental, social and governance (ESG) factors into investment decisions, to better manage risk and generate sustainable, long-term returns	2	2	4	Chris Tambini/ Colin Pratt	Managed at service level
11	I n v s	<b>Investment pooling within the LGPS fails to deliver a higher long term net investment return</b>	LGPS Central fails deliver better net investment returns than the Fund would have expected to achieve it investment pooling did not occur	Lower returns will ultimately lead to higher employer contribution rates than would otherwise have been the case	Chris Tambini/ Colin Pratt	Shareholders' Forum, Joint Committee and Practitioners' Advisory Forum will give significant influence in the event of issues arising.	3	3	9	Treat		Set-up of LGPS Central likely to most difficult phase, and Fund will continue to monitor closely how the company evolves	2	2	4	Chris Tambini/ Colin Pratt	Managed at service level
12	I n v s	<b>Investment decisions are made without having sufficient expertise to properly assess the risks and potential returns</b>	The combination of knowledge at Committee, Officer and Consultant level is not sufficiently high	Poor decisions likely to lead to low returns and higher employer contribution rates	Chris Tambini/ Colin Pratt	Continuing focus on ensuring that there is sufficient expertise to be able to make thoughtfully considered investment decisions	3	3	9	Treat		On-going process of updating and improving the knowledge of everybody involved in the decision-making process	2	2	4	Chris Tambini/ Colin Pratt	Managed at service level



## **LOCAL PENSION BOARD**

**4 DECEMBER 2017**

### **REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

#### **LOCAL GOVERNMENT PENSION SCHEME COMPLAINTS PROCEDURE**

##### **Purpose of the Report**

1. The purpose of this report is to inform the Board of the arrangements in place to manage complaints (known as the Internal Dispute Resolution Procedure (IDRP)), in connection with the operation of the Leicestershire Local Government Pension Scheme.

##### **Background**

2. The Internal Dispute Resolution Procedure is a formal two stage process prescribed by the Local Government Pension Scheme Regulations. Before the formal process is enacted there is often an informal stage dealt with by the Pension Section that commonly resolves the issue.
3. For cases that are not resolved informally, the Stage 1 process is usually considered by the member's employer or previous employer (the employing authority). Cases of this nature vary but recent examples include; not being granted a certain type of retirement (e.g. ill health) or the decision of the employer in exercising its discretion to allow early release of benefits on compassionate grounds. It is for the employing authority to make its own arrangement how to deal with Stage 1 complaints.
4. Sometimes complaints are brought against the decision of the Pension Manager and in these instances the Stage 1 process is considered by an officer of Leicestershire County Council. Examples of these complaints include; where a scheme member wishes to transfer out benefits but is unable to do so, or wishes to convert benefits greater than HMRC limits to tax free cash.
5. If a complaint is not resolved at Stage 1 a scheme member can choose to take their case to Stage 2.
6. All Stage 2 complaints are considered by the "specified person" of Leicestershire County Council (the administering authority) or a nominated

substitute. In all cases, anyone who has had any dealings at Stage 1 cannot consider the Stage 2 complaint.

7. If complaints are not resolved at Stage 2, scheme members can choose to take their cases to The Pensions Advisory Service (TPAS) followed by the Pensions Ombudsman. The Ombudsman's decision is final and binding although in extremely rare instances cases can proceed to the Courts.

#### **Complaints since April 2014**

8. Since April 2014 there have been 4 IDRPs Stage 1 cases made against the decision of the Pension Manager.
  - In 1 case, the scheme member decided not to proceed to Stage 2.
  - The remaining 3 cases proceeded to Stage 2, and ultimately the Pension Ombudsman. The Ombudsman did not uphold the 3 cases, agreeing with the Pension Manager's decision.
  - Since April 2014 there has been 5 IDRPs Stage 2 cases that have followed Stage 1 decisions made by the employing authority.
  - 4 cases were resolved at Stage 2. 1 case reached the Pension Ombudsman who ordered compensation to be paid to the appellant.
9. Where applicable the specified person will direct that compensation be payable to the employee bringing the complaint for the time and trouble caused. It is important to note that the IDRPs proceed as a "review of the decision the subject of complaint". This means that the specified person does not have the power to substitute his or her decision or require, for example an increased pension payment

#### **Leicestershire County Council's appointments**

10. When managing disputes raised by County Council members of the Fund, the specified person at Leicestershire County Council is the Director of Law and Governance who deals with Stage 1 cases or her substitute, the Head of Law.
11. Cases that proceed to Stage 2 are then dealt with by whichever of the above has not dealt with Stage 1.
12. Where the circumstances of the complaint are such that the Director of Law and Governance or the Head of Law are unavailable to deal with a Stage 1 and/or 2 complaint, arrangements have been made for one of the Council's employment law solicitors to act as the Specified Person and/or request a neighbouring pension fund to assist.

**Recommendation**

13. It is recommended that the Board notes the report.

**Equality and Human Rights Implications**

None specific

**Officers to Contact**

Ian Howe – Pensions Manager - telephone (0116) 305 6945

Chris Tambini – Director of Finance - telephone (0116) 305 6199

Lauren Haslam – Director of Law and Governance – telephone (0116) 305 6240

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**LOCAL PENSION BOARD**

**4 DECEMBER 2017**

**REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

**BREWSTER RULING**

**Purpose of the Report**

1. The purpose of this report is to inform the Board about the recent decision of the Supreme Court in the case of Brewster and the implications for the Leicestershire Pension Fund.

**Background**

2. The Local Government Pension Scheme provides pension benefits for co-habiting partners, should their partner die whilst a member of the Local Government Pension Scheme, if a co-habiting partner's nomination form is complete.
3. Denise Brewster was the co-habiting partner of a member of the Local Government Pension Scheme in Northern Ireland, which has slightly different rules to England, but principally are the same.
4. A Supreme Court ruling earlier this year found in favour of Denise Brewster who claimed, the requirement for the completion of the co-habiting partner's nomination form constituted unlawful discrimination and a breach of the European Convention on Human Rights. The Court agreed this constituted unlawful discrimination. A nomination form was not required for married or civil partner survivors.
5. Following the Supreme Court ruling the Department for Communities and Local Government (DCLG) issued a letter dated 17 August 2017 to all Local Government Pension Managers detailing the implications on the Local Government Pension Scheme. This is attached as Appendix A.

**Implications**

6. In 2014, recognising the need for a change in Regulations to deal with the position of cohabiting partners, the Local Government Pension Scheme Regulations in England changed, withdrawing the need to complete a partner's co-habiting form. This however left a position of inequality for those

co-habiting partners, whose partner died between 2008 and 2014, where the requirement for completion of a co-habiting partner's nomination form still existed. The DCLG's letter dated 17 August 2017 now considers it reasonable for Funds to make retrospective payments to cases in this category.

7. While the DCLG's letter makes it clear that it is for individual Pension Funds to determine their approach in respect of claims arising from situations they find arising that are similar to the Brewster case, the letter states that in the DCLG's view it would be reasonable for Pensions Funds to rely on the judgement as well as the wider provisions of the Human Rights Act (HRA) to make retrospective payments.
8. Section 3 of the HRA provides that legislation (including Pension Regulations) must be read and be given effect in a way that is compatible with human rights.
9. It is to be noted that the HRA also has provisions (Section 6) which effectively justifies a public authority not acting unlawfully in a human rights sense if a statutory provision could not be read or be given effect to in a way which would be compatible with human rights. It is surprising that Section 6 is not discussed in the Brewster Supreme Court and this Authority takes the view that given the fact DCLG have sought legal advice and concluded as a result the relevant 2007 Pensions Benefits Regulations do not require amendment and have written to Pensions Funds and have written the letter previously referred to, reliance on Section 6 to justify not make a payment would be disproportionate.

### **Leicestershire Pension Funds Actions**

10. Following the Brewster ruling and the Department of Communities and Local Government's letter, the Leicestershire Pension Fund has discussed the situation with other Funds in the East Midlands region who were in agreement that in principle Funds could now make retrospective payments.
11. The County Council has investigated how many cases in the period between 2008 and 2014 fall into this category, where no co-habiting partners form has been completed. Whilst the Pension Fund cannot be absolutely certain of the historic facts of all previous cases, it has only positively identified one case which has now been resolved following legal advice.
12. Whilst the Regulations no longer require the need to complete a partner's co-habiting nomination form to gain entitlement, the Pension Section still asks for the form to be completed. This is to assist the Pension Section with the administration and so the scheme member is confident in the knowledge the Pension Section knows their personal wishes.
13. Without completion of the form, the Pension Section does not know if a co-habiting partner exists and does not know the deceased members wishes.

14. However, in the rare event that a co-habiting partner does exist and no form has been completed, the Pension Section will still allow payment of the co-habiting partner's pension if all other criteria are met.

**Recommendation**

15. It is recommended that the Board notes the report.

**Equality and Human Rights Implications**

None specific

**Appendix**

DCLG letter dated 17 August 2017

**Officers to Contact**

Ian Howe – Pensions Manager - telephone (0116) 305 6945

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Lauren Haslam – Director of Law and Governance (0116) 305 6240

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Department for  
Communities and  
Local Government

17 August 2017

Dear Pensions Manager

### **Implications for the Local Government Pension Scheme of Brewster Decision**

A number of funds have been in touch now regarding the implications of the Supreme Court's ruling earlier this year in the case of Brewster. This letter is intended to provide some guidance to those managing funds. It is not statutory guidance, as we have no power to issue statutory guidance on this point, and neither is it intended to be, and should not be construed as, legal advice. As you will appreciate, the correct interpretation of LGPS regulations is a matter for the courts and not government departments.

In the case of Denise Brewster, she successfully challenged the requirement in the Local Government Pension Scheme (Northern Ireland) that a surviving adult partner had to be formally nominated in order to be entitled to payment of survivor benefits. The Court ruled that this administrative requirement constituted unlawful discrimination and a breach of the European Convention on Human Rights. As the other underlying scheme conditions were met then it should be disapplied.

Most public sector pension schemes that have, or have had, such a nomination requirement for unmarried partners, are now taking the view that scheme managers can rely on this judgment and section 3 of the Human Rights Act 1998 as the legal basis for not requiring that a surviving adult partner be nominated in order to receive survivor benefits. This section of the Act provides that, as far as possible, regulations such as those covering the LGPS must be read and given effect in a way which is compatible with the European Convention on Human Rights. This approach is also being applied to applications which have previously been rejected. In these circumstances, schemes are also being encouraged not to require survivors to claim within any specific limitation period.

We consider that this approach is reasonable in the circumstances and that LGPS funds should give careful consideration to adopting a similar approach to relevant cases. In adopting this approach a fund accepts that a power to pay these benefits already exists in the LGPS regulations when read and given effect in a way which is compatible with Convention rights and that the tax status of them is no different from any other payments made under the scheme.

Chris Megainey  
Local Tax and Pensions  
Department for Communities and Local  
Government

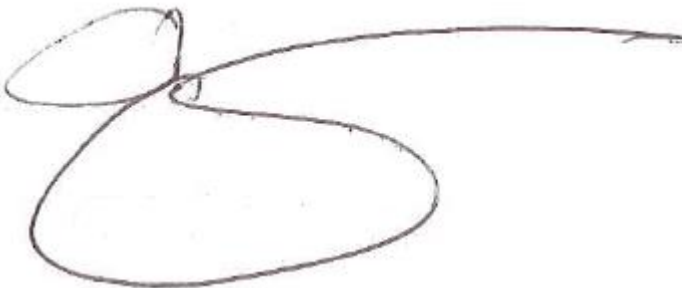
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We suggest that LGPS funds should consider the following:

- Relevant cases will be those in the period between 2008 and 2014 when a “nominated cohabiting partner” test was applied to restrict survivor benefits. Any relevant case presenting now for a survivor’s pension, who can demonstrate that they were, at the point of their partner’s death, in a relationship with an LGPS member and met all the underlying conditions apart from the nomination requirement, should be awarded a survivor’s pension, appropriately backdated;
- Funds should take reasonable steps to identify cases where an application for a survivor’s pension was rejected for want of a nomination. Such cases should be reviewed to check whether there is evidence that the underlying conditions may have been met at the time and whether a survivor’s pension should now be considered;
- Where a new claim for a survivor’s pension is accepted but a child’s pension was being paid at the higher rate (due to an adult survivor’s pension not being paid) the fund should advise as soon as possible the recipient of the child’s pension that its intention would be to reduce it once the adult survivor pension is being paid;
- In these circumstances, technically there will have been an element of overpayment in the child’s pension. Decisions on whether to attempt recovery should be handled sensitively, having regard to the need to avoid hardship or injustice, the fund’s own policy on overpayments and general guidance on the appropriate use of public money;
- We expect that funds will not be able to offset overpayments of a child’s pension against the adult survivor’s benefits given that they are separate individual entitlements.

Some cases will inevitably raise complex issues and it is not possible to provide guidance on the application of the judgment in all circumstances. Accordingly, scheme managers should seek their own independent legal advice if they are in any doubt as to how to proceed.

Yours sincerely,



**Chris Megainey**

Chris Megainey  
Local Tax and Pensions  
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