



LOCAL PENSION COMMITTEE – 8 SEPTEMBER 2023

REPORT OF THE DIRECTOR OF CORPORATE RESOURCES

**COMMUNITY ADMISSION BODIES –
VOLUNTARY ACTION LEICESTER AND BRADGATE PARK TRUST**

Purpose of the Report

1. The purpose of this report is to request approval from the Local Pension Committee on the proposed transfer of Voluntary Action Leicester (VAL) pension fund assets and liabilities to Leicestershire County Council, and Bradgate Park Trust (BPT) pension fund assets and liabilities equally to Leicestershire County Council and Leicester City Council.
2. The proposal is designed to reduce the Pension Fund risk, increase the County and City's asset share due to the positive funding position for VAL and BPT, and remove pension risk from VAL and BPT.
3. A report will be presented to Cabinet (for Leicestershire County Council Employer approval) on the 15 September 2023. The report was taken to the Fund's Pension Board on the 2 August 2023, and the Board supported the proposal.

Background

4. The Leicestershire Pension Fund (the Fund) has a small number of historic scheme employers known as Community Admission Bodies (CABs).
5. CABs tend to be small to medium sized charities that joined the Fund in the 1970's or 1980's, before the full extent of the employer risk associated with a defined benefit scheme was known. Because of this, CABs often do not have an employer guarantor or security sat behind them, so if they go bankrupt or leave the scheme with a deficit that they are unable to pay, their Pension Fund deficit gets spread across all the Fund's employers.
6. Accounting rules require LGPS employers to declare their pension deficits on a prudent basis. This has a negative impact on the organisations balance sheet that can impact the cost of financing and their ability to enter into long term agreements.
7. The Fund closely manages employer risk and tries to mitigate risks where possible.
8. Voluntary Action Leicester (VAL) and Bradgate Park Trust (BPT) are both CABs in the Fund that do not have a guarantor.

9. Both VAL and BPT have active members as well as several preserved and pensioner members.
10. VAL have 9 active members, 69 preserved members and 17 pensioner members.
11. BPT have 2 active members, 1 preserved member and 4 pensioner members.
12. Based on an indicative funding update (on the Fund's 'low risk' basis) as of 31st March 2023:

VAL has an approx. surplus of £730,000.

BPT has an approx. deficit of £30,000.

Both employers have a large surplus on the Fund's 'ongoing' basis.

13. The Fund's 'ongoing' basis is used for long-term participating employers. This is the basis on which Leicestershire County Council and Leicester City Council are funded and is also the basis used for any cessation valuation of an exiting employer with a guarantor. The ongoing basis calculates liabilities by using a future investment return assumption that has a 75% chance of being achieved (as per the approach agreed at the 2022 valuation and detailed in the Fund's FSS).
14. A summary of the assets, liabilities and funding positions on the ongoing basis is set out below. The tables represent the values at the latest fund valuation on the 31/3/22, and at 31/3/23

31/03/2022	VAL	BPT	County	City
Assets (£000)	6,460	1,366	1,655,455	1,706,188
Liabilities (£000)	5,260	1,286	1,594,591	1,595,268
Funding Position Surplus / (deficit) (£000)	1,200	80	60,864	110,920

31/03/2023	VAL	BPT	County	City
Assets (£000)	6,580	1,340	1,640,000	1,700,000
Liabilities (£000)	4,090	1,020	1,300,000	1,290,000
Funding Position Surplus / (deficit) (£000)	2,490	320	340,000	410,000

15. The Fund's 'low risk' basis is a more prudent basis used for any cessation valuation of an exiting employer without a guarantor. The low risk basis calculates liabilities by using a future investment return assumption that has a 90% chance of being achieved, and hence is more prudent than the ongoing basis (as per the approach agreed at the 2022 valuation and detailed in the Fund's FSS).
16. A summary of the assets, liabilities and funding positions on the low risk basis is set out below.

31/03/2023	VAL	BPT
Assets (£000)	6,580	1,340
Liabilities (£000)	5,850	1,370
Funding Position Surplus / (deficit) (£000)	730	(30)

Approach

17. The Pension Manager has been working closely with VAL and BPT to help them reduce their pension fund risk.

VAL

If VAL agree to the proposal:

18. The Fund proposes that the County Council acts as guarantor for VAL's pension obligations subject to VAL not having any deficit on the Fund's 'ongoing' basis at the cessation date (the date agreed by all parties to terminate the admission).
19. If VAL agree to the proposal, they will cease their current historic admission agreement with the Fund. VAL and the Fund will set up a new pass-through admission agreement from the day following the current admission ends, so members' pension benefits remain continuous. VAL would mirror the County Council employer rate and at the end of pass-through admission (when the last active member leaves the scheme), any future surplus or deficit is the County Council's responsibility.
20. A bond is required to be set up by VAL to protect the County Council during the pass-through admission agreement period. A bond protects the Fund in circumstances where the employer may not be able to fulfil its financial obligations arising from the employer's participation in the scheme. For example, if the employer becomes insolvent, its staff may have their employment terminated. LGPS provides for enhanced benefits on compulsory early retirement or redundancy. Early retirements require the employer to pay additional costs, to avoid a strain on the Fund. An insolvent company is unlikely to be able to pay such additional costs. Putting a bond in place with a bank or insurance company will protect the Fund against this type of risk.
21. The new pass-through admission agreement is proposed to be signed by all parties, prior to the end of the existing agreement and only existing contributors will be named in the agreement, making this a closed admission. This reduces the risk to the Fund as new employees recruited by the employer will not be able to become LGPS members.
22. The Fund proposes to calculate a cessation value on the 'ongoing' basis to establish if VAL have a deficit on the ongoing basis which is used for an exiting employer with a guarantor (as the County Council would now be acting as guarantor under this proposal).
23. The date of the cessation will determine when the cessation calculation will be carried out. For example, if under this proposal VAL agree to cease on 30th September 2023, a cessation valuation will be carried out for this date as an actual valuation.

24. If there was a deficit on the 'ongoing' basis, this will be paid by VAL. VAL would have then met their financial responsibilities under the current admission agreement (on the basis that County Council are now acting as guarantor). Due to the uncertainty of market conditions, there is no guarantee what the surplus or deficit will be at the point of the actual cessation.
25. Under the proposal, any surplus would go to the County Council. For the avoidance of doubt, VAL do not qualify for any refund of any surplus as the assets and liabilities are being transferred to the County Council in full at the cessation date, with the associated risk.

If VAL do not agree to this proposal:

26. If VAL do not agree to this proposal they would eventually exit the Fund (when the last active leaves or retires) on the 'low risk' basis consistent with the Fund's Funding Strategy Statement for exiting employers (with no guarantor).
27. As of 31st March 2023, the Fund Actuary has calculated VAL's indicative fund position as an approximate surplus of around £730k on the low risk basis. The final cessation calculation can be variable due to volatility in the financial markets.
28. If a surplus existed on the low risk basis on the cessation date, VAL may qualify for a refund of surplus (an exit credit). The size of any exit credit would depend on VAL's circumstances and the Fund's funding policies (including any exit credit policy) in place on the cessation date.
29. VAL would continue to pay employer contributions as calculated by the Fund Actuary at future triennial valuations. These contributions would be specific to VAL's funding position and circumstances, and these may be higher or lower than the County Council rate.
30. VAL would continue to bear all pension funding risks until exiting the Fund.

BPT

If BPT agree to this proposal:

31. The Fund proposes for the County Council and City Council to act as equal guarantors as they have joint stewardship. This guarantee is subject to BPT not having any deficit on the Fund's 'ongoing' basis at the cessation date (the date agreed by all parties to terminate the admission).
32. If all three parties agree, BPT will cease their current admission agreement with the Fund and a new pass-through admission agreement would be put into place. BPT would mirror the County Council employer rate (which is the higher of County and City) and at the end of pass-through admission (when the last active member leaves the scheme), any future surplus or deficit is the County Council's and City Council's responsibility, split equally. When active members turn 55 a bond will be required, to be set up by BPT.

33. The new pass-through admission agreement is proposed to be signed by all parties, prior to the end of the existing agreement and only existing contributors will be named in the agreement, making this a closed admission. This reduces the risk to the Fund as new employees recruited by the employer will not be able to become LGPS members.
34. The Fund proposes to calculate a cessation value on the 'ongoing' basis to establish if BPT have a deficit on the ongoing basis which is used for an exiting employer with a guarantor (as the County and City Councils would now be acting as equal guarantors under this proposal).
35. The date of the cessation will determine when the cessation calculation will be carried out. For example, if under this proposal BPT agree to cease on 30th September 2023, a cessation valuation will be carried out for this date as an actual valuation.
36. If there was a deficit on the 'ongoing' basis, this will be paid by BPT. BPT would have then met their financial responsibilities under the current admission agreement (on the basis that County & City Councils are now acting as equal guarantors). Due to the uncertainty of market conditions, there is no guarantee what the surplus or deficit will be at the point of the actual cessation.
37. Under the proposal, the funding position (asset and liabilities) at the cessation date would be shared equally between the County and City Councils. Therefore, any surplus would be shared equally between both councils.
38. For the avoidance of doubt, under this proposal BPT do not qualify for any refund if there is a surplus, as the assets and liabilities are being transferred to County Council and City Council equally at cessation date.

If BPT do not agree to this proposal:

39. If BPT do not agree to this proposal, they would eventually exit the Fund (when the last active leaves/retires) on the 'low risk' basis consistent with the Fund's Funding Strategy Statement for exiting employers (with no guarantor).
40. As of 31st March 2023, the Fund Actuary has calculated BPT's indicative fund position as an approximate deficit of around £30k on the low risk basis. The final cessation calculation can be variable due to the volatility in the financial markets.
41. If a surplus existed on the low risk basis on the cessation date, BPT may qualify for a refund of surplus (an exit credit). The size of any exit credit would depend on BPT's circumstances and the Fund's funding policies (including any exit credit policy) in place on the cessation date.
42. BPT would continue to pay employer contributions as calculated by the Fund actuary at future triennial valuations. These contributions would be specific to BPT's funding position and circumstances and these may be higher or lower than the County Council rate.
43. BPT would continue to bear all pension funding risks until exiting the Fund.

Legal agreement

44. If approved, the Fund and VAL will enter into a legal pass-through admission agreement with Leicestershire County Council as the Administrating Authority (the Fund) and Scheme Employer (County Council).
45. If approved, the Fund and BPT will enter into a legal pass-through admission agreement with Leicestershire County Council and Leicester City Council as joint guarantors. The City Council have agreed to act as equal guarantor.

Benefits

46. The proposed transfers are intended to be beneficial to all parties.
47. The Fund is resolving long-standing employer risk as it provides an added layer of protection since both BPT and VAL has no guarantor at the moment.
48. For VAL and BPT, this reduces the risk to them as it removes their pension employer risk but still retains pension scheme entitlement for its current members.
49. The County Council and City Council (as scheme employers) benefit as any surplus would be paid to the County Council in full for VAL and split equally between the County Council and City Council for BPT.
50. If left unresolved (no guarantee provided) there remains a Fund risk. If VAL or BPT were to become insolvent in the future and could not meet their liabilities, this would leave all other Fund employers at risk as any deficit cost would be spread across them.

Risks

51. For VAL, the County Council would be assuming responsibility for any assets and liabilities.
52. For BPT, the County Council and City Council would be assuming joint responsibility for any assets and liabilities.
53. The most significant pension risks being assumed under this agreement (and in general to any participating Fund employer) are future inflation, member longevity and future investment returns. Of these three risks, future investment returns are the least predictable and can lead to greater volatility.
54. These risks are no different to the risks that the County Council and City Council are already taking on through its own participation in LGPS. The increase in these risks to the County Council and City Council are relatively insignificant compared to their existing position. Based on figures calculated on 31 March 2023 VAL's liabilities are less than 0.5% and BPT less than 0.1% of the County Council and City Council's positions.

55. Other risks include employer changes that either VAL or BPT could make to the existing active members, for example, a large increase in salary so increasing their pension liability. The Fund will look to include a clause in the pass-through admission agreements to mitigate this risk. The employers will also have to continue to maintain the ill health insurance to mitigate risk of a large ill health retirement cost. Any redundancy costs would be paid by VAL or BPT.
56. Under this proposal both VAL and BPT would be giving up any potential right to an exit credit in the future.
57. The future employer contributions payable by VAL and BPT under the pass-through agreement may be higher (or lower) than the future contributions payable if the proposal is not agreed.
58. A summary of the employer contributions is set out below.

Employer	Contribution Rate as of April 2023 (as shown in the Fund's Valuation Report)
VAL	27.5%
BPT	25.4% plus £31,000
County	29.4%
City	27.8%

59. A summary of risks to VAL, BPT, the Fund, the County and City Councils is set out below.

Risks if the position remains	Risks:
To VAL	<ul style="list-style-type: none"> Unknown cessation value - Liable for any deficit payment at the point of cessation which could lead to financial hardship or liquidation.
To BPT	<ul style="list-style-type: none"> Unknown cessation value - Liable for any deficit payment at the point of cessation which could lead to financial hardship or liquidation.
To the Fund	<ul style="list-style-type: none"> No guarantor for VAL or BPT which could put a strain on the Fund if unable to pay the deficit, then this would be passed to the Fund and spreads across all employers. Non-payment of contributions. Low risk as they have always paid monies due on time and in full.
To County and City Councils (as a Fund employers)	<ul style="list-style-type: none"> No risks.

Risks if pass-through is implement	Risks:
To VAL	<ul style="list-style-type: none"> • Associated risk passes to the County under pass-through terms. • Paying a higher contribution rate (i.e. if County's rate is higher). • No right to any potential exit credit.
To BPT	<ul style="list-style-type: none"> • Associated risk passes to the County and City under pass-through terms. • Paying a higher contribution rate (i.e. if County's rate is higher). • No right to any potential exit credit.
To the Fund	<ul style="list-style-type: none"> • Any deficit will be the responsibility of the County (as a Fund employer) for VAL. This mitigates the risk to the Fund. • Any deficit will be the responsibility of the County and City (as a Fund employer) for BPT. This mitigates the risk to the Fund. • Non-payment of contributions. Low risk as they have always paid monies due on time and in full.
To County and City Councils	<ul style="list-style-type: none"> • Pension liability for VAL and BPT. Low risk as funding assumptions are prudent and likelihood of surplus based on current figures.

60. For completeness, a summary of general pension funding risks (and mitigations) is set out below:

Risk:	Mitigation:
<ul style="list-style-type: none"> • Investment returns – Fund's assets are primarily debt and equity investments, which do not have guaranteed return. 	<ul style="list-style-type: none"> • There is prudence in the Fund's investment return assumptions so its expected that the long term target return will be exceeded.
<ul style="list-style-type: none"> • Longevity/Mortality – Higher life expectancy results in higher liabilities. 	<ul style="list-style-type: none"> • Mortality is monitored regularly which informs funding assumptions.
<ul style="list-style-type: none"> • Pension Increase – Rate of increase (CPI) has an impact on liabilities. 	<ul style="list-style-type: none"> • The Fund Actuary allows for expected levels of future inflation (including higher short term inflation) in the funding assumptions.

<ul style="list-style-type: none"> • Regulation changes – Unforeseen regulations change can have a direct and unexpected effect on pension liabilities. 	<ul style="list-style-type: none"> • Funding assumptions are prudent and can absorb unexpected changes in the short term. • Allowances for changes are made once known.
<ul style="list-style-type: none"> • Salary growth - Salary increases will directly affect the employer's individual pensions liabilities. 	<ul style="list-style-type: none"> • Fund actuary will account for these changes in the triennial valuations. • The impact is reduced as new service is on the CARE basis. • A salary growth clause can be included in the pass-through admission agreement.
<ul style="list-style-type: none"> • Ill health – Ill health retirements can occur for members of all ages with the Fund enhancing members service in certain cases. The enhancement creates a liability for the employer. 	<ul style="list-style-type: none"> • Small employers take out the ill health insurance to protect against large ill health capital costs.
<ul style="list-style-type: none"> • Payment of contributions – Failure to make payment of employee and employer contributions 	<ul style="list-style-type: none"> • Employer payments are monitored and late payments are chased. • If an employer enters into liquidation the bond will be triggered.

Approval

61. VAL's Board of Trustees met on the 12 July 2023 to discuss the proposal. The Board noted the large surplus that will pass to the County Council, but still concluded that it was an acceptable option, to remove the balance sheet volatility.
62. The only items VAL considered that would stop them signing the agreement and move to a pass-through arrangement, is if there is a deficit at termination (rather than the expected surplus), or the bond calculation is so high that it will reduce their liquidity to an unacceptable level that would prevent them from trading.
63. Fund Officers met with Bradgate Park Trust Finance and General Purposes Sub-Committee on the 21 August 2023. The Sub-Committee were in support of the proposal and will take this to their Bradgate Park and Swithland Woods Committee of Management meeting on the 11 September 2023 for a formal decision.

Summary

64. The proposed transfers are recommended because the County Council and City Council can take a far longer financial planning horizon, so the risk of any deficit developing over the longer term is at a lower level.
65. The proposal supports VAL and BPT as it ensures there is no reputational damage caused for either VAL or BPT, or the County and City Councils. If the existing situation

remains unresolved, this could create a future financial problem for VAL, BPT and the Fund.

66. The proposal removes liability from VAL and BPT's balance sheets, supporting them when applying for funding.
67. VAL and BPT have been strong supporters of the Fund for many years and have always made payments of the monies due, on time and in full.

Timetable for Decisions

68. Local Pension Committee will consider the proposal for the Pension Fund on the 8 September 2023.
69. If approved by the Local Pension Committee on the 8 September 2023, a report will be taken to Cabinet on the 15 September 2023.
70. The City Council are preparing a briefing note to the City Mayor and a formal published Executive Decision will be required.
71. VAL support the proposal and took it to their Board of Trustees on the 12 July 2023.
72. Bradgate Park Trust Finance and General Purposes Sub-Committee support the proposal and will take this to their Bradgate Park and Swithland Woods Committee of Management meeting on the 11 September 2023 for a formal decision.

Leicestershire Pension Fund Conflict of Interest Policy

73. The Director of Corporate Resources has, inter alia, a duty to act in the best interests of the County Council and a fiduciary duty to act in the best interests of the Leicestershire Pension Fund. Having considered the terms of Leicestershire Pension Fund Conflict of Interest Policy and the County Council Officer Code of Conduct, it is recognised that there should be openness in relation to any potential conflict of interest and that consideration must be given in each case as to how to manage any potential conflict. The Director of Corporate Resources has considered these issues and is satisfied that the proposals are in the best interests of both the County Council and the Fund and no conflict of interest arises in this case but that it is appropriate that this is noted to show that proper consideration has been given to the issue.

Recommendation

74. It is recommended that the Local Pension Committee approves
 - a) The transfer of Voluntary Action Leicestershire pension fund assets and liabilities to the County Council;
 - b) The transfer of Bradgate Park Trust pension fund assets and liabilities equally to the County Council and Leicester City Council.

Background Papers

75. None.

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